

PA12-122

HB5087

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**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW
PART 4
825 – 1093**

2012

here pretty much the whole, on the issue of energy drinks, I think someone prior to your testimony talked about almost like a competition going on in one of the schools in our state where kids were competing with each other as to, you know, I think, how many energy drinks they could drink or if they could drink one of each brand, something of that nature. Have you seen anything like that with regard to energy drinks?

BRIAN GOLDWYN: Well, not in my school, but I know my brother collects soda, like energy drink cans because they nice graphics on them.

REP. TABORSAK: I'm sorry. They have a nice what?

BRIAN GOLDWYN: They have like attractive graphics on them.

REP. TABORSAK: Okay. Well, that's -- that's helpful.

Are there any other questions from the committee? Any other comments?

Great. Thank you for your testimony.

BRIAN GOLDWYN: Thank you.

REP. TABORSAK: Eugene Marconi followed by Gerry Keegan followed Robert Zygmunt.

EUGENE MARCONI: Good afternoon, Representative Taborsak, and members of the committee. My name is Eugene Marconi. I'm general counsel of the Connecticut Association of Realtors and I have with me a member of the association, Mike Barbaro with the Chair's permission, Mike was also signed up to speak on the exact same bill and we thought we could kill two birds with one stone with the Chair's permission.

HB 5087
SB 15
HB 5141

REP. TABORSAK: That's okay.

EUGENE MARCONI: I'm here to speak in favor of House Bill -- Raised Bill 5087, which is AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE REAL ESTATE PROPERTY DISCLOSURE REPORT FORM WORK GROUP. And before I start, I wanted to commend the leadership of Representative Baram who led the work group. The work group sifted through many different questions and issues and potential issues and potential questions to add to the form, clarify the form and the bill represents a distillation of the efforts of that -- of that work group led by Representative Baram and the association would support each of these recommendations.

We have two technical comments. One is in Section 2. Section 2 of the bill purports to raise the credit to the buyer is the form is not provided and the added language saying the form as amended, but Section 1 of the bill has a different implementation date than Section 2 of the bill so it's possible some wag could say, well, you didn't give me the form, which has not even been amended yet, so you owe me the increased penalty. So we think you can take out the language "as amended by this act" And accomplish the work group's objective, which was to raise the credit to the buyer.

The other technical question concerns items -- new items, H and I, which were referred to as common interest communities and dues that are -- and common charges and another question concerning underground storage tanks. And those should really be moved to sub part (d)(1) and the reason for that is when the original property condition law was passed, the first part of that act, which was carried over into the statutes provides for the form.

The second part of that act, again, carried over to the statute, provided for certain statements which were going to be part of the form. H and I in asking for information about the form should be up in (d)(1), which would allow the commissioner to add those things where appropriate to the current form.

So with that, thank you.

REP. TABORSAK: Well, thank you for your testimony and those suggestions will be taken into consideration. We appreciate you bringing them to our attention.

Were either of you -- did either of you serve on the work group? That would helpful to --

EUGENE MARCONI: Yes, I should have added that. The association had several representatives including myself on the work group and we were happy to have been included on that. Thank you. And the work group model of looking at the form is far better than sort of the piecemeal annual efforts that take place here where there are various bills to try to and amend a form. We've got two of them already floating around. One is H.B. 5141 and the one is S.B. 15, and one of them seeks to add some questions concerning hazardous waste sites, which the work group looked at, considered and decided not to ask for changes. And the other asks for questions about smoke detectors and carbon monoxide detectors, which are already part of the current form so the holistic approach that was taken here led by Representative Baram was much more effective and worthwhile than sort of these piecemeal efforts that go on.

REP. TABORSAK: Well, thank you for participating in the group.

EUGENE MARCONI: Thank you for having us.

REP. TABORSAK: We appreciate those comments and thank you for your service.

Are there any other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

I want to thank you, Mr. Marconi, for your participation. I thought the task force did a great job in, as you say, looking at the entire form and the discussion was very good. We had many different interests represented on the task force so I don't think there was a point of view that wasn't discussed and considered. And I think we came up with very reasonable recommendations and I thank you for your scrutiny in the language and I'm going to go back now and take a second look at it --

EUGENE MARCONI: Thank you.

REP. BARAM: -- myself. Thank you very much for your help.

REP. TABORSAK: Yes, thank you. And, sir, do you think the form was a product at the end of the day?

MICHAEL BARBARO: Absolutely. I attended some of the work group meetings in the gallery. We were very please with it. It kind of echoes the sentiment of our subcommittee that we formed to look into this as well. So we're in support.

REP. TABORSAK: Great. Thank you for your efforts, too.

MICHAEL BARBARO: Thank you very much.

REP. TABORSAK: Thank you for your testimony.

EUGENE MARCONI: Thank you.

REP. TABORSAK: Gerry Keegan followed by Robert Zygmunt followed by Kevin DaRos followed by Bob Dahn.

GERALD KEEGAN: Mr. Chairman, members of the committee, Gerry Keegan with CTIA, The Wireless Association, in opposition to Senate Bill 268, which would require cell phone labeling. The FCC after consultation with the FDA, EPA and OSHA has adopted standards governing radio frequency energy from cell phones. The FCC asserted that its standard represent, quote, the best scientific thought and are sufficient to protect the public health, unquote. No wireless device may be offered for sale or lease in the United States unless the cell phone has been authorized in accordance with the FCC's regulations.

As part of its standards, the FCC issued an RF exposure limit based on a specific absorption rate, or SAR, of 1.6 watts per kilogram. In doing so, the FCC specifically rejected additional restrictions that would, quote, impose significant and unnecessary economic and technical burdens for which adequate justification has not been presented, unquote. The FCC states that, quote, any cellphone at or below these SAR levels, that is, any phone legally sold in the U.S. is a safe phone as measured by these standards, unquote. The FCC has expressively evaluated the potential biological effects of RF from cellphones and adopted specific standards designed to ensure safety.

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CONNECTICUT ASSOCIATION OF
REALTORS[®] INC.

SB15
HB5141

Statement on

H.B. 5087 (Raised): An Act Implementing the Recommendations of the Real Estate Property Condition Disclosure Report form Revision Work Group

SUPPORT

Submitted to the General Law Committee
March 6, 2012

By Eugene A. Marconi, General Counsel
Connecticut Association of REALTORS[®], Inc.

Good day Senator Doyle and Representative Taborsak, and members of the committee. My name is Eugene Marconi and I am the General Counsel for the Connecticut Association of REALTORS[®] and pleased to represent its 15,000 members in Connecticut. I am here today speaking in support of Raised Bill 5087: An Act Implementing the Recommendations of the Real Estate Property Condition Disclosure Report form Revision Work Group.

First I would like to commend Representative Baram for his leadership on the Revision Work Group, and the Association was pleased to be represented on it. The Association applauds the Work Group's holistic approach to form revisions which is preferable to the yearly ad hoc and piece-meal efforts to add questions to the form, examples of which are once again present in this session.

This raised bill is the distillation of the Revision Work Group discussions on many topics including topics that have been made the object of other bills in this session. The Association believes Raised Bill 5087 makes some important additions and clarifications to the form while not tampering with one of the Connecticut form's major accomplishments; the very high rate of seller compliance.



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The Association would make two recommendations concerning the wording. The first would be in Section 2 of the Bill. That section raises the credit due the buyer at closing if the seller fails to furnish the report. This Section would be effective for purchase contracts written on or after July 1, 2012, but the Section inserts the words "as amended by this Act" with reference to the form. However, Section 1 of the Bill allows the Commissioner of Consumer Protection until January 1, 2013 to make changes to the form. So, having the language "as amended by this Act" in Section 2 puts the seller in the position of having to pay a credit for failing to provide a form containing mandated additions that may not be available until January 1, 2013. The Association believes that removing the language "as amended by this Act" provides for the increased credit as of July 1, 2012 while allowing a smooth transition when the revised form is available on or before January 1, 2013. The second would be to amend §327b(d)(1) of the general statutes by adding the items concerning storage tanks and common interest communities instead of adding these items to that statements mandated by §327b(d)(2). This small change would still mandate that these items be included in the form but allow the Department of Consumer Protection to logically include them with the current questions on these topics.

The Association would also note that there are two other bills concerning the Real Estate Property Condition Disclosure Report form in the Insurance and Real Estate Committee. One, SB 15, would require disclosure concerning the remediation of hazardous waste, a subject that the Revision Work Group discussed at some length and did not choose to include because the subject is far too technical for your average homeowner. The other is HB 5141 which would require information concerning smoke and carbon monoxide detectors which is already part of the current form. Whatever the merits of these bills, they represent an ad hoc and piece-meal approach to a subject that deserves to be treated holistically in order to continue to maintain the high rate of voluntary compliance.

Thank you and I would be pleased to take any questions.



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**JOINT
STANDING
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HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 2
360 – 637**

2012

EUGENE MARCONI: I did learn Capitol Avenue is that way so I did learn something. Good afternoon, Senator Crisco, Representative Megna and members of the Committee. My name is Eugene Marconi. I'm the general counsel for the Connecticut Association of Realtors and I'm here to speak just on -- on House Bill 5141 concerning disclosure of smoke and carbon monoxide detectors and -- and really I'm just here to add a couple of items that -- that might assist the Committee.

First as you know there is another bill floating around I believe in General Law concerning the property condition disclosure form and it would be nice if at some point these various bills could be melded together.

(HB 5087)

Secondly the current property condition disclosure form, which was just revised in January, does contain a question concerning carbon monoxide and smoke detectors. That is question number 14. That question has been there I believe since the form came about in 1995. So the form has always inquired about smoke detectors and carbon monoxide detectors so this is nothing new.

Finally, and again this just for the Committee's consideration, when it has to do with the physical attributes of the property, the property condition disclosure form may not be the best place to -- to inquiry about those things because there are some exemptions to the property condition disclosure law. For example, you buy a property from an estate, you're not going to get this form but most properties are inspected by a home inspector who is licensed by the Department of Consumer Protection. So that would be another avenue

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GENERAL ASSEMBLY
HOUSE**

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For a point of personal privilege.

SPEAKER DONOVAN:

Please proceed.

REP. CAMILLO (151st):

Okay, Mr. Speaker. I'd like to welcome the fourth grade class from North Mianus Elementary School which is seated up in the gallery, I think in two spots up there. If everybody could give them a hand. Mr. Speaker, and since we're on a football theme I want to tell everybody that this is the school that is the alma mater of Hall of Fame quarterback, Steve Young. So, welcome to Hartford and let's give them all again, a nice hand for coming up here today to the capital.

SPEAKER DONOVAN:

All right. Thank you very much. Thanks for visiting us here today. Have a great visit. You look great on TV -- I can see it from here.

All right, if there are no more announcements or instructions, will the Clerk please call calendar 105.

THE CLERK:

State of Connecticut, House of Representative
calendar for Thursday, April 19, 2012. On page 33,
Calendar Number 105, substitute for House Bill Number

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5087, AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE REAL ESTATE PROPERTY CONDITION DISCLOSURE REPORT FROM REVISION WORKGROUP. Favorable report on the Committee of Insurance and Real Estate.

SPEAKER DONOVAN:

Representative David Baram, you have the floor sir.

REP. BARAM (15th):

Thank you, Mr. Speaker. I move for acceptance of the joint committee's favorable report and passage of the Bill.

SPEAKER DONOVAN:

Question is on acceptance of the joint committee's favorable report and passage of the Bill. Will you remark?

REP. BARAM (15th):

Thank you, Mr. Speaker. Current law requires that somebody who sells a residential property with one to four units either for sale, exchange or lease with an option to purchase, provide a property disclosure report to the potential buyer before a transaction is executed. This report is attached to a contract or offer or binder. The General Law Committee established a work group which I was

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privileged to chair, which has made recommendations to update this form. That task force, by the way, was -- included people from the real estate group, the attorney's and other interested parties and the recommendations are unanimous. The Bill requires that the Consumer Protection Commissioner update by January 1, 2013, the regulations prescribing additional disclosures on these forms. In addition to existing disclosures, the Bill requires the following: One, that the property if it's located in a common interest community, whether it's subject to association dues or fees; second, a perspective purchaser should consult a municipal building official where the property is located to determine if all building permits and certificates of occupancy were issued for any work done; three, the perspective purchaser should have the property inspected by a licensed home inspector; four, if the seller is aware of any prior or pending litigation or government action or order or lien on the property, they should disclose that fact if it regards hazardous substances; and, five, during the seller's ownership, whether there has ever been an underground storage tank on the property, whether it has been removed, and whether there is documentation

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verifying such removal. The Bill also in its preamble increases the seller's credit from 300 to 500 dollars that must be given if the seller refuses to complete the form. The effective date of this Bill is July 1, 2012. There is no fiscal impact.

Mr. Speaker, the Clerk has an Amendment LCO 3420. I would ask that the Clerk please call the Amendment and that I be granted leave of the chamber to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 3420 which will be designated House Amendment Schedule "A".

THE CLERK:

LCO Number 3420, House "A", offered by Representative Taborsak, Representative Baram and Representative Rebimbas.

SPEAKER DONOVAN:

Representative seeks leave of the chamber to summarize the Amendment. Any objection? Hearing none, Representative you may proceed with summarization.

REP. BARAM (15th):

Thank you, Mr. Speaker. The central changes in this Amendment is to indicate that if there is any

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documentation in the seller's possession and control regarding the underground tank removal, it should be given to the seller. It qualifies that the information must be in the seller's possession or control. And, secondly, there was a like/kind Bill that passed the Insurance and Real Estate Committee that had one additional provision in it that we have agreed to include in this Bill and that is to modify an existing requirement in the form that speaks to smoke and carbon monoxide detectors by listing how many there are and whether there have been any problems with those detectors. That is the essence of the Amendment and I would move its adoption, Mr. Speaker.

SPEAKER DONOVAN:

Question is on adoption of the Amendment. Would you remark further? Would you remark further?

Representative Rebimbas.'

REP. REBIMBAS (70th):

Thank you, Mr. Speaker and good afternoon. Through you, Mr. Speaker, clarification on the Amendment to Mr. Taborsak -- I'm sorry, to Representative Baram this afternoon.

SPEAKER DONOVAN:

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Please proceed, madam.

REP. REBIMBAS (70th):

Thank you. Through you, Mr. Speaker, I just wanted to highlight. You have notified us that through this Amendment one of the additions is regarding identifying smoke detectors and carbon monoxide detectors and you did properly represent that that is already something that's in the underlying disclosure. So, is it that the only difference is in this Amendment, that it's requesting that the number of those items be disclosed in the disclosure form.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's correct.

SPEAKER DONOVAN:

Representative Rebimbas.

REP. REBIMBAS (15th):

Thank you for that response. And, I also just for clarification purposes just want to make sure that again, this is something that's being requested. And, the person who's filling out this disclosure form which would be the seller is making the

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representations to the best of their knowledge at that time. And, for example, there are many times that there are sellers that owned vacant properties that may not have been -- they did not live in the property or may not have actual knowledge of the number of these items that are in those properties. But, if they make to the best of their knowledge the representation that it's unknown at the time which is one of the options in the disclosures, or actually put a number down based on their last run through of the property of what they actually observed, they will not be held liable if in fact that is not correct.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's correct. It's the best of a person's knowledge.

SPEAKER DONOVAN:

Representative Rebimbas.

REP. REBIMBAS (15th):

I want to thank the representative for his testimony in that regard and thank you, Mr. Speaker, and I thought that that was important to me because

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unfortunately throughout the State of Connecticut, a lot of these properties there have been break-ins and there has been vandalism unbeknownst to the sellers which sometimes unfortunately a walk-through may or may not be done right before the closing, but there are certain circumstances for whatever it may be short period of times, that so long as the seller is making the representations to the best of their knowledge, they're not going to be held liable if in fact there was any type of damage that then modified the representations on those disclosures. So, I do stand in support of the Amendment and as do my colleagues support it as well. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Pam Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker and good afternoon.

SPEAKER DONOVAN:

Good afternoon, madam.

REP. SAWYER (55th):

May I please ask a question of Representative Baram?

SPEAKER DONOVAN:

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Please proceed.

REP. SAWYER (55th):

Thank you. Representative, in looking at this Amendment and the understanding is that there would be a disclosure of the smoke detectors and carbon monoxide detectors located in the dwelling on the premises. Is there an expectation that the actual location of the detectors would need to be disclosed? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, there is no requirement that the location on the premises be disclosed. It's just the number of detectors, whether there are any problems and if there were problems, an explanation of what those problems were.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

Thank you and just one follow-up question. Is there an expectation that they would disclose how many there are because we know that there have been questions and issues regarding the number of bedrooms,

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should there be smoke detectors one per bedroom, the problems when you have three bedrooms off of one corner of a hallway, do you need one, do you need three -- those questions have come up this particular session because of the tragedy that happened in Stamford. So, my follow-up question is, is there an expectation that they would have to disclose how many there are within the property? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that is correct. They would have to disclose the number and as Representative Rebimbas said, that it's to the best of your knowledge.

SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Would you care to remark further on the Amendment? Would you care to remark further on House "A"?

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Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. I just want to speak very briefly in favor of this particular Bill. We've had several different proposals this current session regarding changes to the residential property condition disclosure report and in some cases I've been opposed to them and in other cases I've been for them. Essentially, my concern regarding this report is that I do not want the purpose of the residential property condition disclosure form that we use in the real estate business to become something that it's not currently. This is a form used to educate consumers/buyers of residential property of potential problems that the seller is aware of. There's a danger that if we go too far and we make this form far too inclusive, we might defeat the purpose of trying to inform consumers and encourage them to maybe obtain a home inspection and that sort of thing. But, this particular Bill, I think, being that it's limited in scope and it is just -- I'm sorry, and it's only intended for a few particular items, I think is a good measure and I am in support of it. Thank you, Mr. Speaker.

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SPEAKER DONOVAN:

Thank you, Representative.

Representative Miller on the Amendment? No?

Would you care to remark further on House "A"? Care
to remark further on House "A"?

If not, I'll try your minds. All those in favor
of the Amendment please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed Nay.

The Ayes have it. The Amendment is adopted.

Would you care to remark further on the Bill as
amended?

Representative Larry Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker. I just have a couple of
questions, through you.

SPEAKER DONOVAN:

Please proceed, sir.

REP. MILLER (122nd):

The lawyer that handles the sellers or the buyers
-- when the transaction, now what is the lawyer do?
Doesn't he have to do some of this stuff or most of

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this stuff or he should be aware if there's a lien on the house or whatever?

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, often times the practicality is that the disclosure form is completed by the real estate agent and the seller and often times the lawyer doesn't see this document until the seller retains the counsel or the buyer retains the counsel of an attorney. So, in most cases the attorney is not involved in the completion of the form. But, it's a possibility that an attorney can be asked to assist.

SPEAKER DONOVAN:

Representative Miller.

REP. MILLER (122nd):

Thank you. And, of course, through you, Mr. Speaker, if I were the guy buying the house and my lawyer didn't find out some of this stuff, I'd be raising hell with him. I don't understand why they only see it the last day of the transaction. They should be aware of what's happening with that property because that's what they're getting paid for. And,

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secondly, you said it should have an inspection by a licensed home inspector. That's not a mandate of any kind, that's just strictly if they want to have it done, they'll have it done. And, I think those are the guys that really come up with the problems with the property before anybody else does. And, lastly, through you, Mr. Speaker, the underground storage tanks. The bank won't give you a mortgage if they know there's a tank in the ground, so, you know, I don't know why we have to have that in there as well. A bank, as soon as they hear a tank is underground, they'll sit on that house for a while and make sure everything is cop esthetic with it and half of the time they won't even give you a mortgage if they know there's a tank in the ground. So, I don't know, there is a lot of things in here that should be done by people who are facilitating the sale and the purchase and I'll support the Bill, but it seems like a lot of redundancy here with what actually happens in the field. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative
Rebimbas.

REP. REBIMBAS (15th):

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Thank you, Mr. Speaker. I do rise in support of the Bill that's here before us. I want to first also congratulate Chairman -- Representative Baram who act as the chairman of the working group. I think it's a wonderful proposal that this working group that was made up of all of the interested parties in this field to put forth together what their recommendations are. Certainly it's up to the Department of Consumer Protection to take these recommendations and actually implement them in the disclosure. I'd also like to highlight that the Insurance and Real Estate Committee as well as the General Law Committee as well as the Connecticut Association of Realtors did favorably support this. So, I do think that all of the appropriate committees were able to look over all of the information and read through all of the testimony.

Certainly some very good points were made and I'd like to highlight that many of times some of the buyers are not represented by real estate agents. So, in fact, we encourage as much information as possible in these disclosures that the sellers are going to provide so then the buyers can make informed decisions. We also had a very good point that was made earlier regarding the underground storage tanks

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regarding whether or not a bank would provide a mortgage. Well, certainly there is also some investors that don't need a mortgage from a bank and maybe a cash deal and having this information before them is also a very good thing. So, again, there's nothing wrong with providing information. I think that's something that the real estate disclosure form does. It's a very good form; it's very useful when it comes to closings because it provides everyone with as much knowledge as possible in regards to the purchase of the property that's before them. So, again, I'd like to congratulate the working group for putting forth some good recommendations and look forward to this being implemented moving forward and I do support this Bill and ask that my colleagues do as well.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Ackert.

REP. ACJERT (8th):

Thank you, Mr. Speaker. Just a quick question to the proponent of the Bill.

SPEAKER DONOVAN:

Please proceed, sir.

REP. ACKERT (8th):

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Thank you. Just a question, I see the requirement is if you don't fill out this form in past it was \$300 if you just decided not to fill this form out, is that correct?

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that is correct. The credit was increased from 300 to 500 dollars. The rationale was that we wanted to encourage sellers to complete this form and we thought given the fact that this hasn't been updated in some time, increasing that credit would make sense and encourage people to complete the form.

SPEAKER DONOVAN:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker. And, a follow-up to that, I did see it was raised to 500 and that does make sense as to the encouragement of it. This is a very good form from what I can read and see it's very -- in terms of comprehensive, as to what a buyer might want, that would probably be something that they would really be encouraged to have the seller do. But, if

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the seller decides not to, it's up to them to say, well, I'll just give you the \$500 credit, is that correct?

SPEAKER DONOVAN:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that is correct. And, also, I should add that the \$500 could be used by the buyer to do their own inspection if the report wasn't made available.

SPEAKER DONOVAN:

Representative Ackert.

REP. ACKERT (8th):

Thank you, Mr. Speaker and thank you to the Representative for his answers.

SPEAKER DONOVAN:

Thank you. Would you care to remark further on the Bill? Care to remark further on the Bill?

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

THE CLERK:

The House of Representatives is voting by roll call. All members to the chamber, please. The House

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SENATE

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Okay. I guess we're supposed to do something else.

So, Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Madam President.

Would mark some additional items as -- as we move toward -- toward the end of today's session and -- and the year's session.

Madam President, some additional go items. First of all, Madam President, on calendar page 9, Calendar 403, House Bill 5087, would mark that item go as the first item to be taken up. Next, after that, Mr. President, calendar page 7, Calendar 384, House Bill 5095.

Then Madam President, calendar page 10, Calendar 408, House Bill 5499; and also, calendar page 10, Calendar 418, House Bill 5063.

Also Madam President, page 11, Calendar 428, House Bill 5035; page 21, Calendar 504, House Bill Number 5319, would mark those items as -- as go.

In addition, Madam President, I would mark as go item calendar page 19, Calendar 486, House Bill 5154.

Also Madam President, an item on the foot of the calendar, would move to remove it from the foot and mark it passed temporarily. And that is the item on calendar page 30, Calendar 87, Senate Bill Number 155, to be marked PT.

Thank you, Madam President.

THE CHAIR:

Seeing no objection, so ordered.

Mr. Clerk.

THE CLERK:

Page 9, Calendar 403, Substitute for House Bill Number 5087, AN ACT REQUIRING THE COMMISSIONER OF CONSUMER

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PROTECTION TO MAKE CHANGES TO THE RESIDENTIAL PROPERTY
CONDITION DISCLOSURE REPORT. It's amended by House
Amendment Schedule "A", and a favorable report of General
Law and Insurance and Real Estate.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Good evening, Madam President.

I think it's time to go back to work.

THE CHAIR:

Excuse me?

SENATOR DOYLE:

It's time to go back to work.

THE CHAIR:

Okay. I'm ready.

SENATOR DOYLE:

I move acceptance of the joint committee's favorable
report and passage of the bill in concurrence with the
House.

THE CHAIR:

The motion is acceptance and adoption. Will
you -- exception (sic) and passage -- I'm sorry.

Would you remark, sir.

SENATOR DOYLE:

Yes. Thank you, Madam President.

This bill was passed unanimously out of the General Law
Committee -- and I believe it was unanimous out of the
House also -- is the result of a task force this past off

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session that did some work to, kind of, fine-tune our residential property disclosure form that, when any person sells their home, the seller has to sign this form.

This bill has a number of additional sections or questions for the form. I think it's an improvement to our form and I would ask the Chamber to approve it.

Thank you, Mr. President.

(Senator Duff in the Chair.)

THE CHAIR:

Thank you, Senator.

Will you remark further on the bill?

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I rise in support of the bill. As Senator Doyle said, a lot of work went into the task force. And I think the task force was led by Representative Baram downstairs in the lower chamber. It addresses a lot of the concerns.

I think the old phrase of "buyer beware" could be set aside now with -- if this bill becomes law because it will actually disclose a few more things that buyers should know when they invest a lot of their savings in purchasing a home. And I wholeheartedly support the bill.

And Mr. President, through you, I do have a few questions for legislative intent to Senator Doyle.

THE CHAIR:

Please proceed, sir.

SENATOR WITKOS:

Thank you.

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Through you, Mr. President.

The bill, in lines 85 through 88, says that a new question shall be added to the form pertaining to, quote, whether the seller is aware of any prior or pending litigation, government agency or administrative action, order or lien on the premises related to the release of any hazardous substance.

And for legislative intent, is the owner's disclosure limited to facts actually currently known by the seller rather than constructive knowledge, or information that may be speculative or unconfirmed?

Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President.

Basically, this question deals with anything that the -- the seller is aware of prior to -- of -- of any prior or pending litigation. So, basically, the person should answer it with -- if they had prior litigation on the property concerning any hazardous substances, so it's prior or pending. So regardless of the nature of any prior or pending litigation, it should be disclosed.

And the real point is here for the buyer. We want the buyer to be, you know, as most knowledgeable as the property as possible. So we're asking the seller to disclose any of this information that he or she may be aware of.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you.

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And through you, Mr. President.

Is the disclosure limited to on-site contamination or is also addressing off-site conditions outside the boundaries of the subject property?

Through you, Mr. President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Mr. President.

I would think it's -- since we're dealing with selling a particular parcel, I think it should be -- it will be focused on any knowledge or aware of any hazardous substance in connection with the property at issue. Because once you get past the -- the actual property boundaries, it's really hard to be affirmative of what it is. And it's -- it may be rare that a person would even have knowledge of -- of any abutting property. So I would stick to the boundaries of the property.

Through you, Mr. President.

THE CHAIR:

Thank you.

Senator Witkos.

SENATOR WITKOS:

Thank you.

And my last question, through you, to Senator Doyle, is, if there was prior litigation and you found that there's been no evidence of a release of a hazardous substance, are you -- do you still have a duty to disclose that through this form?

Through you, Mr. President.

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THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes. Through you, Mr. President.

The answer is yes. So even if the prior litigation that you're aware of actually turns out the property is clean and there's no problem, as written, I think they should disclose any and all prior litigation that the seller is aware of. So the answer again to the question is, yes.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I thank Senator Doyle for his response to my questions, and I support the bill as amended.

Thank you.

THE CHAIR:

Thank you.

Will you remark further?

Senator Doyle.

SENATOR DOYLE:

Yes, Mr. President, if there's no objection, I refer this bill to the consent calendar.

THE CHAIR:

Seeing -- seeing and hearing no objection, so ordered. Oh, there's -- yeah. There's no objection. That will be on the consent calendar. So ordered.

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(HB 5283)

On page 3, Calendar 240, House Bill 3283; page 3, Calendar 299, House Bill 5437; page 5, Calendar 349, Senate Bill 374; page 6, Calendar 375, House Bill 5440; page 6, 362, House Bill 5011.

On page 7, Calendar 376, House Bill 5279; on page 7, 387, House Bill 5290; on page 8, 394, House Bill 5032; on page 8, 396, House Bill 5230.

Also on page 8, Calendar 398, House Bill 5241; on page 8, Calendar 393, House Bill 5307; on page 9, Calendar 403, House Bill 5087; on page 9, Calendar 406, House Bill 5276; on page 9, 407, House Bill 5484; on page 11, Calendar 424, House Bill 5495; on page 12, Calendar 435, House Bill 5232; on page 13, Calendar 5 -- excuse me Calendar 450, House Bill 5447; on page 14, Calendar 455, House Bill 3 -- I'm sorry -- House Bill 5353.

On page 14, Calendar 453, House Bill 5543; on page 14, Calendar 459, House Bill 5271; on page 15, Calendar 464, House Bill 5344; on page 15, Calendar 465, House Bill 5034; on page 16, Calendar 469, House Bill 5038; on page 17, Calendar 475, House Bill 5550; on page 17, Calendar 474, House Bill 5233; on page 17, Calendar 477, House Bill 5421.

Page 18, 480, House Bill 5258; on page 18, Calendar 479, House Bill 5500; page 18, Calendar 482, House Bill 5106; on page 18, Calendar 483, House Bill 5355; on page 19, Calendar 489, House Bill 5248; on page 19, Calendar 488, House Bill 5321; on page 20, Calendar 496, House Bill 5412.

On page 21, Calendar 504, House Bill 5319; page 21, Calendar 505, House Bill 5328; on page 22, Calendar 508, House Bill 5365; on page 22, Calendar 510, House Bill 5170; on page 23, Calendar 514, House Bill 5540; on page 23, Calendar 517, House Bill 5521.

Page 24, Calendar 521, House Bill 5343; page 24, Calendar 518, House Bill 5298; page 24, Calendar 523, House Bill 5504; page 29, Calendar 355, Senate Bill 418; on page 13, Calendar 444, 5037; and Calendar 507, House Bill 5467.

THE CHAIR:

Senator -- Senator Suzio.

SENATOR SUZIO:



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Bills placed on the Consent Calendar on May 9, 2012

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Bills from Senate Agenda Number 3 from the May 9th Senate Session that were placed on the Consent Calendar

HB5304
HB 5342

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Good evening, Madam President.

I just want to clarify. I thought I heard the Clerk call House Bill 5034? Is that on the consent calendar?

THE CHAIR:

Do you know what page that is, sir?

SENATOR SUZIO:

No I -- he was reading so fast, Madam, I couldn't get it.

THE CHAIR:

It's -- yes it's 53 -- I don't know.

SENATOR SUZIO:

5034.

THE CHAIR:

5034, yes sir.

SENATOR SUZIO:

I object to that being put on the consent calendar, Madam President.

THE CHAIR:

Okay, that will be removed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, just seeing that -- ask to remove that item from the consent calendar.

THE CHAIR:

So ordered.

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At this time we'll call a roll call vote on the consent calendar.

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Coleman, we need your vote, sir.

Senator Kissel, Senator Kissel. Senator Kissel, will you vote on the consent calendar please?

All members have voted?

If all members have voted, the machine will be closed.

Mr. Clerk, will you call the amendment -- I meant the tally.

THE CLERK:

On today's consent calendar.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The consent calendar has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I believe the Clerk is in possession of Senate Agenda Number 6 for today's session.