

PA10-079

HB5141

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2010**

**VOL.53  
PART 4  
895– 1168**

ch/gdm/gbr  
HOUSE OF REPRESENTATIVES

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April 20, 2010

If not, I'll try your minds, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ALTOBELLO:

Opposed?

The ayes have it.

The resolution is adopted.

Will the Clerk please call Calendar 41 -- 41?

THE CLERK:

On page five, Calendar 41, Substitute for House Bill Number 5141, AN ACT CONCERNING THE HANDLING OF PROPERTY CLAIMS BY PUBLIC ADJUSTERS, favorable report of the Committee on Insurance and Real Estate.

SPEAKER ALTOBELLO:

Representative Megna of the 97th, you have the floor, sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker.

I move for acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of the Joint Committee's favorable report and passage of

the bill.

Please proceed, sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker.

Mr. Speaker, this bill seeks to define more narrowly the tasks of a public insurance adjuster in order to empower the Department of Insurance to enforce the statute that requires public insurance adjusters to have licenses here in the state. And it also seeks to allow the Department to penalize the licensed public adjuster when they solicit business between the hours of eight o'clock at night and eight -- eight o'clock in the morning.

Mr. Speaker, the Clerk is in possession of a LCO 3056. I ask that it be called and I be permitted to summarize.

SPEAKER ALTOBELLO:

Will the Clerk please call LCO 3056, which shall be designated House Amendment Schedule A.

THE CLERK:

LCO Number 3056, House "A", offered by Representatives Fontana and Megna and Senator Crisco.

SPEAKER ALTOBELLO:

Representative Megna asks leave of the chamber to

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summarize. Any objection to summarization?

Seeing none, please proceed sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker.

What this amendment does really -- it's, sort of, technical in nature. It just changes the word "or" to "and" when describing the tasks of the public adjuster in preparing and presenting a claim on behalf of the insured, and I move adoption.

SPEAKER ALTOBELLO:

The question before the Chamber is adoption of the House A. Further on House A?

If not, I'll try your minds, all those in favor of House A please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ALTOBELLO:

Opposed?

House A is adopted.

Further on the bill as amended? Further on the bill as amended?

Representative D'Amelio of the 71st, you have the floor, sir.

REP. D'AMELIO (71st):

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Good afternoon, Mr. Speaker.

SPEAKER ALTOBELLO:

Good afternoon, sir.

REP. D'AMELIO (71st):

Mr. Speaker, I rise in support of this legislation and I -- I urge the Chamber to adopt this. I know Representative Megna worked hard and he brought this issue before the Insurance and Real Estate Committee on what public adjusters actually do because, prior to that, I really had no knowledge, so I -- I'd like to thank him for -- him for all his hard work on this bill and I urge the Chamber again for -- adoption.

Thank you, Mr. Speaker.

SPEAKER ALTOBELLO:

Thank you, Representative D'Amelio.

Further on the bill as amended? Further on the bill as amended?

If not, staff and guests please retire to the well. House members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll  
call. Members to the chamber. Members to the

chamber. The House of Representatives is voting by roll call.

SPEAKER ALTOBELLO:

Have all the members from Simsbury voted? Have all the members from Simsbury voted? Perhaps not. Have all the members voted? Have all the members voted? Please check the board to make sure your vote is properly cast.

If all the members have voted, the machine will be -- you're welcome, Representative Schofield -- locked. Would the Clerk will please take a tally? Would the Clerk please announce the tally?

THE CLERK:

House Bill 5141 as amended by House A.

Total Number voting 143

Necessary for adoption 72

Those voting Yea 143

Those voting Nay 0

Those absent and not voting 8

SPEAKER ALTOBELLO:

The bill is amended as passed.

Would the Clerk please call Calendar 306?

THE CLERK:

On page 22, Calendar 306, Substitute for House

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Mr. President, some additional items to place on the consent calendar at this time.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, beginning on calendar page 8, Calendar 398, Substitute for Senate Bill Number 231.

Mr. President, would move to place this item on the consent calendar.

THE CHAIR:

. Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Continuing on calendar page 8. Mr. President, Calendar 427, Senate Bill Number 110. Mr. President, move to place that item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 9, Calendar 442, Substitute for House Bill Number 5141. Mr. President, I move to place that item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, moving to calendar page 10,  
Calendar 449, House Bill Number 5495. Mr. President,  
I move to place that item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, moving  
to calendar page 11, Calendar 451, Substitute for  
House Bill Number 5535. Mr. President, move to place  
this item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, moving to calendar page 12,  
Calendar 473, Substitute for House Bill Number 5059.  
Mr. President, move to place this item on the consent  
calendar.

THE CHAIR:

Seeing no objection, so ordered.

Bill 121; calendar page 7, Calendar 377, Substitute for House Bill 5291; Calendar page 8, Calendar 398, Substitute for Senate Bill 231; calendar page 9, Calendar 442, Substitute for House Bill 5141; calendar page 10, Calendar 449, House Bill 5495; calendar page 11, Calendar 451, Substitute for House Bill 5535; Calendar 465, Substitute for House Bill 44 -- 5448; calendar page 12, Calendar 466, Substitute for House Bill 5289; Calendar 473, Substitute for House Bill 5059; Calendar 476, Substitute for House Bill 5117; calendar page 13. Calendar 478, House Bill 5290; Calendar 481, Substitute for House Bill 5119; Calendar 482, Substitute for House Bill 5120; calendar page 15, Calendar 492, Substitute for House Bill 5446; Calendar 494, House Bill 5315; Calendar 504, Substitute for House Bill 5306; calendar page 20, Calendar 532, Substitute for House Bill 5033; calendar page 21, Calendar 534, Substitute for House Bill 5543; Calendar 539, Substitute for House Bill 5350; calendar page 25, Calendar 561, Substitute for House Bill 5419; calendar page 36, Calendar 374, Substitute for House Bill 5225; calendar page 37, Calendar 415, House Bill 5131; calendar page 38, Calendar 454, Substitute for House Bill 5526.

Mr. President, that completes the items placed on Consent Calendar Number 2.

THE CHAIR:

Please call for a roll call vote. The machine will be open.

THE CLERK:

The Senate is now voting by roll on the consent calendar. Will all Senators please return to the chamber. Senate is voting by roll on the consent calendar. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is adoption of Consent Calendar Number 2.

Total number voting

35

Necessary for Adoption 18

Those voting Yea 35

Those voting Nay 0

Those absent and not voting 1

THE CHAIR:

Consent calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, I would move that any items on the consent calendar requires additional action by the House of Representatives be immediately transmitted to that chamber.

THE CHAIR:

Without objection, so ordered, sir.

SENATOR LOONEY:

And also any other items acted upon today, not on the consent calendar requiring action by the House of Representatives. Also would move that those items be immediately transmitted.

THE CHAIR:

Seeing no objection, sir, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I would yield to any members seeking recognition for announcements or points of personal privilege.

THE CHAIR:

At this time, I will entertain any points of

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STANDING  
COMMITTEE  
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stuff to see what --

MATTHEW KATZ: Won't be tomorrow but I promise we'll get it to you.

REP. FONTANA: That's fine, it doesn't have to be tomorrow.

Questions for Matt from members of the committee?

Seeing none, thank you, Matt.

MATTHEW KATZ: Thank you, Mr. Chairman.

REP. FONTANA: Okay. That, I believe, concludes the names of people I've got signed up to testify on Senate Bill 93 from the -- from the public. If there's no one else from the public, we will proceed to House Bill 5141, and the first person signed up to testify is Sue Giacalone, followed by Maria Sandillo.

SUSAN GIACALONE: Good afternoon, Representative Fontana, Senator Crisco, Senator Caligiuri, Representative D'Amelio, and Representative Megna. For the record, my name is Susan Giacalone; I'm here on behalf of the Insurance Association of Connecticut, and I'm here in opposition to a House Bill 5141, as drafted.

Just to note, we did submit testimony, so I'm going to try to summarize my comments. Our comments are associated with Sections 2 and 3 of the bill. I -- it appears Section 1 of the bill has some technical changes that are being made to the existing claim statute; we don't have any problems with that.

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The main concern we have with the bill as drafted is that it would appear -- and if you look at the statement of purpose -- that you would be required to have a public adjuster involved in every claim. That would be a detriment to the insurance consumers and to the insurance process. It would be a costly endeavor. Public adjusters right now provide a service to insureds typically in large, complex, structural losses. If this were to be passed, you'd have to have a public adjuster in every claim, including a simple windshield claim. This is contrary to what other states are doing. We already have both statutes and regs on the book that regulate the process. Actually, states are actually tightening up their statutes and regs; for example, Florida is looking -- let's say you have a three-day cooling down period where no adjuster -- a public adjuster can approach anyone till three days after a loss. Pennsylvania is looking to change their law to say you have 15 days to reconsider a contract you've entered into with a public adjuster. Connecticut, we have two days. Once you've entered into it, you can't get out of it after two days.

There's also other provisions in our law and our regs about if someone -- you're required to be a public adjuster to service -- as a public adjuster to provide the services of a public adjuster. We increased the fine just a couple years ago from \$500 to \$10,000 to anyone who is providing those services without a license. There's also regs that say that if you are a public adjuster you can't also be in the construction business, appraisal business or salvage business. It also says that if you're

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inuring any benefits other than the employment contract that you had entered into with the insured, you've got to disclose it. So if there's problems out there and that people are providing services and they're not licensed, file complaints, seek the enforcement of it.

And you quick -- just quickly -- I'll -- I'll summarize. On Section 3, I'm not really sure what that's getting to. If an insurer has someone coming out who's doing remediation work, quick salvage work that's already disclosed, that's already been approved by the insured, so I'm not really sure what the purpose of Section 3 is here.

Thank you.

REP. FONTANA: Very good, Sue. Thank you.

Questions from the Committee?

Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman.

Thanks for your testimony, Susan. And you know we spoke the other day about the intent of this legislation. It doesn't appear that we're getting there with this language. Currently, public insurance adjusters aren't allowed to be in the construction business because of a conflict of interest, but yet many of them are giving up their public adjuster licenses and becoming contractors and then in that role taking on the public adjuster role. They're preparing claims, they're doing additional work, and there's a conflict when they -- when they do that. And that's what this intention -

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- the intention of this legislation is.

A few years ago we passed legislation that informs the consumer of automobile insurance that they have the right to choose the repair facility of their choice, and I believe through debate that arose as a result of this subjectivity of values and -- and who the car owner would like to repair their -- their car, and actual cash values of cars and direct repo -- direct repair programs of insurance companies. The same principles apply here with a -- whether it's a homeowner or any type of property policy, and there are direct repair programs with many of these homeowner carriers and -- and which would apply to commercial property, also.

Would you support legislation that would inform the policyholder that they have the right to choose any contractor or restoration company to repair their -- their property after a fire or some type of loss, similar to what we did with the -- with property insurance in terms of automobiles?

SUSAN GIACALONE: I -- I'll -- there's two kinds in there I'll address. The first was you talked about contractors giving up their licenses, doing the contracting work but then taking on some other aspects of a claim, adjusting the claim, doing the inventory. I would argue there's already laws on the book, being it reg or statute, that says if you're doing that, that would be filling the role of a public adjuster. If they're doing that, they are violating laws if they're doing it without the public adjuster license. There's enforcement mechanisms we need to be -- complaints need to

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be filed and -- and appropriate action be taken against those people. I have heard from my companies that if they get that from some people, they just don't deal with them. They only deal with the construction aspect that that person's dealing with.

As far as the -- the notice provision, I have to get back to my homeowners' carriers on how to do it, but they do work with the insureds. It is fully -- they're fully aware; you're allowed to hire anyone you want. And as you and I discussed, you even indicated -- and I've never (inaudible) a homeowner loss at the time, so I'm just taking from anecdotes, but that there's people lined up. So they're lined up trying to get to the person. So the insured is already, I think, fully aware before they even talk to the insurance company that they can hire anyone they want.

When a remediation company is sent out, it's always done with the insureds' authorization. My understanding, it is discussed, they're given the opportunity to, you know, choose who you want, who you can work with. You can get, you know -- again, same type of thing as we do with the auto. We tell them, look, you could try to do anything you want, but we can help you out. We can, you know, same type of thing; it's the insureds' choice.

REP. MEGNA: The -- it's interesting what -- what you said. Often, after a fire or some terrible loss, there's 15 people knocking on that person's door or hotel or searching them down wherever they are, asking them to sign an authorization to direct them to be their public adjuster, be their contractor, be their

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cleaning company, and often that person really is traumatized from the whole experience. Some of those individuals are saying, don't worry, I'll take care of everything with the insurance company; we'll even provide you with inventories so you don't even have to worry about preparing inventories. And that's where that role starts to become cloudy, where that restoration company is really taking on this insurance adjuster role. And when we look at the public adjuster statute, it's really vague. It just says one who adjusts losses. That doesn't actually really define what that individual does, so we thought that if we defined that more, then we would be able to -- the department would be able to say, hey, you're not supposed to be preparing claims and -- and doing all those sort of things. Because there is actually a conflict of interest, and - and so on and so forth.

SUSAN GIACALONE: Well, as far as the definition is, I -- there -- it's very similar to what other states have. Other states might make it a little bit clearer; that's for compensation or anything of value in -- in there. But it's a very similar definition that carries throughout the country, so it gives us a very good understanding of what services are. Again, as a contractor, it's to eliminate that lineup of 15 people, which we don't have in CT is a cooling off period. You can't solicit. You can -- you cannot or have anyone on your behalf solicit someone for three days or how -- a certain time period after a loss. So it allows the person -- and, again, if you're going to have only two days to cancel that contract, and, you know, here's a person who, as you said, in an emotional --

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REP. MEGNA: Yeah.

SUSAN GIACALONE: -- state gets into a contract  
that they don't have a, you know, 48 hours to  
rescind?

REP. MEGNA: It's three. I think in Connecticut  
it's three days.

SUSAN GIACALONE: I think that --

REP. MEGNA: And -- and they're not allowed to  
solicit between eight at night and eight in the  
morning. But there's all kinds of shenanigans  
that go on out there, because of this  
tremendous amount of money to be made.

But I thank you for your testimony.

Thank you, Mr. Chairman.

REP. FONTANA: Thank you, Representative.

Are there questions for Sue from members of the  
committee?

Seeing none, thank you, Sue.

SUSAN GIACALONE: Thank you.

REP. FONTANA: Maria --

A VOICE: (Inaudible.)

REP. FONTANA: Oh, okay. So you're forfeiting your  
chance to testify then, there? Very good.  
Okay. So Maria Sandillo will not testify.

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Phil Flaker, followed by Michael Bayer.

PHIL FLAKER: Mr. Chairman, I am a public adjuster representing the Connecticut Association of Public Insurance Adjusters. We are in favor of this bill, although we wish it would go a little further than it does. But when there is a severe fire loss at night, in all deference to the lobbyist for the industry, more than half of the people out there are contractors, not public adjusters. In fact, after eight o'clock at night, there's no public adjusters, they're all contractors. And our feeling is they should be required to make some disclosure to people that they can't do everything that they're currently promising, such as preparing all the inventories and adjusting the loss.

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Another severe problem is that the contractors sent out by the carriers as, quote, preferred vendors are making these same claims, and they'll go out and they'll approach an -- an insured. And verifiably, per anecdote, they say we will handle the whole claim; you don't have to worry about the inventory. We have a cleaning division; they'll do all that inventory for you, and then they'll clean what's okay, and we'll prepare the building estimate. Of course, one of the pieces of advice we give people is never tell your contractor how much money you're getting until they make a fair bid, but this contractor, if he negotiates it for you, knows exactly how much money you're getting. So you may or may not be getting the true value for what you're being paid. I mean, you're -- you're entitled to be paid for certain things, but they don't always tell them you can change the configuration of your home, if you so desire.

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You may add money to it. You may move dollars around, so long as you're not being -- I believe that the definition says you should neither be enriched nor impoverished. Well, you should have the right to make those choices within that latitude.

And it -- it's pretty severe, false representation being made by some of these contractors. We've heard them. We've gone to clients after the fact and, you know, it's like, well, they told me they could do everything. But they really shouldn't be pursuing that, where our suggestion would go a little further and say require them to disclose that they can't adjust a loss and I'm here to do a board-up or whatever immediate remediation you need. We can discuss that later.

And we did have a cooling off period, in fact, until Patsy Papandrea reworked that law, and that was the result of the eight-to-eight proscription. We can't go before eight in the morning or after eight at night, which is very reasonable; I mean, people in the middle of the night do not need to be discussing something except in a calm thing. But if a builder is there at one in the morning saying I'm here to build -- to board up your house, right, that's an issue.

REP. FONTANA: Thank you, Mr. Flaker.

Questions for Mr. Flaker from members of the committee?

Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman.

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Mr. Flaker, when a contractor, whether it's a -  
- a preferred contractor -- or maybe it's not a  
preferred contractor. The contractor that does  
a lot of insurance work, often that individual  
comes across the representative from the  
insurance company on -- several losses or many  
losses, and he normally -- he or she normally  
comes across that policyholder maybe on one  
loss in that policyholder's lifetime. Often  
there's debate on the method to repair or  
reconstruct or the cost or whether we should  
recreate this old, handmade parquet floor or  
use a -- a Home Depot, \$5-per-square-foot, pre-  
made whatever, whatever it is, a floor. Now,  
when that debate arises, isn't there an  
opportunity that that contractor, if they  
argue, argue for that more expensive, more  
costly or something that they -- the  
policyholder is entitled to, they may not be a  
preferred contractor, they may not be referred  
on losses in the future or even when they come  
across a loss in the future, they may be at a -  
- a disadvantage when negotiating with a  
company? I wanted you to point out that type  
of (inaudible) --

PHIL FLAKER: Well there is --

REP. MEGNA: -- a type of conflict.

PHIL FLAKER: -- a conflict of interest, because if  
you're going to get a lot of business from  
Nationwide or Metropolitan, whoever, you're  
certainly not going to try to offend them if  
they're your bread and butter, nor do you  
necessarily as a contractor have the knowledge  
to know what the insurance rates are. You  
know, are they entitled to that true Pergo

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floor that they -- or the nice, inlaid floor or is Pergo good enough, which, I think, is what you're referring to. And if you had plaster walls, is -- are you entitled to be compensated for them or is Sheetrock good enough? I don't know. If it's my house, I would prefer to have it restored to what I'm entitled to, to what I had; that's what I bought an insurance policy for.

But, yes, there can be that conflict of interest, Representative Megna. If one guy is giving me five jobs and one guy is going to give me one, unfortunately, human nature being what it is, you have to say -- especially in this economy -- you're going to tend to favor where there's more work, especially if you're sent out by that carrier. That -- that was precisely the reason for some of our regulations was that it would be a conflict for me to be hiring a contractor or anybody else on a loss and have some interest in that business. Of course I'm going to recommend myself, and then it's the same problem. I mean, I strongly agree with those provisions in our regulations. I think that it's very important to avoid the conflict of interest.

REP. MEGNA: Thank you.

Thank you, Mr. Chairman.

REP. FONTANA: Thank you, Representative.

And, Phil, before you go, I got questions. But I think this is going to be a very interesting intersection between you, Representative Megna, and Miss Giacalone. So I thinking -- I'm thinking there's going to be some possibility

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here to do something that could help. So I'm -  
- I'm glad --

PHIL FLAKER: That's why I'm here.

REP. FONTANA: -- that you came to testify and I'm  
sure Representative Megna has your contact  
information, and if he doesn't, he'll get it  
before you leave.

PHIL FLAKER: He's got it, naturally.

REP. FONTANA: Representative D'Amelio.

REP. D'AMELIO: Thank you, Mr. Chairman.

Thank you, Mr. Flaker, for being here today.

How does one go about becoming a public  
adjuster?

PHIL FLAKER: One has to take -- by definition, it's  
approximately 80 hours of training, which seems  
to vary. That's a little vague and it's  
changed over the years; I've been doing this  
for almost 25 years. And what I had to do and  
what one does now I'm not, to be perfectly  
honest, absolutely sure of the training, but  
then one has to take an examination and qualify  
as a -- for a license to adjust property  
losses, actually more stringent than the one  
company adjusters have to take to become an  
adjuster, to adjust on behalf of companies.

REP. D'AMELIO: So, a public adjuster is -- is  
someone that's independent, owns his own  
company, or --

PHIL FLAKER: Or works for an independent company.

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We -- when you are licensed by the state, we're licensed just like a company adjuster is, we have to make the choice, We can either go to work for an insurance company or we can work as an advocate for the public. That's hence the title, be it a homeowner or business owner, whoever is the owner of the insurance policy who suffers a loss. And we work only for that person in their -- on their behalf to maximize the recovery of what they're entitled to.

By definition, the company adjuster is supposed to work in the same fair spectrum, but if you can keep it at the little lower end, that's what your boss would be happy about. I mean, you're supposed to minimize the exposure on behalf of the carrier. It's purely business; there's no good guys, bad guys, black hats, white hats; it's business.

REP. D'AMELIO: Just for -- so -- so then there's insurance adjusters that work solely for a particular company?

PHIL FLAKER: Correct.

REP. D'AMELIO: And then there's the public adjuster that worked for a number of different insurance companies?

PHIL FLAKER: Well, there -- there are independent adjusters who will represent a number of smaller companies that don't have the money to have their own staff, and then there are public adjusters, which is a third category. The -- the independent adjusters work for carriers, but they work for multitude of them. Company adjusters, if they're captive adjusters for Met or Allstate or Nationwide, they work only for

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that company. And we work only for the policyholder.

REP. D'AMELIO: So the homeowner would have to check your policy to know if they're -- what I'm trying to get at is, like, God forbid if there was a fire in my home, I would call my insurance carrier and they would hopefully take care of all of it. but there is an option to - to get a different adjuster?

PHIL FLAKER: Yeah, there is an option to have your own representative. It -- it's kind of like going to court and trusting the other guy's lawyer, in some sense, to take care of you too.

REP. D'AMELIO: Uh-huh.

PHIL FLAKER: Because the adjuster for the company is paid by the company to represent their interest. They're not really paid to take care of your interest; they're paid to be as fair as possible. So you have the right. You don't necessarily have to hire a public adjuster, it's not necessary on every loss. Some are fairly forthright and -- and pretty easy to understand, but some are complex. And on a bigger loss, when you're trying to put together things such as is there ordinance or law coverage, are they covered for damages which result because a town says you've got to go back and reinsulate areas that were not insulated or you need a smoke detector in every bedroom or you need to have egress windows big enough so that you can get through them and your windows are an inch too small. Sorry, you got to change the windows. There are policies which maintain that coverage, but they don't necessarily put it in a place where it makes it

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easy for the average person to pick it up and -  
- even some adjusters don't realize this. So  
you have to do your homework and read every  
policy with every loss. And for a lot of folks  
they don't have the time to do this,  
themselves.

I mean, it's time consuming to inventory  
everything and prepare an estimate. You are  
required to present your own claim, and then  
the company will adjust it. So whether we  
prepare an estimate, a builder prepares it,  
somebody has got to prepare something or you  
prepare it, and then you present that to the  
company they will adjust what you present to  
them.

REP. D'AMELIO: How do you make the public aware of  
your services? Do you, like, if there's a fire  
in a community, do you call on that person or -

PHIL FLAKER: Yes we do. I mean, we have some  
public informational things. We're in the  
Yellow Pages, but, to be honest, unless you  
have a loss, you would have no need for us nor  
would you have any cognizance of the fact we  
exist. The biggest problem we have and a part  
of our job we hate the most is going out the  
day of a bad loss and having to explain to  
people, look, we exist, you have this choice,  
and if you would like to talk about it, we'd  
like to talk to you.

But you do have this option. You have the  
option to use any builder you want. You have  
the option to have your own representative in  
this matter, and if you don't have the time to  
do it -- I mean, I represented one investment

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banker who got on a plane 15 minutes after the fire and headed for Indianapolis. He had -- no way did he have time to handle the loss, himself. So, I mean, you -- we handle matters of time, we'll handle matters of value for the insured to make sure they're getting the (inaudible) benefit. So, yeah, you would have that option, but if you -- you probably didn't know that you had that option prior to this, and you wouldn't; it's not something you would think of. We assume we buy insurance, they're going to take care of us. But the companies do send out preferred vendors who come out to do a board-up and say, hey, we can take care of everything for you. We'll do the inventory, we'll do this, and how would you know they won't?

REP. D'AMELIO: And how do you -- how do you go about determining the loss? Is there like a, you know, replacement value, you know --

PHIL FLAKER: It depends on the --

REP. D'AMELIO: -- is there --

PHIL FLAKER: That's why --

REP. D'AMELIO: -- a formula?

PHIL FLAKER: -- you have to read the policy. There are -- there are actual cash-value policies, which are depreciated value only. There are replacement cost policies, which give you a supplement up to the value of the -- of true replacement, up to a stated limit. If you have \$300,000 of insurance it works, but only up to that level.

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There is also a provision, it used to be called "guaranteed replacement," now it's called anything under the sun; sometimes it's 25 percent override, sometimes 40. There are a couple of companies that still have 100 percent guarantee in that if you allowed them to underwrite the -- the value and they're wrong and the true cost -- well, we're working on one right now where the policy is at 1.5 million; however, the repairs are going to be over 2 million. But they have a high-value policy which gives them a 50 percent increase, because it was underwritten properly. So they will then be able to do that, so it -- that's what I meant when I said you have to read the policy to know what the insureds' rates are.

They also do have ordinance or law coverage, which is over and above the regular insurance that you have in that limit, so their smoke detectors, insulating --

REP. D'AMELIO: So --

PHIL FLAKER: -- whatever, even if you ran out of coverage on your regular limit, there is additional coverage to pay for those if you have that coverage, so it's important to know. There may be additional money for debris removal; there's all kinds of additional coverages that the average person doesn't understand or know. My mother used to call it -- that she said it took a Philadelphia lawyer to understand an insurance policy. And if you're old enough to -- it's a -- it's sort of euphemism for something so complicated nobody could understand it. And it is, it's -- it's dry. It's like reading a law volume.

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REP. D'AMELIO: Seriously.

PHIL FLAKER: I mean, I don't know if this is answering what you're asking me, and I don't mean to make light in the least. It's -- it's a complicated document to understand.

REP. D'AMELIO: Just one more question: How are you compensated, like, you know, if there's an insurance adjuster, obviously the insurance company pays them, but --

PHIL FLAKER: That's correct.

REP. D'AMELIO: -- if a homeowner chooses to go outside of that to a public adjuster, who pays for them?

PHIL FLAKER: The -- the homeowner pays for us, and we have to be very careful to delineate where that money comes from. We're paid based upon performance; in other words, we receive a percentage of compensation. We do not charge on certain things like -- and this is me, personally -- which adjusters can on living-expense money -- because that's taking something out of somebody's pocket, and this is just not there. But a competent public adjuster can, on average, increase your coverage probably 30-to-40 percent simply by knowing the rules and properly preparing his claim so that by doing that we do earn our money and we put a lot of hours in to do that for people. But we're paid based on how well we do our job, and we're paid after the loss is over with so that people can really make that evaluation. And, you know, and that's something we sit down with the people, and

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-- and they have to really understand that and understand there are people who solicit in a lot of different ways.

And there's high pressure people, there's low pressure people, but I would say the majority of the people in my profession are honest and they are trying to take the time to make people understand what they're signing. Because if you're doing this type of work, there's things that need to be done right away. And that's why there is a cooling off period, I mean, and -- and if somebody gets to the end of the two days and said, no, you know what, I'm not happy, I don't want -- then that's fine. To be honest, we'd walk away after three or four days if it's -- if it's a situation where the insured just doesn't want to work with you. And we don't want to work with them; it's not a comfortable situation. But that's not a normal thing. It -- it could happen (inaudible).

REP. FONTANA: You're welcome.

Other questions for Mr. Flaker from the Committee?

Seeing none, thank you, sir for coming and testifying.

Michael Bayer.

MICHAEL BAYER: Good afternoon.

REP. FONTANA: Welcome.

MICHAEL BAYER: I'm Michael Bayer. I'm the President and founder of Northeast Adjustment Company. I'm also a member of CAPIA and

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partner with Mr. Flaker.

First of all, I would like to give you a little background of my -- of my background. I've been in this, adjusting claims for approximately 35 years. I began my career with the Aetna Life and Casualty as an adjuster. Ultimately, prior to leaving them, I was a home office general adjuster for the Eastern United States, and I've been a public adjuster for approximately 20 years. So I have a kind of a perspective from both sides of the fence.

With regard to this particular bill, I am in favor of it, for a number of different reasons. Specifically, with regard to the contractors out in the insurance restoration business, I have actually experienced a lot of this; it goes on, on the solicitation process, and I have found that often that these contractors are misrepresenting themselves with regard to what they can and can't do. Specifically, I have actually heard contractors say that they will, in fact, not only prepare building damage estimates but that they can handle the entire claim from start to finish including negotiating settlements. I feel that's a direct conflict in what they should be doing from the perspective that we are licensed to do that as public adjusters, they are not. The Legislature many years ago, as Representative Megna pointed out, made a determination that public adjusters should have no interest in salvage companies, construction companies or anything of that nature. I believe the same thing applies in this case, it's now moved to the other side where contractors are performing our duties where they shouldn't be.

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My biggest concern with this is that these individuals have no insurance experience, as a rule. They really do not understand the insurance contract. They don't know the intricacies of it. They don't know the -- what the benefits are that the insured may or may not be entitled to. They really have no adjusting experience. I've spent my entire career since college dealing in the insurance business, and most of these guys or women have never -- never adjusted a claim.

REP. FONTANA: All right. Thank you, Mr. Bayer.

Questions?

Representative Megna.

REP. MEGNA: Thank you, Mr. Chairman.

Mr. Bayer, why is it -- why don't we just do away with public adjusters and let home improvement contractors take care of this; why is that a bad thing?

MICHAEL BAYER: Well, I think Mr. Flaker also pointed out that there's a definite conflict here. If they're trying to adjust a claim as well as handle the reconstruction of the property, they now know what the settlement is, they're going to charge that amount. I think that it's a better process if the owner has the ability to go out and get multiple different bids to do the jobs, so they can get -- put their home back in a manner that they feel fit and get the most for their dollar that's going to be spent from -- that they've been reimbursed by the insurance company. I think that's one of the big problems when you have

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contractors actually acting as the role -- as -  
- as a --in the role of a public adjuster.

REP. MEGNA: Can't they, the policyholder, already just go out when that -- contractors solicit them, can't they just say wait, I want to go out and take bids? Why does this -- how does this contractor work his way in and prevent other contractors from giving competitive bids to that property owner?

MICHAEL BAYER: Well, I think what's happening -- I think what's happening, you know, on -- on a routine basis, that they're actually getting authorizations to immediately -- immediately, as soon as they can get an authorization to repair that property and get a -- and they -- and I think there's a fair bit of high-pressure sales going on with regard to signing a contract as quick as possible. And it kind of -- the -- and -- and, also, the owner of the property is typically, if it's a home, are under a lot of stress. And they have the -- they need to have some time to make a -- an informed decision of who they want to utilize in repairing their home. And these individuals, especially at the loss scenes -- and unfortunately this is happening -- are putting a lot of pressure on these people to sign a contract or contract to repair the property on the spot. And I think that's a -- a -- not a good process.

REP. MEGNA: Okay. Thank you.

Thank you, Mr. Chairman.

REP. FONTANA: You're welcome.

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Other questions for Mr. Bayer from members of the committee?

Seeing none, thank you, sir.

MICHAEL BAYER: You're welcome.

REP. FONTANA: Unless there's somebody else from the public to testify on House Bill 5141, that completes testimony on that bill.

We'll now proceed to Senate Bill 13, and the first person I have signed up to testify is Ralph Biondi followed by John Galvin.

RALPH BIONDI: Good afternoon, Senator Crisco, Representative Fontana, and members of the Insurance and Real Estate Committee. I am Ralph Biondi; I'm a principal in the real estate appraisal company of Biondi and Rosengrant. We are headquartered in Waterbury Connecticut. I am a general certified appraiser with approximately 35 years of experience in my profession. I'm here today as the Director of Legislative Affairs for the Connecticut Chapter of the Appraisal Institute.

The Appraisal Institute is a global membership organization of real estate appraisers. We have approximately 25,000 members worldwide with over 400 dues-paying members here in Connecticut. The Appraisal Institute has long been active in setting the standards for professional credentials, professional practice, and ethics in order to assure the public receives properly developed estimates of market value. We are the leading advocate, we feel, of the appraisal profession in