

PA13-127

HB5513

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**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 2
365 - 727**

2013

Representative Ritter.

REP. RITTER: It's nice to see you, and thank you for coming up here today.

DARCY KIRK: Yeah. It's great to see you.

REP. RITTER: And thanks for all the work you do at UCONN Law School and, yeah, hopefully this sounds like it's moving in the right direction, so thanks for being here today.

DARCY KIRK: Thank you.

REP. FOX: Are there other questions? Thank you.

DARCY KIRK: Thank you.

REP. FOX: Next is Houston Putnam Lowry. Houston. Houston, sorry.

HOUSTON PUTNAM LOWRY: Houston Putnam Lowry.

REP. FOX: Sorry.

HOUSTON PUTNAM LOWRY: Good afternoon. My name is Houston Putnam Lowry, and I am here on behalf of the CBA Section of International Law and Practice regarding House Bill 5513. And as Monty Python used to say, "And now for something completely different," let's talk about the unauthorized practice of law.

I'm not talking about the same bill that everybody else has been talking about. We're talking about a relatively short bill that makes it clear that notary publics cannot hold themselves out as practicing law regarding immigration matters. What has happened is some unscrupulous notary publics have, shall we say, preyed on recent immigrants from civil law

countries for whom a notario is a very senior lawyer that handles a lot of administrative stuff. Technically speaking, notaries or notarios still exist within the United Kingdom, they're appointed by the Archbishop of Canterbury. We don't do that in the common law system here.

It requires a notary public to disclose that they are not an attorney at law; they cannot adopt the title notario or notario publico. It's basically a consumer protection bill. I think it's relatively simple. I think it's relatively straightforward, but the Section of International Law believes the consuming public should not be confused. I'd be happy to answer any questions you have. There's written testimony that I have provided in print format and electronically.

REP. FOX: Senator Kissel.

SENATOR KISSEL: Attorney Lowry, great to see you again. You come here almost every year on something, and so I really appreciate your dedication.

HOUSTON PUTNAM LOWRY: I -- I try to, sir. Sometimes the lobbyists in the hallway wonder who is paying for you. And I say, no, no, I just do this on my own.

SENATOR KISSEL: I think you practice -- you practice with Attorney Welsh. Right?

HOUSTON PUTNAM LOWRY: Yes, I do. As a matter of fact, we're the only two partners of the firm where all the partners are here this afternoon. So we're sort of out of business except for our associates.

A VOICE: The associates do the work.

SENATOR KISSEL: So in any event, I really do -- I recognize and appreciate both of your dedication to public service. And I -- I guess my question on the merits is we tried to get our arms around this whole notario thing last year, and is the bill that we have before us this afternoon different than last year's or what was the --

HOUSTON PUTNAM LOWRY: I believe it is substantially similar. I wasn't aware of what the problem was that cropped up. No one testified in support of making notary publics eligible to practice law. So it -- it -- I'm, you know, it just makes it very clear. And I'm told in some Spanish language newspapers, and I'm not Spanish speaking, that some advertisements are misleading. I've spoken to the Bar Disciplinary Council, and they would find this helpful.

SENATOR KISSEL: Well, I really do appreciate it. And as someone who sat through at least one series of testimony, if not two years, the stories are heartbreaking. I mean it's not even that some of these -- just trying to pretend to be a lawyer, these people get 10, 15, 20,000 dollars up front. This is all this individual's life savings.

HOUSTON PUTNAM LOWRY: Yep.

SENATOR KISSEL: And then because they file forms that are inappropriate and things like that, these are things that not only are economically devastating to the people that think that they're getting someone that knows what they're doing, but these issues trail them for years. And it's very difficult to clean up the mess that these people leave behind. So I -- I really think that -- I'm hoping that this is

the year that we can stop one group of people from really preying upon innocent immigrants that really think they're just trying to do the right thing.

HOUSTON PUTNAM LOWRY: It -- it really is a consumer protection issue, and I think the Bar Disciplinary Council should be able to have this clear arrow in their quiver to resolve these issues. Because it's not fair to charge someone \$20,000 and end up having them deported. I mean it's just unconscionable.

SENATOR FOX: In a way, to finish Senator Kissel, I mean the way it had been explained to me was the term "notario," in the Spanish language, is much higher. It's somewhere between a lawyer and a judge.

HOUSTON PUTNAM LOWRY: That is, in fact, correct. What happens in civil law systems, you break down into three classes. You have judges, you've trained immediately to be a judge, so you start off being a judge if you're in that category. Then you have a notario, but they also have the equivalent in the United Kingdom, which is someone that's a senior lawyer, very well regarded, specially trained. And then you have the regular lawyers which would be the advocates and the office lawyers.

So they -- they -- they are considered to be among the best and the brightest. And the Archbishop of Canterbury, still, even though the Pope says he didn't appoint him, still exercises his prerogative under the civil law system to appoint notarios. They still do for the country for New Zealand, even though they are independent from the United Kingdom now. And also in civil law states such as Louisiana and Puerto Rico, they still have vestiges of that.

REP. FOX: Because in even the way, obviously here in our state, you can take an oath essentially as a notary public.

HOUSTON PUTNAM LOWRY: Right.

REP. FOX: But people are using that and charging these large retainers that Senator Kissel referenced.

HOUSTON PUTNAM LOWRY: Correct. You can do only about three things as a notary, generally speaking: take an oath; do an acknowledgement, which involves (inaudible) about a signature;; and now, by statute last year, you can certify copies.

REP. FOX: I do have one question which was a concern I had last year when I did -- when we did this bill, and it did make it out of the House. It was combined with the unauthorized practice of law bill, so it's one of those things is that why we're here today is some of the -- a lot of these bills made it out of one chamber, not the other.

But the bill does reference notario. It does not reference other languages where I don't know if this is taking place in French Creole, or if you see this type of abuse in other areas. And you don't have to give me an answer today, but if -- if it should encompass something more than the term "notario," I'd like to include it if we can.

HOUSTON PUTNAM LOWRY: I'm not aware of abuses except in the Spanish-speaking area at the present time. But if you were to add something like "or words of similar import," that would be perfectly fine.

REP. FOX: Okay. Thank you.

Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chair, and good afternoon. I know one of the things that I believe was corrected in the House, and that's why it did successfully pass in the House, was my concern early on the way it had been written is that it simply said that you could not advertise as a notario unless you were actually an attorney.

As I read what's before us here today even -- in front of us, it's clarified. It's addressed that issue. Because it simply says now it's not that you can't advertise, but if you do choose to advertise as a notario, you have to say that you're not a practicing attorney. Whereas originally, when this came before us on the floor of the House, it actually had you could not advertise as a notario with that unless you were an attorney, which, in fact, kind of cut both ways because then, if you have a legitimate notary who happened to speak the Spanish language or any other language, if this actually goes beyond the Spanish language, they would be prevented from advertising completely.

But this before us corrects that. I don't see that as being an issue, so I do hopefully anticipate this moving forward because of the abuses that you have already testified to, unfortunately it has occurred, and it does need to be addressed.

HOUSTON PUTNAM LOWRY: You are correct, Representative, in terms of some of the language last year. We suggested that that issue should be corrected when we submitted written testimony. There is a potential, and I don't see where it would be a problem, we have

something called "foreign legal consultants" in Connecticut, so you could have a real live notario, an honest to God notario from, say, the French system or the Spanish system, who actually is in Connecticut, actually practices Spanish notario law.

They aren't admitted to practice in Connecticut. They can't adopt the title saying that they are an attorney at law. They are not allowed to do that under the statute which provides the Superior Court the power to regulate foreign legal consultants. But they could still advertise and say that they do that kind of work as long as they don't say they're a Connecticut lawyer, they have an asterisk admitted only in the Kingdom of Spain or wherever they were admitted.

REP. REBIMBAS: Thank you very much for your testimony. It will be interesting to see how they work around this asterisk in the disclaimer, might be a maybe seven-point font, but maybe something (inaudible) further on or maybe even in this bill again just making sure that the intent is obviously clear, because I would hate to have someone certainly try to supersede the intent of this bill. Thank you.

HOUSTON PUTNAM LOWRY: That's why I tried to make that particular example that people might not actually think of, you may have, I'm not aware of any, but you might have, in light of the expanding legal practice, a real notario who practices in Connecticut doing, say, Spanish conveyance law, and they could, in fact, do that. And this is not intended to prevent them from advertising, as long as they don't pass themselves off as a Connecticut attorney.

REP. REBIMBAS: Thank you.

REP. FOX: Thank you. Are there other questions?

Representative Adinolfi.

REP. ADINOLFI: Thank you very much, Mr. Chairman. Just a fast question. I see what you're doing with the -- the notaries, but this -- would this also or should it also have an effect on justices of the peace?

HOUSTON PUTNAM LOWRY: I am not aware of any justices of the peace practicing law or taking fees or abusing their position in a similar way. So I don't think that would be necessary to be done in this piece of legislation. If you felt it was and you have anecdotal evidence that I'm not aware of, certainly we'd have no problem with it. Justices of the Peace are not practicing lawyers. They're not admitted to practice law, and they shouldn't hold themselves out as that.

REP. ADINOLFI: Thank you.

HOUSTON PUTNAM LOWRY: Thank you very much.

REP. FOX: Blair Kauffman.

BLAIR KAUFFMAN: Hello. Is it on?

A VOICE: It's on.

BLAIR KAUFFMAN: Yeah. Allow me a moment for my glasses. I'm delighted to be here this afternoon. Thank you. I -- my name is Blair Kauffman. I'm the director of the Yale Law Library and have worked as a professional law librarian for over 35 years. I've taught legal research courses at Yale for nearly 20 years. I am here in my capacity as a Connecticut resident to speak in support of Senate Bill 235, the Uniform Electronic Legal Material Act,

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Testimony of Houston Putnam Lowry
Legislative Chair of the
International Law & Practice Section of the Connecticut Bar Association
House Bill 5513, AAC The Unauthorized Practice of Law By Notaries Public
Judiciary Committee
February 13, 2013

The Connecticut Bar Association's Section of International Law supports enactment of this bill because it will promote protect consumers.

In civil law systems, a "Notario" (or Notary) is a very senior attorney by training. They are lawyers specializing in non-contentious private civil law who draft, take, and record legal instruments for private parties, provide legal advice and are vested as public officers with the authentication power of the State regarding foreign transactions. Many contracts in civil law systems are not enforceable unless the contracts are registered with a notary (who can often charge a significant fee based upon the size of the contract). While the Archbishop of Canterbury continues to appoint notaries within the United Kingdom, this admittedly rare legal office does not exist within the common law parts of the United States.

The function of a notary public under Connecticut law is completely different. A notary public can only administer oaths, acknowledge signatures and certify copies. They are not lawyers by training.

Many recent immigrants, particularly from civil law countries, do not understand this distinction. They believe hiring a notary public is comparable to hiring a lawyer, especially regarding immigration matters. This is obviously note true and this bill will prevent a notary public form passing himself/herself off as a lawyer.

For these reasons, the Connecticut Bar Association's Section of International Law requests the Judiciary Committee favorably report this bill to the General Assembly.

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

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THE CLERK:

House Calendar 188, on Page 21, Favorable Report of the joint standing Committee on Judiciary, House Bill 5513, AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW BY NOTARIES PUBLIC.

DEPUTY SPEAKER BERGER:

The dais will recognize the esteemed House Chair of the Judiciary Committee, Representative G. Fox.

REP. G. FOX (146th):

Thank you, Mr. Speaker.

I move for the acceptance of the joint committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER BERGER:

Question before your Chamber is on acceptance of the joint committee's Favorable Report and passage of bill. Will you comment further, Representative?

REP. G. FOX (146th):

Thank you, Mr. Speaker.

This bill addresses a concern that was brought to the attention of the members of the Judiciary Committee, and it deals with the -- the issue of Notary Publics, specifically those who use the term "Notario" or "Notario Publico," which is a, in the Spanish language, a term that designates much greater,

a much greater sense of ability to practice law than what our term, in the English language, of "Notary Public" does. It -- it actually, the term Notario, what it does is it is a -- a level somewhere between a lawyer and a judge is the way it was explained during the course of our -- our public hearing.

And what is happening, especially in many of our -- our cities, is that those who get the, who are deemed Notary Publics, which is the ability, essentially, to acknowledge documents are -- are using that, the term Notario and actually going far further than what is permissible under our laws.

And what this bill does is it says that a Notary Public cannot hold themselves out to represent somebody in -- in immigration matters. It also says that if somebody does want to serve as a Notario or -- or holds themselves out as an Notario, they need to also say that they are not an attorney able to practice law.

The testimony that we heard before the committee -- and this is a bill that came out of the House last year -- was one where people who are unknowing, who would then come and meet with an individual who held themselves out with the impression that that person is

a lawyer or higher. And they would give significant retainers, and the cases would not be handled properly. And they would not be handled according to our laws here in the State of Connecticut.

So it's an attempt to address a problem that was brought to the attention of the committee, and I would urge passage of the bill.

DEPUTY SPEAKER BERGER:

Thank you, Representative or you could comment further.

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

And I also rise in support of this bill. And a few questions to the proponent.

DEPUTY SPEAKER BERGER:

Yes, prepare yourself, Representative Fox.

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, to Representative Fox, just to kind of clarify the bill, if someone is found to be in violation of this proposed legislation, what would be their penalty?

Through you, Mr. Speaker.

DEPUTY SPEAKER BERGER:

Representative Fox.

REP. G. FOX (146th):

They -- and through you, Mr. Speaker -- they would be -- be charged with the unauthorized practice of law.

DEPUTY SPEAKER BERGER:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

And thank you, Representative Fox, for that clarification and also for the eloquent testimony he provided.

I do, again, support this piece of legislation that's before us. I think it's certainly one that is necessary, because when you -- right, currently, right now, any Notario or anyone else who is practicing law unauthorized is already in violation of current law, as well as, unfortunately, there's many people who are suffering devastating circumstances, because many times these are immigration matters, and they may even be facing deportation as a result of someone inadequately representing them and making

misrepresentations in that regard. So this is a very important piece of legislation.

It was before us last year, and one of the things that we identified as a problem is as it was drafted last year, it prohibited any Notario from advertising that they were a Notario. Well, that was a little bit too restrictive because of the fact that you don't want to prevent someone from being able to advertise their services. But we needed to clarify, because, again, from many foreign countries, the word Notario implies that they're also registered as either a judge or an attorney in those countries, and, in fact, that's not the case in the United States. So you don't want someone to read an advertisement and assume that they are able to legally practice law in the State of Connecticut.

So, in fact, this allows them to advertise, but if they are also not an attorney, in that advertisement they have to clearly state they are not an attorney. So then those people who are looking for a Notario for nonlegal purposes will certainly be advised of such when they read these advertisements, but for those people that come from foreign countries, a Notario is also an attorney, they will understand

that at least in the State of Connecticut, when they're seeking out an attorney, a Notario, in fact, is not an attorney, unless they are also licensed as an attorney.

So I think that this, again, will protect the people that need it most but it also will allow Notarios to advertise the services that they actually do provide for the residents. So I do stand and ask for everyone to support this piece of legislation.

Thank you, Mr. Speaker.

DEPUTY SPEAKER BERGER:

Thank you, Representative.

Will you comment further on the bill before us?

Representative Candelaria --

REP. CANDELARIA (95th):

Thank you --

DEPUTY SPEAKER BERGER:

-- of the 95th.

REP. CANDELARIA (95th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of this bill. I want to thank the Chairmen and the Ranking Members for really put this forward. This bill was introduced to us and we passed it here in the House, last year. And

I'm glad that there were some corrections made, that we're moving it forward.

This is an important bill. It impacts a lot of families, and I'm glad that hopefully we'll be able to get this done and passed and make it into a law.

Thank you, Mr. Speaker.

DEPUTY SPEAKER BERGER:

Thank you, Representative.

Will you comment further on the bill before us?

Will you comment further on the bill before us?

If not, will staff and guests please come to the Well of the House. Will members please take their seat -- seats. The machine will be opened.

THE CLERK:

House of Representative is voting by roll. The House of Representatives is voting by roll. Will members please return to the Chamber, immediately.

DEPUTY SPEAKER BERGER:

Have all the members voted? Have all the members voted? Will the members please check the board and determine if their vote is properly cast?

If all members have voted, the machine will be locked. And the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Bill Number 5513.

Total Number Voting 143

Necessary for Passage 72

Those voting Yea 143

Those voting Nay 0

Absent and not voting 8

DEPUTY SPEAKER BERGER:

The bill passes.

Will the Clerk please announce House Calendar
151.

THE CLERK:

Mr. Speaker, on Page 17, Calendar Number 151,
Favorable Report of the joint standing Committee on
Housing, House Bill 5970, AN ACT CONCERNING THE POWER
OF MUNICIPAL FAIR RENT COMMISSIONS.

DEPUTY SPEAKER BERGER:

Thank you, Mr. Clerk.

The dais recognizes the esteemed Chair of the
Housing Committee, from the City of Waterbury,
Representative Butler, of the 72th.

REP. BUTLER (72nd):

Thank you, Mr. Speaker. And if I might add, you
look pretty stately there at the dais.

S - 665

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
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SENATORS:

Aye.

THE CHAIR:

Opposed.

Senate B has been adopted.

This time, Senator Leone.

SENATOR LEONE:

If there are no objections, I would put to move this on the Consent Calendar.

THE CHAIR:

Are there -- seeing no objections, so ordered.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, before calling for a vote on the first Consent Calendar, I have some additional items to add to that Consent Calendar. Appreciate the cooperation, the bipartisan cooperation of the membership in preparing this Consent Calendar. First item to add, Madam President, is on Calendar page 6, Calendar 349, House Bill Number 5513.

Next item, Madam President, Calendar page 9, Calendar 450, 450, Senate Bill Number 921. Next one, Madam President, is on Calendar page 16, Calendar 559, House Bill Number 6508. Next, Madam President, is on Calendar page 23, Calendar 614, House Bill Number 6587 and also on Calendar page 23, Calendar 616, substitute for House Bill Number 6678.

Moving, Madam President, to Calendar page 25, Calendar 629, substitute for House Bill Number 6662. And, Madam President, Calendar page 28, Calendar 650, substitute for House Bill Number 6659. And on

Calendar page 29, Calendar 653, substitute for House Bill Number 6699. And, finally, Madam President, on Calendar page 31, Calendar 664, substitute for House Bill Number 6689.

I would like to add those items to our Consent Calendar and, and now call for a, I would ask the Clerk to list all of the items on the Consent Calendar and then proceed to a vote on that first Consent Calendar.

Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

Today's first Consent Calendar, on page 5, Calendar 341, House Bill 6364; Calendar 343, House Bill 5425; Calendar 346, House Bill 6322; Calendar 347, House Bill 6547; and on page 6, Calendar 349, House Bill 5513; page 9, Calendar 450, Senate Bill 921; on page 13, Calendar 506, House Bill 6491; Calendar 515, House Bill 6235.

On page 14, Calendar 524, House Bill 6380; on page 16, Calendar 559, House Bill 6508; page 17, Calendar 563, House Bill 5617; Calendar 569, House Bill 6485; and on page 19, Calendar 588, House Bill 6549; on page 23, Calendar 614, House Bill 6587; Calendar 616, House Bill 6678; page 25, Calendar 629, House Bill 6662; on page 26, Calendar 633, House Bill 6576; and on page 27, Calendar 640, House Bill 6550; on page 28, Calendar 650, House Bill 6659.

And on Page 29, Calendar 653, House Bill 6699; Calendar 655, House Bill 6339; page 31, Calendar 664, House Bill 6689; Calendar 665, House Bill 6355; page 34, Calendar 201, Senate Bill 911; and on page 40, Calendar 514, House Bill 5725.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the first Consent Calendar. And the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call in the Senate on the first Consent Calendar of the day.

THE CHAIR:

Yeah, thank you. Good. There we go.

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

Mr. Clerk, will you please call the tally.

THE CLERK:

On the first Consent Calendar,

Total Number Voting 34

Necessary for Adoption 18

Those voting Yea 34

Those voting Nay 0

Those absent and not voting 2

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator Looney.