
Committee Meeting

of

SENATE COMMUNITY AND URBAN AFFAIRS

Senate Bill No. 1407

(Establishes low interest mortgage program in HMFA for volunteer fire and rescue squad members)

Senate Bill No. 1562

(Clarifies provisions of law concerning commissions for sale of local government real estate)

Senate Bill No. 1759

(Exempts senior homeowners from municipal building permit fees)

Senate Bill No. 1824

(The "New Homebuyers' Bill of Rights Act")

Senate Bill No. 1825

(Enhances protections for new homebuyers)

Senate Bill No. 1826

(Strengthens State construction code)

"Testimony relevant to the State of New Jersey Commission of Investigation Report on 'New-Home Construction in New Jersey'"

LOCATION: Committee Room 7
State House Annex
Trenton, New Jersey

DATE: June 8, 2006
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Chair
Senator Fred H. Madden Jr.
Senator Leonard T. Connors Jr.
Senator Nicholas Asselta



ALSO PRESENT:

Robert C. Rothberg
Office of Legislative Services
Committee Aide

Julius Bailey
Senate Majority
Committee Aide

Nicole DeCostello
Senate Republican
Committee Aide

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SENATOR RONALD L. RICE (Chair): We're going to get ready to get started.

I know we have the Commissioner of Community Affairs here this morning. I also know that she has another engagement she must be at. And I'm just glad she took the time to come over.

So we're going to start with the bills on hearings first, this morning, for those who are in attendance. Then we will get to the bills that are going to be voted on this morning.

Why don't we have a roll call?

MR. ROTHBERG (Committee Aide): Good morning.
Senator Asselta.

SENATOR ASSELTA: Here.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Here.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Here.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Here.

Commissioner, why don't you come up?

And while the Commissioner is seating herself, let me just say to those who are here, and to the Committee members, the package of bills that reflect the SCI investigation report and other concerns are bills that are here for our consideration. There are going to be some additional hearings in the public. I expect to hold a hearing in the North Jersey area and, probably, one other area of the state before we come back to vote bills.

I think those of us who live in New Jersey do understand the human cry of people. The state is building very fast. I think that's a good thing -- that we do have job opportunities, construction taking place. But like everything else, we have a few bad eggs in the basket, if you will, that are not doing the job the way it should be done. It's causing a lot of hardship and pain to many of our residents who are spending their dollars in hopes of having the American dream. That's becoming a nightmare. And so there are things that we have to tighten up. Nothing is perfect, in terms of legislation. I don't want to go too far overboard with legislation that's going to stymie the growth in New Jersey. My major concern is that we hold builders and contractors accountable for what it is they're supposed to be doing, and make sure that the homeowners are kept whole in the process, as we move along.

With that, Commissioner, why don't you go ahead and start?

COMMISSIONER SUSAN BASS LEVIN: Thank you, Mr. Chairman, and to other Senate members of the Committee.

I'm very pleased to be here this morning to speak in support of these bills.

Mr. Chairman, I would like to personally thank you for taking the lead, once again, in sponsoring important consumer protection legislation.

I know that Bill Connolly, the Department's Director of the Division of Codes and Standards, who is here with me, had an opportunity to discuss many of these recommendations with you, Senator Rice. And I look forward to working with you and the members of the Legislature as we proceed.

To begin, I'd like to update you on the actions that the Department has taken since the State Commission on Investigation issued its report in March 2005. We worked very closely with the Commission, and many of the recommendations in that report came from the Department. We've implemented the recommendations in that report, to the extent we are authorized by law to do so, to protect new home buyers, and to improve our new home warranty and code enforcement programs.

The report recommended that the private plans simplify their claims processes. And so we mandated a simple, direct, consumer-friendly process for handling claims.

The report recommended that we provide greater oversight of private plans, and we are.

The report recommended that we send an informational booklet to every new home buyer a few months after closing. We are. We mail a notice to homeowners four months after closing, informing them about their warranty coverage, reminding them of the importance of filing a timely claim, and telling them where they can get another copy of the warranty information that they were given at closing. This recommendation was made by the Department, and it has been implemented.

The report recommended that we create a home-buyers' Web site. We did. The list of registered new home builders has been part of the Web site for some time. And, last month, we went live with a listing of all of the claims activity for each registered new home builder, and all of the affiliated companies. In the written testimony, there is the address of the Web site.

The report recommended that we adopt a Code of Ethics for inspectors charged with enforcing the Uniform Construction Code. We did, and we sent it to every local code official in the state.

The report recommended that we require builders to certify compliance with the framing checklist. We did. We developed a checklist for inspectors to use to ensure that no aspect of the structural frame would be missed during an inspection.

The report recommended that the Department establish a code provision authorizing a post-construction inspection and correction process for troubled developments. We have. This new rule appeared in the *New Jersey Register* on May 1 as a proposal for rule comment. It allows towns to hire engineers or architects for this purpose. The developer would be required to pay for this effort, through moneys deposited in an escrow fund.

At the time of the SCI hearings, an Appellate decision in *DKM Residential Properties versus The Town (sic) of Montgomery* prevented construction officials from requiring builders to correct violations after a CO was issued. On January 24, 2005, the Supreme Court reversed that decision, allowing the construction official to compel the builder to correct violations found after the issuance of a CO. Immediately following the Supreme Court decision, we sent enforcement instructions to all local code enforcement agencies.

We also took steps to require that problems with individual inspectors be reported to the Department. And we proposed a rule to allow the local construction official to issue a development-wide stop work order in cases where the construction official sees a pattern of failure to comply

with structural or fire safety requirements. This rule proposal appeared in the February 6, 2006 issue of the *New Jersey Register*.

New Jersey has long stood as a national leader in construction code enforcement. More than 25 years after the passage of the New Home Warranty and the Builders' Registration Act by this Legislature, we remain the only State in the nation to mandate warranty coverage for all new homes sold. But this is not enough. We constantly seek ways to improve the quality of new home construction in New Jersey, through both the code enforcement program and the new home warranty program.

I'm here today to tell you that Governor Corzine and the Department of Community Affairs stand ready to work with you and your fellow members of the Legislature in support of the statutory changes necessary to take our programs to the next level.

The centerpiece of this package of legislation is S-1824, the Home Buyer's Bill of Rights. As you know, the purchase of a new home is essentially a matter of private contract. We have no specific laws governing the transaction, except in the case of planned real estate developments. The bargaining positions of the individual buyer and seller in these transactions is unequal. In a hot housing market, such as we have here in New Jersey, the buyer is at a serious disadvantage. The builder sets the terms and conditions. Basically, the builder's position on issues such as contract provisions, changes, and late delivery is, "If you don't like it, don't buy the house." The builder can sell the house to another purchaser at a higher price.

We believe that a home buyer's bill of rights, such as the one that you've proposed, would level the playing field. Its essential provisions, as contained in the bill, are as follows:

All deposits should be held in escrow. Requiring that deposits be held in escrow would protect the buyer. The bill would also -- the bill should also allow alternative forms of security for deposits, such as bonds and letters of credit.

The builder should be prohibited from increasing the price of the home during the term of the contract unless there are changes made at the request of the buyer, or there is a contingency for cost increases agreed to in the contract.

The buyer should have the right to include a mortgage contingency in the contract.

The buyer should be entitled to cancel the contract whenever a home is not delivered within 90 days of the closing date specified in the contract. And the builder should not be entitled to cancel the contract when the builder is late.

The buyer should be entitled to escrow funds at closing for any incomplete items. And any incomplete items not covered by escrow should be an eligible defect under the warranty law.

The buyer should have the right to make progress inspections during construction and to have his designated engineer or home inspector make these inspections.

The buyer should have the right to a set of plans and specification sheets that are part of the contract, and can't be changed unless both parties agree.

The buyer should have the right to arbitration under the New Home Warranty Law whenever there is a dispute regarding any of these rights. The bill should establish an Alternate Dispute Resolution as a right of the buyer, not simply something that the buyer may request be included. Alternate Dispute Resolution would be administered by the Department, and the resulting decision would be enforced by the Department. Alternate Dispute Resolution is faster and less costly for the buyer.

The Department should be authorized to enforce these rights pursuant to the New Home Warranty Law.

Creating these rights for buyers, by statute, would be a great leap forward for consumer protection in New Jersey.

S-1824, as drafted, also requires that the Department print a lengthy booklet summarizing all of the applicable laws, and this booklet be given to the buyer at closing. We recognize that advising buyers of their legal rights is a good idea. But it is our experience, as anyone who has ever bought a home knows, that we already get far more paperwork at closing than anyone can or will read. This is why we began sending a short summary of the buyer's warranty rights four months after closing, together with contact information for the warranty company.

I have with me copies of many of the things I have mentioned, including a copy of the notice and some of the rules, which I will leave with you. I suggest that a mailing is a better vehicle for making buyers aware of the protections, four months after closing, and the need to file timely claims.

We also support S-1825, amendments to the State's New Home Warranty Act, to improve the protections created by that Act. The

New Home Warranty Act was groundbreaking legislation when it passed in 1979. It expanded the traditional one-year builder's guaranteed, provided a process for resolving disputes between builders and home buyers that did not involve going to court, and offered financial backing for the repair of defects in cases where the builder defaulted or disappeared.

More than 25 years later, we're still the only state in the nation to offer our citizens the protections afforded by mandatory new home warranty coverage. But time and experience indicate that it's time for statutory changes to improve the coverage. This bill lengthens the coverage period for certain defects and establishes penalties for violations of the Act.

We support the changes that this bill would make: to extend defect coverage periods to three years on water damage caused by construction defects, three years on mechanical and electrical systems, wells, and septic systems, 10 years on fire safety systems; to extend major structural defect coverage to any substantial failure to meet the structural requirements; to extend warranty coverage to all site improvements not subject to municipal engineering inspections and bondings; to establish monetary penalties for violations of the New Home Warranty Act, in addition to the present sanction of revocation.

As currently drafted, S-1825 includes a provision requiring the Department to buy back a house whenever there is a serious construction defect that cannot be remedied within the limits of the warranty program. The Department actually purchasing houses would be an extremely difficult requirement to administer. We would suggest, instead, that the bill include a provision to require that the Department pay the purchaser the maximum amount allowed in these cases, and allow the purchaser to keep the

property. The Department would then recover the funds from the builder. This would incorporate into statute what is already the Department's practice in these cases, and guarantee protection.

S-1825 should also establish a training program for all superintendents and trade supervisors employed by registered builders. Currently, there are no qualifications or training requirements.

We'd also suggest that the bill include a provision to allow homeowners to file warranty claims independent of the association board, when the builder still controls the board. Current law requires builders to cede control when 67 percent of the units have been sold. But this means that the builder controls the board during the time that warranty claims should be made. An amendment would allow the association to file a warranty claim for a common element for up to one year after the date of termination of the builder's control of the association.

S-1825 includes provisions adding failure to satisfy a civil judgement and conviction of certain crimes to the list of reasons for which a builder's registration may be suspended or revoked. We agree, but we would suggest that the legislative authority go further. A provision should be added to the bill requiring all officers, directors, stockholders, superintendents, and trade supervisors to disclose any convictions, unsatisfied judgements, or bankruptcies in which home buyers were financially harmed on their registration applications. The Department would then be able to make this information available to the public. This would be an important expansion of the information currently available to consumers on our Web site that I described a few moments ago.

S-1826 amends the Uniform Construction Code Act to cover site improvements on private lots. Public improvements, such as streets, sanitary sewers, and storm water management facilities are covered under the Municipal Land Use Law. And a bond is posted by the developer with the town to ensure that all these improvements are completed properly. But there is a gap. There is no similar protection for improvements on individual lots, such as driveways, sidewalks, and drainage, which is where we often see problems. This bill would establish requirements for site improvements on individual lots.

The bill also provides for a system of special inspections by architects or engineers when a local enforcing agency is too understaffed to perform adequate inspections. Requiring the use of special inspectors should be driven by the inability of a municipal enforcing agency to perform inspections properly due to understaffing, not just failing to perform inspections on a timely basis. These special inspectors should be hired by the local enforcing agency, not the builder. And as stated in the bill, the cost of controlled inspections would be billed to the builder, but municipal permit fees would be reduced accordingly.

The package of proposed legislation does not include any amendments to the Planned Real Estate Full Disclosure, or PRED, Act. We do recommend a number of changes to this law. The time when the owners are taking over control of the homeowners' association is often fraught with problems. One of these problems, the filing of warranty claims for common elements when the builder is still in control, is suggested in the amendments we suggested to the New Home Warranty Act.

But there are other issues. We should create a fairer process for the transition of control from the developer to the homeowners' association. We would suggest two statutory protections: A statutory transition procedure that will ensure that all associations have the benefit of an engineering survey of all common elements, all required municipal approvals, corrections as needed, and a full financial accounting of association activities during the period of builder control.

Currently, during the transition process, the homeowners must do something akin to passing the hat to hire an independent engineer to evaluate the condition of the improvements for which the association will then be responsible. This statutory amendment would provide for an independent engineering firm, hired by a homeowners' committee at the association's expense.

And, two, require the posting of a bond to secure satisfactory completion of all promised common elements, such as streets, drainage, and recreational facilities. When improvements become the town's responsibility, the town covers itself by requiring the posting of a bond. This amendment would allow homeowners in common interest communities the same protection against defective streets and storm sewers.

Mr. Chairman, I want to thank you, again -- and the members of this Committee -- for having me here today; and, Mr. Chairman, for sponsoring this important consumer protection legislation. Governor Corzine and I look forward to working with you on these initiatives, as we make sure that, together, we protect the home buyers here in the State of New Jersey.

Thank you very much.

SENATOR RICE: Thank you.

The amendments that I discussed, and that you kind of eluded to in your comments, make sense, in terms of protecting New Jersey homeowners, and also protecting the building industry from those one or two bad apples that continue to give everybody a bad name.

There is one area that I had some concern with, as to how we really address it. And that's the area under Senate Bill 1825, when we talk about an amendment that would have a provision that would actually require all the officers, directors, stockholders, and so forth to put unsatisfied judgements in documents and things of that nature. I don't have a problem with that. I think that's important information. But I think the rationale, sometimes, is distorted -- politically distorted. I've seen small businesses and minority businesses harmed because of bankruptcies, even business with State government where we had to make phone calls and say, "No, you're going to be objective and go back and review the information -- all the information -- because there's information you're not looking at. You're just using that to exclude a minority." And they have done that at the State level.

So the question is, how does information get treated when you say -- when you indicate that it's important for the public-- Yes, it is. But what public? I don't like to see the newspaper make down shows out of everybody, based on their ability to want to sell papers, or misinformation, or their spin, or their interpretation of something that's not substantial. I don't want to see local politicians denying local residents -- minority and women businesses -- an opportunity to participate, because I know in my

city they find every way they can to deny. That's the old boys' network. I can name them, but I won't do that.

So how do we treat that information? I think it's information we need. I'm not so sure how we should treat it, as it relates to the public. I think it's our job to protect the public. But even with this information, I'm not comfortable-- I'm never comfortable giving out certain information in the political world, where you have politicians wanting to grandstand in different areas.

COMMISSIONER BASS LEVIN: Senator, I certainly understand your concern. I guess I have a couple of comments. First, let me say that we would like to work with you to address any amendments to the legislation. First, I would say that a bankruptcy judgement is a public record as it is. And so what we are suggesting is that we take what is already a public record and just make it available on a Web site that would include all of this information.

And secondly, one of the -- part of the conversation that you had yesterday with Bill Connolly was that we would look to post, on the Web site, convictions, or unsatisfied judgements, or bankruptcies where a home buyer was financially harmed, so that we would provide the information that would be most useful for a prospective home buyer looking at it. It does not disqualify a builder from registering. It provides information, though, for a home buyer to make a decision as to whether he or she wants to proceed.

I do think that we can work with you on structuring a provision that would protect both the home buyers and, particularly, as you suggest, the small business owners, to make sure that it's fair.

SENATOR RICE: We're going to have to, because it is public information. But, once again, I've seen the abuse of even that. And most of the time, it's abused politically in relationships. And it's definitely abused when it comes to women and minorities trying to participate in the process. And I know that, oftentimes, small businesses go into bankruptcies because developers refuse to pay them the dollars due to them in a timely fashion. So we have to revisit some of those rules, too, as to what prompt pay really means, when can you really lien a property. And if a person liens a property -- why you put a bond on a lien when you know you owe them money -- you're going to pay it in three or four years. But just tying it up in court is abuse of the system. Actually, it's fraudulent, because you're going to put somebody out of business, or you made them declare a bankruptcy. Now it's public, and people don't want to do business.

So there are some things we have to protect, in terms of honest, legitimate businesspeople who are also being pushed back and abused by the same system, which may very well cause them to do what they never intended to do, cut a corner. And then we have the kinds of problems we have, when there was never any knowledge or intent there in the first place. But we never connect it back to the real source -- what happened first, *A* or *B*. And that's something we have to have more discussion on. Okay?

COMMISSIONER BASS LEVIN: Yes, certainly, Senator.

SENATOR RICE: Any questions from members of the Committee?

Senator.

SENATOR ASSELTA: Thank you, Mr. Chairman.

Commissioner, welcome.

COMMISSIONER BASS LEVIN: Thank you.

SENATOR ASSELTA: Thank you for your advocacy for the Department of Community Affairs, in all you do.

I think the central question I have in all these proposals, and -- basically, a wish list to improve the homeowners' ability to buy a good product at the end of the day-- Just your opinion -- and I'm sure we're going to hear from the Home Builders Association relative to this question.

Some of these provisions that you're requesting-- In your opinion, will it eventually drive the cost up of a home being purchased, thinking about site improvements on private lots and some of the other proposals you have made? In the best scenario, maybe, but not really in the real world-- Will this drive the cost up of that home for the purchaser so, in effect-- I guess my question is, even though we're going to this extent to protect a home buyer, are we going so far that we now increase the cost of that product to them?

COMMISSIONER BASS LEVIN: Senator, your question is certainly an important question. And I'm sure the Builders -- they will give you their view.

I do want to say -- and Senator Rice said this as well -- that the vast majority of builders do a good job in this state. What we're really looking at is, how do we (*a*) level the playing field, but (*b*) make sure that, for that small group of builders that don't do a good job -- how do we make sure to protect those homeowners?

My grandmother used to say, "You pay for it in the front, you pay for it -- you pay for it in the back." And so the real problem here is that if we don't make sure that these properties are built correctly, we have, after

the fact, ongoing attempts to correct -- going through the New Home Warranty program, lawsuits, difficulties in getting corrections done after the fact.

All throughout New Jersey we have problems in drainage, for example. We probably see more complaints about drainage on the local level. I know when I sat on the local planning board, we had those conversations all the time. And that's a place where there really is a gap in the law. The municipality is protected about what's going on in the public streets. And inside the house you have the new home warranty issues to protect, and construction code. But you have things like driveways and drainage that just are not protected.

So to the extent that we're covering a gap in the law that I think is important to correct-- I think whatever slight increment there might be in initial cost will, in fact, be made up in the end by making sure that we have corrections.

And I do believe that the legislation proposed by Senator Rice is an attempt to balance. You certainly could go much further along. Many of the provisions that are being proposed are provisions that many builders already have in their contracts. But this is one more attempt to make the contracts more uniform across the board.

SENATOR ASSELTA: And through the Chair, I think the reality of it all is, builders may be-- You may want to place builders on the same level playing field. But the fact of the matter is, every builder is different. Every builder builds in a specific way to a specific marketplace. And in some respects, you can't really put them all on the same level playing field, as far as quality and construction. That is a responsibility of

the home buyer -- to determine where their needs fit, and which builder fits their needs, which they can afford, the reputation of a particular builder. It's just like any other profession -- whether you're an attorney, an accountant, a physician, or even a politician.

Mr. Chairman, it's the responsibility of the consumer and, in this case, the home buyer also, to do their homework and their research to make sure they're working with a qualified person that they can accept.

So I understand what we're trying to accomplish here. But as someone who has had a long, long history of building and construction in this state for well over century, as my family has had, I know the difference. And I know the difference in quality around the state. And that's what makes choice, which avails people to be able to pick and choose what type of product they really want.

So with that being said, I appreciate your testimony here. I think it's helpful. And I look forward to hearing some more today.

Thank you.

SENATOR RICE: Let me, Senator, say I don't disagree with you. I think the Commissioner is right.

I made some observations, through the course of the last 10 years, in the construction industry as well, in talking to people, making observations, hearing the pain, and looking at projects. I've even gone to many of the builders' and subcontractors' conferences. I even heard the Assemblyman talk bad about Newark as a city, even to the point that the contractors -- Republican Assemblyman -- got angry. And he's in the business. And I put him in his place. He never apologized.

There are differences in buildings, and there are differences in people's mindsets and responsibilities. Certainly, a person who is buying a million-plus-dollar home probably has, in many cases -- not all -- you would think, a little different aptitude of working with numbers than someone else. But the legislation is trying to say, "Look. This is the foundation, the playing field we're working in." Once you get to this, where you start to deviate in terms of other people's responsibilities-- We understand that. But don't tell me you're going to build houses -- I don't care what city it is -- and condominiums, and you're not putting up firewalls, you're not going to do it right. That's what this is-- "And you know you're not doing them right."

And then, when the taxpayer or the homeowner comes and complains, there is no resolve to it. "Don't tell me you're going to build a building so badly that someone is going to spend millions of dollars for it, and then, all of a sudden, we can't even correct the conditions. We've got to tear them down. And you're just going to walk away from it."

That's not the case with the builders I know. And I'm very close with the Builders Association -- at least I think I've been over the years -- and subcontractors. What happens is that we're going to have to help them clean their house up. And we never know from day to day when one family business goes out, or one corporate business goes out-- The next day there is a new business coming in. Because young people grow up to be adults. And they learn these things from their environment. Everything we do, right or wrong, in life -- unless we have a handicap or disability -- is a learned behavior. And that's part of the problem.

So I certainly agree with you. And we're going to try to make sure these bills don't go too far overboard. Hopefully it does not increase cost to home builders, as well as home purchasers -- but to give us the kind of protection mechanisms that the consumers are entitled to and deserve from government, as well as themselves.

As a person, I depend on myself from the front -- from first-line person -- to try to be aware and do everything right. But I also depend on government to protect me in those areas where I may be shortsighted, or may have professionals who are shortsighted and not giving me the right advice. At the end, I've got to live with some of those decisions. But hopefully government is there to help me have some fairness, as it relates to wholeness in my situation. And so we do agree with what you're saying.

SENATOR ASSELTA: Mr. Chairman, if I may -- and I understand where you're going with that.

But government is there to advise and educate, not to make the decisions for the consumer. And I think there's a fine line there of decision making, taking over control of decision making, and making everything government's responsibility and not allowing the consumer -- in this case, the home buyer -- also make that determination for themselves.

So all I'm saying here is that this initiative is -- needs to be well thought out, and make absolutely sure we don't step -- overstep that line to drive the cost of this -- of home building and purchasing a home in this state -- unaffordable. Because we know -- and you're such a great advocate for affordable housing in this state -- it's a very fine line as to what people can afford and can't afford, come closing day.

Thank you.

SENATOR RICE: We're on the same page. And these bills, if you really look at them, do just what you said. They provide information to help consumers make better choices.

And by the way, as Chair -- the Committee members may not know it -- but when it comes to bills of this magnitude, I don't sit there and put them in a vacuum. I don't listen to the administration. I try to share my thoughts on bills with most of the participants who have to live with this stuff every day -- for their input. It doesn't mean we're going to agree. The builders, I believe, did have a chance to look at this bill and have input. So did the administration of other groups.

You're going to find the same thing for eminent domain, and you're going to find the same thing with (indiscernible) bills, in that people are pushing me to pass. But they're not going to be passed, or at least voted on, until I'm satisfied that I've connected with all the people.

Unlike the Assembly -- and I don't mean to deviate. On eminent domain, we brought in as many actors as we could, prior to anything, just to see where everybody agrees and disagrees. Because I can't put up 20 bills. We need foundation bills. These bills are foundation bills. There will be additional hearings. And we will pay some attention to SCI. That's what we established them for. We abolished them, and we brought them back. We wanted to abolish them, and we brought them back. So we got them there. And we have to give some deference to that information.

But, ultimately, you're right. We have to make the decisions. And we're not trying to make decisions for consumers. We're trying to make sure they have the tools to protect themselves. But I also want to protect the industry. I'm very much concerned that New Jersey -- when

other states were really down -- on the downside, going back several governors ago -- New Jersey held it's own. And the only reason it held its own is because the building industry and (indiscernible) construction was taking place. So we recognize the importance of that industry.

Any other questions to the Commissioner from the members?

SENATOR CONNORS: Yes, I have--

SENATOR RICE: Senator Connors.

SENATOR CONNORS: Commissioner, I don't know if you can answer this at this time, but I would like the information at some point in time.

For the last year, for example, how much was taken in by the State of New Jersey in builders' registration fees?

COMMISSIONER BASS LEVIN: I don't know that answer, but I certainly can get that information to you, through the Chair.

SENATOR CONNORS: I would appreciate just a comparison over the last five years, how much was taken in.

And then, also, how much was spent towards resolving the problem in each of those years?

COMMISSIONER BASS LEVIN: Certainly.

SENATOR CONNORS: And, also, was any money returned to State government for other purposes other than the warranty program?

COMMISSIONER BASS LEVIN: I do know that some money was used in last year's budget, but I don't know the amount, Senator.

SENATOR CONNORS: So, in other words, based on what you're saying, some money was returned to State government for the general revenue.

COMMISSIONER BASS LEVIN: Well, I don't know that I would say returned, but some money was used in the State--

SENATOR CONNORS: Not returned-- I shouldn't say returned -- given to the State government at the expense of the builders.

COMMISSIONER BASS LEVIN: It is my understanding, although I cannot tell you for certain how much, that there was some money that was used in the general fund. And I will get that exact information.

SENATOR CONNORS: I thought there was, but I would like to have an exact amount.

COMMISSIONER BASS LEVIN: Certainly, although I'm -- we can -- I'm certain, too, that OLS probably has that information, too. But we'll get it, between one of us.

SENATOR CONNORS: Sure. It would save me asking OLS to--

COMMISSIONER BASS LEVIN: Yes.

SENATOR CONNORS: The other thing I-- Having read -- partially read some of the SCI report, isn't this -- certainly an indictment, to some extent, on the people who build shabby homes and leave the owners with a big problem, on the one hand.

But isn't it also an indictment on the people that inspect those homes, on behalf of their -- that constituency out there that's having a home built? I'm talking about the building inspectors. I'm talking about the plumbing inspectors. I'm talking about the electrical inspectors. Why should there be any default in a heating system that doesn't work -- as has happened in my county, Ocean County, at Ocean Air -- where the people in

a senior citizen community can't get the heating systems -- over in-- And I'm sure you know of it, because I've written to you on it.

Why shouldn't the-- Why should the building inspector licensed by the State pick this up? Why shouldn't the electrical inspectors-- We've had troubles in Holiday City, with separation from the walls and ceilings, and not much has been done. I've got to say that. And I'm pretty sure you might agree with me, with regard to resolving some of these problems. What I'm saying is, shouldn't we be doing something more with regard to the inspection system?

COMMISSIONER BASS LEVIN: Well, I would agree that changes needed to be made in some of the inspection system. And, in fact, we have made many of those changes.

Let me just back up a moment. Certainly, as you know -- as all of you know -- the inspectors are looking at things as they're being built. And so defects that arise afterwards may not be picked up during the inspection process.

However, there are certain things-- For example, we did not have a standard framing checklist. And that resulted in a number of problems. We did develop a framing checklist that inspectors need to use to be sure that no part of the structural frame is missed during an inspection, because we had a number of problems relating to that.

SENATOR CONNORS: I'm aware of that. That's a very good move.

COMMISSIONER BASS LEVIN: And we have-- We do monitor inspectors. We have, when necessary, revoked licenses from inspectors. We follow due process, but we do revoke licenses when it needs

to happen. We do think, too, that we need to have-- We've increased our training of all of our inspectors, as well as our ongoing training -- not just when you get licensed, but our ongoing training. And one of the things that has been a real problem, as you know, is what authorization inspectors have post-construction. And there was an interim time, because of the Appellate Division, that there was some issue as to whether they had authority. But now it's been established that they do.

We also have, as I mentioned, problems with these on-site improvements that were not covered by anyone. And we are hoping to close that gap. Because I do think that, particularly in many of these communities, it raises a very substantial problem.

And one last point on it: What we see in many of the association areas -- where there are many in your district -- is that transition period, between when the builder leaves and the homeowners take over -- is a need to really help the homeowner associations start with all of the information that they need. Now, that doesn't go to the initial inspection part, but it goes to having an inspection done at that point in time so that everything can be fixed that needs to be fixed before the homeowners take over.

SENATOR CONNORS: Can you also help me with the amount of money that a builder would pay per million dollars of business? I understand that the contracts -- that it's based on the amount of work he does. Is that not so?

COMMISSIONER BASS LEVIN: For inspections -- how much they pay for the inspections, or the home warranty?

SENATOR CONNORS: For the building permit.

COMMISSIONER BASS LEVIN: For the permits.

SENATOR CONNORS: For the permit, and also for the home warranty.

COMMISSIONER BASS LEVIN: Yes, we can get you that information.

SENATOR CONNORS: Do you have any idea what it is?

COMMISSIONER BASS LEVIN: I don't.

Mr. Connolly, do you know, offhand?

SENATOR RICE: Excuse me, you're going to have to come up to the mike. You're being recorded here.

WILLIAM CONNOLLY: The warranty premiums are based on the builder's track record. Builders with a lot of problems pay quite a bit more. So the premiums range from around \$1.80 a thousand up to \$4.50 a thousand, depending on the builder's track record. The building permit costs are based on the volume of the structure, how many cubic feet it contains.

SENATOR CONNORS: I understand that.

COMMISSIONER BASS LEVIN: Not the price, but the size.

SENATOR CONNORS: On average -- I'm not going to hold you to it. But, on average -- and perhaps when you come up with this information for me-- I'd appreciate it. On average, what is-- What would the average cost to a builder be for the new home warranty program?

MR. CONNOLLY: It, obviously, depends on the size of the house, but between a thousand and two.

SENATOR CONNORS: Per year?

MR. CONNOLLY: No, just one time.

COMMISSIONER BASS LEVIN: They pay it--

SENATOR CONNORS: For each house. So a builder could--
If he built 50 houses in a year, he could pay as much as, or even more than,
\$50,000.

And my last question is, this is an expansion then -- part of
these bills would expand it to a 10-year warranty?

COMMISSIONER BASS LEVIN: For certain defects.

SENATOR CONNORS: For certain defects.

What provision now is in the law and in the regulations? And
what provision will be put into regulations to provide sufficient enough
funds to take care of those defects down the road?

Let me cite an instance. The builder goes out of business and
moves out of the state. Who pays?

COMMISSIONER BASS LEVIN: Well, Senator, let me just--

SENATOR CONNORS: Or dies.

COMMISSIONER BASS LEVIN: Let me just clarify. The 10-
year extension is only on fire safety systems. The three years would be on
water damage caused by construction defects or mechanical, electrical
systems, walls, and septic systems. So, just to clarify that for you, there's a
fairly limited number of categories -- but categories where it is more likely
that you will see a defect appear later on. The insurance premium,
essentially, is paid up front, one time. It is then-- And that premium is
essentially a risk premium. That is why funds are held by the warranty
fund so that they can pay out.

Also, what we do, through our own staff, is try and negotiate resolution so that we can have repairs done hopefully as early as possible in the process.

SENATOR CONNORS: Do you think that it would be advisable to incorporate, in some portion of these bills, a requirement that the State hold these moneys until those warranties run out? In other words, you've said that some money was used for the general fund, from the builders' warranty program -- in other words, to help the State pay its obligation of putting together a State budget. And it was taken from that fund which, ostensibly, in my view, should have been set aside for the payment of either claims that couldn't be resolved or to be resolved.

What I'm saying--

COMMISSIONER BASS LEVIN: I don't think that we would disagree with you. I think that there is a poison pill provision in the bill now -- no, there is not.

You may want to consider looking at that legislation to determine what sort of protections there should be.

MR. CONNOLLY: There is a statutory prohibition, but the appropriations act is also a statute, as you know, so it drops it.

SENATOR CONNORS: Oh, we know that. It's been doing it for years, really. I kind of know what the answer is. But I'm not too sure what the numbers are.

Thank you.

Thank you, Mr. Chair.

SENATOR RICE: Yes, Senator, a couple of things.

Number one, we asked staff to get with you. I agree with you on that. And we need to look at that for potential amendments. So, hopefully, you will work with Bob on that for me -- with me -- the provision, the escrow set aside.

Also, you are right. There are other things we're going to have to do as we move through the process, when you talk about inspections. Because some of the problems are local, as well, in terms of inspections. Some people are short of inspectors. You try to hire them, and you can't get them quick enough. If you remember in the SCI report, there were drive-bys. There are no such things to me as drive-by inspections. You can barely do a drive-by appraisal.

By the same token, I think there are some bills moving through, because I was planning on putting one in myself on this side, where inspectors at the local level will go out and do inspections. And all of a sudden, another inspector goes. The next time around, when there are complaints, rather than having the same inspector being held accountable, whether they're knowledgeable or not-- You started it, you're going to finish it, and be held accountable for what takes place. Things like that need to be looked at, in terms of assuring that process. And I know those things happen. I've had experience with them.

And so we do have to go back and revisit the whole inspection piece, from the State perspective, as well as the local government perspective, as to what our expectations are going to be under the law, in terms of inspections.

And the other piece is expediting permits. Part of the problem is, some cities-- Every time you turn around, they're losing the permits.

You can file it a thousand times, they lost it. Then it appears one day after they basically caused the builders to spend -- or the developer -- all kinds of money, and frustration, and paying a person that's a bad person.

So things like that do happen. And we're going to have to collectively get a grip on that and figure out the best way to treat it through legislation. But I at least wanted to say that.

But the amendment, I think, we need to be looking at. And that's the purpose of this hearing -- to take some good things and make the bill better; take some bad things, and throw them out the window.

Any other questions for the Commissioner from Committee members? (no response)

Commissioner, let me thank you.

COMMISSIONER BASS LEVIN: Thank you.

SENATOR RICE: Mr. Connolly, do you have anything you want to add to this at all? (negative response)

Would you go back and do me a favor, Bill? You know the discussions we had prior to the legislation, the concerns about inspections throughout the state, and inspectors -- the ability to get them, how to get them trained, how do we snatch them. The State comes up short, sometimes, in trying to hire them as well, because we are so busy. But also, this whole issue of inspectors at the local level -- starting a project, or being given an assignment, and all of a sudden, because somebody complains, they're pulled off; another inspector will go, another code official will go. And then a rejection becomes an approval, and some approvals become rejections. And it's creating all kinds of problems.

The other thing is, how can we, regardless of how busy a town is, expedite the permit processing? I mean, if you're going to file a permit, it should not take forever to get it approved. By the same token, we want to make sure that there is accountability if someone is bringing something in. Whether they kept a copy or not, we should be able to know they brought it in without saying, "We don't remember it." You're only stamping one copy of this, versus stamping everything. I mean, there's got to be something else we have to do. We may have to come back and help some of these cities computerize and get up to date, as we have done with capital side and other situations. We don't like to do that sometimes, but sometimes we have to. Because every city does not have the capacity to modernize themselves as rapidly as we would like, where there can be a system that we can connect with the State.

MR. CONNOLLY: Senator, we actually have done that. We have a comprehensive new permitting system, that we call *Permits New Jersey*, that is being implemented now in municipalities. Obviously, every town can't bring it up at once. But across the state, towns are implementing it. And it's a much better, more positive, very complete record-keeping system that-- In about six months, we're going to add a feature to it that will allow application for permits online. And every municipality will be able to use that.

SENATOR RICE: Okay. Thank you very much.

COMMISSIONER BASS LEVIN: Thank you, Senators.

I want to, again, thank you, Senator, for sponsoring this bill.

And I also just want to thank the State Commission on Investigation for its investigation and its very thorough report.

Thank you.

SENATOR RICE: Thank you, Commissioner.

Is it okay if Mr. Connolly stays around? We have other speakers that may want to raise some questions that he's very capable of answering.

COMMISSIONER BASS LEVIN: Certainly.

Thank you.

SENATOR RICE: Thank you.

The next speaker is going to be Assemblywoman Jennifer Beck.
Assemblywoman Beck.

A S S E M B L Y W O M A N J E N N I F E R B E C K: Hello. Good morning.

SENATOR RICE: Good morning.

ASSEMBLYWOMAN BECK: Thanks for having me.

I have followed what I call the *new home nightmare* for several years in Monmouth County, and have been on the receiving end of phone calls from residents and citizens that have seen their dreams disappear, as they move into their home and find not only an array of construction problems, but, indeed, no recourse.

And so I congratulate you, today, on the three pieces of legislation that you have before the Committee, Senator and your colleagues -- congratulate you for entertaining them.

Senator Palaia and I have also introduced a package of bills in response to the SCI's report -- 23 separate pieces of legislation, many of which are similar to what is before you today, some which I feel would be a very powerful complement to the things that you have before you today.

And if you would just allow me to maybe go through a couple of those bills-- Indeed, some of them do reflect some of the things the Commissioner suggested today.

First and foremost, the extension of the Consumer Fraud Act to apply to new home construction, not just home improvements, certainly seems to make a lot of sense. It seems to be in line with the intent of the existing statute. To give the DCA the right to collect comprehensive information about our builders -- indeed, as the Commissioner had said, posting violations, bankruptcies, problems that we have, repeat offenders -- and letting the public have access to that information is very important. Transparency in public disclosure is critical. If we have bad actors, the public should be able to find that information out. And that bill is A-3212.

We believe that establishing, in statute, the code of ethics that already exists within the Division of Codes and Standards, at the Department of Community Affairs -- giving that the full force of statute makes a lot of sense. And certainly, establishing a complaint process then, so that when you do have a bad actor -- that the Department has a process in place for follow-up and, certainly, for punishment when, and if, necessary.

We agree with the Commissioner completely that, indeed, the Planned Real Estate Development Full Disclosure Act, against planned real estate -- developer/builders-- The DCA should be able to have full authority over that. And we do -- Senator Palaia and I have two bills in, A-3224 and A-3225, which require developers to post bonds with the DCA to ensure the completion of common elements. It also puts requirements in place that developers maintain adequate reserves to do maintenance, or repairs,

or replace common elements as needed. And it outlines a transition of documents and assets from the developer to the association board, including requiring that the association is given engineering reports, that documentation of all municipal and required government approvals for common elements are turned over to the association, and gives a full accounting of all the association's activities while the developer is in control.

Lastly, during the period of the developer's control of the association, if two or more of the owners, indeed, would like to file a warranty claim on behalf of the association concerning common elements, that they're able to do so. And obviously, many of these things that -- if you read the SCI report -- were recommendations that they made.

As I said, we certainly congratulate your fast action on this piece of legislation today. And I know Senator Palaia and I would be happy to work with you on maybe complementing what you've already done here. I think there's nothing more important. As I said, the new home nightmare is something that I've seen in Manalapan and many of the other towns that I represent in Monmouth County and Mercer County. And, certainly, we welcome some reform.

Thanks for having me today.

SENATOR RICE: Thank you, Assemblywoman.

A couple of things you mentioned I believe are incorporated in one of the bills, too. I do know that the ability to have the unit owners on the boards -- in minority -- that's one recommendation that we are going to be concurring with.

We're going to be looking at the Beck and Palaia bills to see what you have, versus what is already the foundation. It seems like we're thinking the same way. There are going to be some points of disagreement, I'm sure. But I can assure you that, hopefully, we'll get a compromised bill that makes sense for New Jersey.

I know that I intend to hold a hearing in the North Jersey area. One of the areas I was looking to hold a hearing, prior to any final vote, is in your area, someplace in a facility, as it relates to this issue where we've had problems. And so hopefully, over the Summer as we set up hearings, you will try to be cognizant of your schedule when we do a hearing in the area. If you're around, we invite you to come and--

ASSEMBLYWOMAN BECK: Great. Senator, I'd be happy to help coordinate that. We have a number of facilities in the western part of Monmouth County that could accommodate a large number of people and would be a good place to hold a hearing. So I'd be happy to work with you on that.

SENATOR RICE: All right.

I just want to advise you that I hold sane hearings. I don't let people come in, in big numbers, pushing me around. I just walk out. But I want information--

ASSEMBLYWOMAN BECK: Great.

SENATOR RICE: --relating to your bills, the bills we have, and potential other bills or amendments that may come from the Committee members here.

We're on the same page. We just have to figure out what's in the best interest, and how quickly we can get there.

ASSEMBLYWOMAN BECK: Great.

Thank you for having me.

SENATOR RICE: Any questions to the Assemblywoman from anyone? (no response)

Thank you.

Assemblywoman, just one moment.

SENATOR CONNORS: No, not for the Assemblywoman, just for the Committee.

I think the Committee should be -- or at least I would appreciate a copy of the New Home Warranty law, and what it does protect, what it does say in it, and what it doesn't say in it. I'd like to get a copy of that.

My reasoning for that is, we're seemingly collecting a lot of money, with regard to this program. And I'm for it -- I'm for the bill. Don't get me wrong. I'm for the bill. I think we're going in the right direction on the one hand. On the other hand, I think we have to be evenhanded. And I'm concerned, because I have been handed a list of the transfers. Last year, we transferred, to the budget from the general revenue -- information has been provided to me already -- \$20 million out of the New Home Warranty Fund, which means that they've taken money -- the State has taken money from the New Home Warranty Program, which is ostensibly used to protect the people -- and put it in the State budget, in the general revenue, so that they can balance the State. Twenty million dollars is a lot of money. And I think we should protect that.

You and I are going to work on that.

The other thing is, I'd like to know specifically what the New Home Warranty Program does say, what it does do. From my standpoint, in trying to be helpful with this process-- Does it provide an insurance policy for these folks, or does it just mean that we have the building inspectors, we're inspecting the property, and if they fail we're going to get you together to see what we can negotiate with?

Maybe we should either step up the Program, or back away, somewhat, from the Program, or lock in these expenditures so that if there are claims that-- Like an insurance company, provide for that claim until it's finally satisfied -- do you understand what I'm saying -- out of these revenues.

SENATOR RICE: Okay.

Staff, do you have that warranty piece?

MR. ROTHBERG: I have a copy here.

Can you run off and make some copies? (affirmative response)

SENATOR CONNORS: Super. I'd like to take that home with me so that I can read it.

SENATOR RICE: Now you have homework to do.

Next, we're going to have the New Jersey State Commission of Investigation -- Charlotte -- is that Goal (phonetic spelling) or Gaal. Is that an O-A-L, or A-A-L?

C H A R L O T T E K. G A A L, ESQ.: A-A-L.

SENATOR RICE: A-A-L.

How do you pronounce that? Gaal? (indicating pronunciation)

MS. GAAL: Gaal. (indicating pronunciation)

SENATOR RICE: Okay -- Gaal.

And we also have-- There was another gentleman here.

J U D G E A L A N A. R O C K O F F: I'm Alan Rockoff, Mr. Chairman.

SENATOR RICE: Okay.

JUDGE ROCKOFF: I'm Executive Director. Is that who you have on the list, or do you have someone else?

SENATOR RICE: Is there another party?

Well, you didn't sign up, but it's okay. Someone told me you would be here.

JUDGE ROCKOFF: I'm on her list.

SENATOR RICE: There was a third party, too, with you, right?

JUDGE ROCKOFF: Who was the third party?

SENATOR RICE: Someone else-- Wasn't someone else standing--

JUDGE ROCKOFF: We're a little crowded up here, so we'll take it at the beginning. And if you have any questions of anyone else that you'd like to ask, we have some people here from staff, and Mr. Lee Seglem, who is our--

SENATOR RICE: No, I like to talk to the authority. Are you the authority?

JUDGE ROCKOFF: Well, I've got some. (laughter) Whatever Charlotte gives me, I have.

SENATOR RICE: Okay.

JUDGE ROCKOFF: We have a couple of statements that we'd like to make, Mr. Chairman and members of the Committee. And I'd like to start off.

As I told you, I'm the Executive Director of the State Commission of Investigation. Alan A. Rockoff is my name. And I'm here on behalf of the Chair, Cary Edwards, of our Commission, and the Commissioners Cathy Flicker, Joseph Mariniello; and the Dean of the Seton Hall Law School, Patrick Hobbs.

Obviously, the SCI thanks you -- thanks all of you for inviting us to participate in evaluating this very welcome pending legislation in this critical area of new home construction warranty and regulatory reform.

The investigation, public hearings, and report -- called *The Good, the Bad, and the Ugly* -- that was produced by the Commission on this issue was the culmination of many long hours and effort on the part of a dedicated team of people at the SCI.

It was headed by the extraordinary Deputy Director and Chief Counsel of our Commission, Charlotte Gaal, who is seated next to me. Ms. Gaal possesses the intimate knowledge of the fact finding, of the nuances, and the background of this entire project. And I respectfully request, Mr. Chairman and members of the Committee, that you hear from her as she delivers the formal statement that you've requested of us. Thereafter, we welcome any questions you may have concerning our findings. And we hopefully will be able to assist you, and assist anyone else who wishes to have the SCI's expertise that we acquire in our investigations -- given to you.

So, Ms. Gaal--

I'd like to have her make those comments, if it's your pleasure.

SENATOR RICE: Okay. Ms. Gaal.

MS. GAAL: Thank you.

Good morning, Mr. Chairman and members of the Committee. It is my distinct honor and pleasure to appear before you today to address issues of paramount concern to the home-buying public in New Jersey.

Chairman Rice, in particular, on behalf of the Commission, I'd like to thank you for your longstanding interest in these matters and for introducing the legislation before us today. We endorse the intent of each of these bills: S-1824, S-1825, and S-1826. Together, they represent a significant step toward the day when people all across this state, people who are just trying to buy a piece of the American dream, will be able to rely upon meaningful safeguards against waste, fraud, and abuse.

As you know, little more than a year ago, the Commission issued the final report of a lengthy and unprecedented investigation into new home construction and inspections in this state, and recommended sweeping reforms to boost government oversight and protect the rights of consumers.

Our investigations, which included five full days of public hearings, spanned all of New Jersey's 21 counties. We came into contact with literally thousands of homeowners who had experienced wide-ranging and often harrowing problems with new homes they had purchased. I want to emphasize that the homeowners we dealt with had really serious and significant problems in their homes. I cannot think of -- and this is an amazing statement -- I cannot think of one instance where a homeowner had what would be a minor complaint about a cosmetic problem, or the

finish on their cabinets, or the color of the floors. It wasn't anything like that. These were serious, significant issues. They included such problems as structurally unsound ceilings and roofs; facades which separated from support structures; wobbly, moving walls -- and I was actually in a home myself and saw the wall move; walls fouled by sewage, with cracked pipes; improperly installed heating systems venting poisonous exhaust directly into living spaces; floody and moldy crawl spaces; and collapsed porches. In sum, it was a veritable catalogue of shoddy and deficient construction practices, lax regulatory oversight, and poor remediation options that routinely plunged unsuspecting home buyers into the worst of a buyer-beware nightmare.

As we looked into this morass, we found that the construction code inspection and enforcement process itself was fraught with some serious shortcomings. Among the worst of these was the fact that, despite significant defects in newly built homes -- including structural weaknesses that pose potentially hazardous conditions -- certificates of occupancy had been issued by local governmental authorities.

And we found that where once our State led the way in statutory efforts to protect consumers in this arena, that distinction is long gone. The 1979 law that made New Jersey the only state in the nation to require that new home construction be covered by a warranty system has, in fact, developed into a loophole-ridden mechanism that, today, fails consumers in all too many ways.

Great steps have been taken by the Department of Community Affairs. And we wish to applaud that. It cannot go unnoticed that they have done -- and taken many, many significant steps, and done literally

everything, seemingly, within their power to correct the problems that were noted as a result of our investigation.

The legislation under consideration here today, however, addresses key elements of the Commission's recommendations which must be dealt with legislatively, and which will result in reform of the system. I'd like to take a moment to review the high points of each of the bills and, in some instances, to offer the Commission's suggestions for improvements.

S-1824 would establish a comprehensive bill of rights for new home buyers, thus codifying a range of common-sense practices that will blunt unscrupulous activity and send a strong message that New Jersey means business when it comes to a level playing field for new home buyers. Under this measure, for example, home buyers would no longer be precluded from conducting on-site inspections of the homes they're going to buy while the construction is in progress. They would also be protected by new and stronger escrow requirements. First, money placed on deposit by new home buyers would be held in escrow, thus safeguarding it from loss as a consequence of builder default. In addition, funds would be placed in escrow to cover the cost of wrapping up any items of construction that are incomplete at closing.

S-1825, meanwhile, provides for a long-overdue overhaul and strengthening of New Jersey's New Home Warranty system. The framework of protections afforded under current law would be enhanced in a number of important ways under this measure, including a broader definition of what constitutes a major construction defect, and longer periods of warranty protection under certain circumstances. In addition, home buyers would be given the option to have their own contractors

correct serious construction deficiencies, rather than having a builder's choice foisted upon them. The Commission particularly applauds a provision of this bill that would make builders liable for serious construction defects that have not been corrected or that cause the use and value of the home to be substantially diminished.

While S-1825 also, to some extent, addresses serious gaps in the existing system of builder registration, the Commission suggests a stronger provision that would require builders to disclose key information to the State, including Social Security numbers and the IN numbers, to enable comprehensive and effective background checks to be conducted as a condition of registration.

Finally, S-1826 would provide a stronger and more orderly process to ensure proper and timely inspections of new homes under construction. The bill would also expand the scope of the State's Uniform Construction Code to include site improvements made to residential lots, which currently are not subject to inspection by any governmental agency. Additional teeth would be put into the construction code, as well, highlighted by a provision that would more than double the maximum financial penalties for code violations. But, most importantly, this bill would address one of the most common complaints received by the Commission during the course of its inquiry, and one that we receive to this very day: that new home buyers often unwittingly forfeit their right to legal recourse under the present warranty system. We strongly support a provision of the bill that would allow buyers the option of including an Alternate Dispute Resolution in the purchase contract, thus preserving their right to file civil actions. It should be noted that this has become an issue

national in scope, and New Jersey now has the opportunity to lead the way in affording homeowners access to a full span of remedies.

With regard to inspections, the Commission respectfully disagrees with a provision of this bill that would permit a builder to hire its own construction inspectors, under circumstances in which the local enforcing agency is failing to perform inspections in a timely manner. The Commission recommends, instead, that when the State, through its Department of Community Affairs, determines a municipality does not have sufficient personnel to do the job, additional inspectors should be provided, through DCA, or architects and engineers under the control of DCA. Further, if DCA does make such a determination, its actions should not be subject to appeal.

Although they're not included in this bill, we have heard some testimony today about other possible recommendations. And we stand ready to discuss those at some future time. We do give a strong endorsement to what's been said today concerning the PRED, and some of the other issues that have been raised.

In closing, let me reiterate the Commission's firm belief that this legislative package constitutes a substantial move in the right direction. And we appreciate your response to this inquiry. We are at your disposal if you require additional substantive or technical information.

At this time, we would be pleased to try to answer any questions that you might have of us.

Thank you.

SENATOR RICE: Thank you very much.

Let me just say to you that there's been discussions, in terms of the provision, in 1826, that deals with the inspectors. We kind of agree that we need to take a look at that, because it's not the intent to create conflicts or relationships that are going to really demise all we're trying to do that is good. And so I can assure you that that will be a change -- an amendment in that provision -- for reasons of fairness and objectivity, if you will, and accountability -- which is most important -- and integrity.

Any questions to the SCI?

Yes, Senator.

SENATOR ASSELTA: Thank you.

And thank you for this comprehensive report.

Any of you have any construction background in your background? Or you just went into this as an information gatherer in writing the report? Does someone on your staff, maybe, have some construction background?

MS. GAAL: Well, actually we did have some folks that have some construction background. I have not been--

SENATOR ASSELTA: Are they here today?

MS. GAAL: Just a general background. We may have some.

SENATOR ASSELTA: Okay.

MS. GAAL: I certainly have been involved in construction investigations over the years.

SENATOR ASSELTA: Some problematic issues that you brought up -- background checks, for instance. What would disqualify a builder? Give me an example of a background check that would come out bad. And who would pay for that background check, by the way?

MS. GAAL: Well, let me give you-- I'll give you one good example that I think speaks to the issue. There was an actual case that came to our attention during the course of our investigation, where a builder defaulted and left homeowners high and dry, and was convicted of the crime. He subsequently went out -- went back into the construction business, took deposits from other homeowners, and was in -- at the time we saw it -- was being prosecuted yet again.

That's an example where I would submit that that conviction should preclude the builder -- we would submit that that should preclude that builder as a registered builder in the state.

As far as the background investigation-- I don't think it costs a lot to get a criminal history. But I would assume it would be part of the builder's registration fee.

SENATOR ASSELTA: So being clear on this, your suggestion would be, if a builder did default, go bankrupt, and yet restart another construction company a year, or two, or three years down the road, that builder, in your opinion -- through a background check -- should not be granted the ability to ever build again.

MS. GAAL: No, no, I was speaking of an individual who had a criminal conviction.

SENATOR ASSELTA: Like?

MS. GAAL: For the fraud, or whatever the charges were.

If you have a builder that has--

SENATOR ASSELTA: In the process of construction, in the framework of construction, or any criminal--

MS. GAAL: No, no, I think you would have to look at it. It would have to relate. In our view, it would have to relate to the type of activity they're involved in. Not any conviction. I don't think that would be the case.

And you have to face, I think, the issue that if a builder made good on whatever the problems were, and made the injured party whole, and was rehabilitated, perhaps they could be given a license. I don't think it's an open and shut question.

SENATOR ASSELTA: Through the Chair, just a couple of other quick things.

Lawsuits, civil action, additional inspectors, architects, engineers-- Doesn't this sound like an expensive way of providing home buyer protection, that will eventually be passed on to the home buyer?

MS. GAAL: Well, the problems have been passed on to the home buyer. I mean, to be frank, the home buyers who have these problems spent tens of thousands of dollars out of their pockets to try to correct the problems. You're talking people spending, 50, 60, \$100,000 to try to correct their problems, needing to hire lawyers and architects on their own. At least if they had the ability to file a lawsuit against someone who had the wherewithal to pay, if the judgement was rendered, they might have been made whole that way. So I think the price has already been passed on to the homeowners.

SENATOR ASSELTA: Prior to this particular piece of legislation?

MS. GAAL: What we're trying to do is prevent-- I think the effort here is to try to prevent the folks who are suffering at the hands of --

or are in some of these situations -- from being devastated by it. I mean, people have lost their homes. We deal with people who are living in hotels. The home is uninhabitable. We had a call yesterday. A man -- luckily he was an attorney, as he points out, and had some assets. But he spent between \$60,000 and \$100,000. And it still isn't fixed. Somebody's paying for it already. And, quite frankly, I think it's the homeowners.

SENATOR ASSELTA: Thank you.

SENATOR RICE: Thank you.

Any other questions from Senators?

Senator Connors.

SENATOR CONNORS: I'd just like to bring something up here that I think is germane to the issue. This is a very positive move, with regard to these bills, in some respects. But as I said before, it would appear to me to be a partial indictment, at the very least, of the system that we have in place right now. We have building inspectors that are approving houses, and buildings, and whatever is required under the law -- and approving them. And we're licensing them. And now they're approving them, and they have problems. There should be no need for that, at least from my point of view.

Let me cite an instance. I see, in Page 19 of the report, you have problems in planned real estate development. And in Ocean County, my county, there are a number of planned real estate developments where there is, particularly, community interest -- community property -- common interest property.

In one such case -- and I'll mention the name of it -- it's in -- because it's already a matter of public record -- that's been sent to the

Attorney General and sent to the DCA, with regard to an issue that's come up in my district. And that is the deal with Ocean Air, in the town of Waretown. There is reportedly something like 400 units -- or somewhere in that amount -- that have been -- that are going to be built, or have been built. About 25 percent of them have been built. And the golf course has been built, the clubhouse has been built, the ancillary facilities have been built for this. And the builder, who now has control of the development, has the majority of seats on the board. And so what the builder is doing, in the fees that they're charging these people, is to pay for -- loaning them the money, I should say -- loaning them the money to maintain the golf course, to maintain the pool, to maintain the clubhouse, and so forth.

I've got a legal opinion from OLS that that's against the law. It's against the law. It's in violation of the Planned Real Estate Development-- I've sent it to the Attorney General, I've sent it to the Department of Community Affairs. And I do know that the Department -- what did the Department of Community Affairs--

And, Bill Connolly, you're here. Please take this back to the Commissioner.

What did they do? They went to the builder, to talk to the builder about it instead of bringing in the people that made the complaint with regard to this. And the fact of the matter is, the State approved the Planned Real Estate Development, which they have to do according to OLS. Now, they did the legal work on it. And it's in violation of the law. Instead of saying, "Wait a minute. Stop, cease, desist. We're taking you-- We're going to drag your fanny into court, Mr. Builder. Cease and desist. You're charging these people interest on the loan that you're loaning them." So at

the end of the project, when they have control of the board-- It's happening at Ocean Air, in Waretown. It's as simple as that. It's a very true case history. And I've got all the documentation on it.

What I said before -- I'll say it again. This would appear, to me, not an indictment of builders-- There are sloppy builders, and there are good builders. There are people that can do the job properly -- journeymen, tradesmen, and so forth on the one hand -- but it's also a responsibility and indictment on the State. As I read this, the State hasn't done its job. And I'm very much disturbed to find out that some of the money that's being collected -- and I don't see anything in your report on that -- not being critical. But I don't see anything in your report that says, "Hey, wait a minute. This is a quasi-insurance agency, really, this warranty program. And you're taking it and using it for State purposes."

That just doesn't fly with me.

SENATOR RICE: Senator, I think some of us share your sentiments and your feelings. We don't disagree with you. At least I don't. I've been here quite some time, working with you. It's not the first time I ever heard -- and I've been here since the days of Tom Kean -- that we have legislated, and found out later that dollars that we have moved into the system are going someplace else. And that's what oftentimes make us come up with the poison pill.

We're going to take a look at that as we move legislation. That's the importance of having a hearing before we move a bill, to see where we can tighten up and do the kinds of amendments.

Also, as you know, I will be holding a hearing in your district to address some of these issues dealing with the condominium and the

common development areas, because there are problems in those areas. And I can name some, even in my city, where developers did a sloppy job, period. And when people complained, nobody really responded. So it is an indictment of both the State and, I would say, even local government, in some cases, throughout the state, as well as the developer. And the idea is to tighten these things up as best we can; then manage, and observe, and come back, and do what we have to do once we see how we are doing.

JUDGE ROCKOFF: Mr. Chair, may I make a statement, please, concerning Senator Connors's remarks, and also Senator Asselta's remarks?

SENATOR RICE: Hang on a moment now. Let me just think about that.

JUDGE ROCKOFF: Oh, I'm sorry, Senator.

SENATOR RICE: Do you have any problem with statements coming to your remarks?

SENATOR ASSELTA: No.

SENATOR CONNORS: Absolutely not.

SENATOR RICE: Okay, go ahead.

JUDGE ROCKOFF: At the pleasure of the Chair. I appreciate that, Senator.

You've just raised a very critical area of inquiry concerning why hasn't something been done, and what should be done, and are we finger-pointing at one group and not being fair and global in our evaluation of the entire system, both the private as well as the public regulatory system?

You've just hit on the reason--

SENATOR CONNORS: I don't want to interrupt you, but you started off with talking about builders. And all this seemed to stem around builders.

I am the one to interrupt you, but maybe you're going to change your testimony to some degree.

JUDGE ROCKOFF: I was going to agree with you, but go ahead. Maybe you'll change my mind now.

SENATOR CONNORS: But all I said was, it would appear to me, after reading your what-you-call-it-- While it appears to me these bills appear to be about builders, and how we're going to strengthen the system, I don't see us strengthening the system from within. Having journeymen, carpenters, and plumbers, and electricians -- having builders that are responsible is important. That's part of this bill. Using the money for a warranty program, which is a fiduciary responsibility on the State -- as I tried to point out -- that should be incorporated in the bill. And the Chairman has already -- and I, are already going to work on that.

So I just don't want you to get confused.

JUDGE ROCKOFF: What I tried to--

SENATOR CONNORS: I think it's really a balancing act here, now, of saying, "Hey, there are some problems that we have to resolve here, on this side, on the builders' side. And there are some problems we have to resolve on the State's side." We have to have a better system than we have now, because the system, obviously, is broke, as you folks pointed out.

JUDGE ROCKOFF: That was my thesis, I guess, Senator. The SCI created an atmosphere, now, of transparency in disclosure in the area of new home construction issues that not only impact upon the builders'

responsibility and the government responsibility, but also upon the consumer responsibility. Everybody has their responsibilities in this situation, in order to make certain that there's a, I guess, level playing field for all of these people to accomplish their goals. Builders are in it to make money, obviously. We don't want them to lose money, or they're not going to -- they're going to leave the state. So the SCI is not recommending that we close down builders.

Regulatory systems are necessary. They've been in place. The DCA has done wonderful things with respect to the legislation they've had to work with. And people have found ways to cut holes in it, to look through it like Swiss cheese. And we're looking for you to close up those holes.

The consumer has a right to know what problems they have. There are voices out there in the wilderness who don't know what they have their rights to remediate and to redress.

So that's the purpose of the SCI. We are the-- We're that independent watchdog that you, in your wisdom as a Legislature, have created in order to do this. And we'll continue to do that work. We may not have hit on every subject, and we may have continual work to do, and there may be more people who come to us through the hotlines, and through the e-mails, and through the calls in order to do this. But at least we've started the dialogue. And that's all we can account ourselves for at this point, sir.

SENATOR CONNORS: Very good.

SENATOR RICE: Thank you.

We're going to work to tighten the holes up, because the government has the need to be protected from frivolous lawsuits, as well. Consumers need to be protected. And the good business people called *builders* need to be protected. So we know we have our work cut out. And I want to thank you for the foundation, the stuff that some of us observe in government, those of us that work in local government. There's been complaining, (indiscernible) haven't been there.

And to be quite frank, those of us that have been around a long time and have not stepped up to the plate -- to really start tightening these things up. Because we have relied on the administration's side to take our complaints, and use the tools that were in place, and are in place, to effectively combat the problem. Obviously, it wasn't done. And we have reached a period in time, now, that we have to go back, as legislators, and tighten up those gaps there. And in the future, we're going to have some more gaps. We know that too. But I think we need to put our mind to the scheme in place.

Senator Madden.

SENATOR MADDEN: Director, during your testimony, and the Executive Director's testimony -- the Deputy Director-- Kind of on the heels of what Senator Connors is saying-- This is all about the builders, and the product that the purchaser gets stuck with. Which just becomes -- even on something that -- where there is an issue where the construction problem is resolved -- takes a long time, a lot of pain, a lot of heartache, senior citizens that are stressed, and go on medicine, and doctors. It's just a mess.

There are two points that I wanted to ask regarding your investigation. One is, we have a community that is built on ground-- There

were allegations or questions raised, during this multiyear inquiry, regarding the land acquisition in and of itself. The fact is simply that, “Hey, I’ve got a soaking wet community. Every time it rains, the homes are flooded out. The crawl spaces are full of water immediately. They should have never built on this ground.”

Years ago, there were talks about -- they tried to put a development in here, and it was shot down because it was unbuildable. Yet, all of a sudden, some magical wand was waved five, seven years later, and the next thing you know a development is going in.

Did you ever look at any of the major communities that are having these serious problems, where they should have never been built on? And I believe this testimony came before the Commission. Did you ever step back further to do real investigative work to see what happened from this alleged beginning of time, when there was a denial, up until the time there was actually even a permit approved, through some governmental process, to let those communities be built? That’s one question I have of you.

And the next one is simply this. In Director Gaal’s testimony-- You lay out a number of problems -- major problems -- with home construction. If you really think about it, they all have to do with the inspection process. We’re talking about heating systems that are venting into the house, sewage systems that are running through walls. That’s the problem, majorly, in the terms of getting-- “Well, we put the fire out, but what was the source?”

And if we’re going to write legislation that’s really going to have a profound impact, we need to address the source of the problem. Maybe

we do need journeymen at all levels. I'm not quite sure that those skill sets are in place with all the builders, and volume, and things. And we all hear these war stories and these comments about fistfuls of permits being handed to builders, and they sign their own and the construction moves forward, and all the allegations that you've heard.

My question, really, of the Commission -- aside from recommendations of how to clean up the process -- what have you done regarding alleged land acquisition issues or suspicions, and this whole process of-- Look, you're sitting there taking the testimony. You hear the same things we do. Something doesn't smell right out there with the way the permits are given, and the way the inspections are carried out. What have you uncovered in your investigation that you can share with the Committee on those two points?

MS. GAAL: Well, I guess my answer is a positive and a negative. We did, during the course-- I think I even know what development you're referring to. We did look, at least to a degree, back into some of those issues in a couple of instances.

I have to say that, when you're in the middle of an investigation like this, which is looking at home-- It started out looking at inspectors, and then we ended up looking -- discovering there were builder defaults. Then we started looking at the builders and the contractors they used. We looked at the regulatory system. We ended up looking at the New Home Warranty Act. It just grew. It became a massive investigation.

It wasn't integral to what we were looking at. And we really didn't have the resources to start another wing of the case. But we did look, and there were instances-- And I think it's fair to say that there are

instances, probably all over the state, where approvals have occurred for construction that is probably too dense for the property, and on property where -- and I'm not an expert, as is clear -- where, arguably, homes shouldn't be built, particularly because of the water and drainage.

Part of-- One of your immediate answers (*sic*) is: Is that because we live in such an urban state, and there are so many people here, and open land is becoming more and more scarce? And the sense is that building is -- construction is going on, on properties today, which would not have been suitable for construction -- particularly residential construction -- 10, 20, 30, 40, 50 years ago. I think that that's a problem.

As to how much information the folks had when they made the decisions, I don't know. We didn't take that apart. But it was clear to us that there are approvals being granted. And I think the Commissioner, sort of, touched on that when she mentioned the whole site area. It's a whole area that is not really anywhere near as regulated as it should be. Perhaps there should be a tightening up on the PERC tests and everything else. We saw-- You see situations where they -- it fails the test. You come back a couple of days later, you do the test over when it's -- or a couple weeks, when it's really dry. You wait until there is no rain for a couple of weeks, or you wait until the Summer when there's a drought, and you do some of the tests.

So the real problem is there. It wasn't a focal point of our investigation. It may be something -- and we've talked about it -- it may be something we can get back to as soon as we get freed up from one or two other big projects we have. We're a relatively small place. I don't offer that as an excuse, but--

SENATOR MADDEN: I hear you, but if you didn't step back, what you're doing is, you're taking an end product and saying, "Okay. We've got all these problems now. So let's rework a home warranty system. Let's strengthen the construction code. Let's give the buyer the opportunity to go get their own engineer or their own repair people in if it's serious construction issues and all that."

MS. GAAL: Sure.

SENATOR MADDEN: And I personally think the report's great. The hearings were great. They were over time. But it's almost -- and I suspect I feel it's like a Band-Aid approach. When the real problem is -- the gist of it, basically I feel, is back in the land acquisition area and in the inspection process. And what, if any, recommendations has-- You don't really have, it sounds like -- as a Commission -- any recommendations on that, because you really didn't address it, because you're understaffed or something.

MS. GAAL: No, no, let me say this. Every single component of the new home construction scenario in this state had problems and had obstacles that it faced, whether they were builders, or construction code officials, or the State. Everybody had significant problems to deal with. And somebody should say -- and I'm going to say this -- and maybe it will be a shock to hear it from me -- but there are some really good code officials out there. There are some very, very good inspectors out there. And we encountered a number of them. They actually came forward and contacted us in some cases. They needed-- They wanted to talk to somebody. And they told us about their problems.

And when you think about a community that is suddenly faced with construction-- It could be 400 homes going up simultaneously. And that community doesn't necessarily have the depth and breath of folks in its construction department to oversee all that construction. I mean, if you go into those developments, they're working on multiple-- It's not one house being constructed at a time. It's happening all over. It could be multiple developments.

One man told us about how he was called out 17 times for one inspection. And it wasn't ready to be inspected. So he went out 17 times just for one inspection. Well, imagine what's going on throughout the municipality while he's out there 17 times. And you multiply that over by tens of thousands of times.

So there are lots of good folks on the construction side. There are a lot of problems. They're overworked in some cases, there's a lot of sloppiness. There are windshield inspections, there are drive-by inspections going on. They rely, to a large degree -- or to some degree -- on the builder.

Frankly, I think if everyone built the houses properly, we wouldn't even need -- we would not need any regulatory scheme at all. And you have to recognize that it would be a veritable army of inspectors -- would be needed if you're going to put all the burden on the individual inspectors. I mean, they just can't be out there-- By the time they go back out, maybe the walls are up, something's been covered. It might have been okay when they saw it the first time, but there's been damage, and so forth.

And the problems we saw were not just site problems. There was-- When you have moisture on site, yes, that-- But we looked at a lot of things that had nothing to do with that: framing, truss problems, roof

problems, siding problems. All those problems are not -- had nothing to do, I don't think, with the initial approvals.

SENATOR MADDEN: Thank you.

Thanks, Chairman.

SENATOR RICE: Sure.

Let me say this, we're going to change the order of business in a moment.

But I want to make a comment regarding that. Land acquisition, and things of that magnitude, we should look at. I think we're talking additional legislation. We're also talking about putting our heads together and having conversations based on what we know and what we hear -- Senators and others.

But let me assure you, the problems I've seen in my district had nothing to do with land acquisition. The acquisition of land had nothing to do with that firewall not going up behind the wall. It had nothing to do with the way the plumbing and stuff was put underground, and things of that magnitude, or the fire hydrants -- and magnitude. There are a combination of things.

And I can tell you, as a former investigator on the policing side -- which reflects any investigating -- and I think you know this, Senator Madden, as well. We go out with a particular task and mission. And we come back with-- And we do have results. But there are still things that we miss, that we didn't learn in the process, that we pick up on the next one. And just this hearing is giving us information to let us know, as a legislative body, that we've got to spread into other areas. The administration is going

to have to do that too, but we're going to have to maybe set the tone for that.

So I want to thank you, also, for your testimony this morning in laying some foundation out there. And we do have a lot of good inspectors. But as I had mentioned before, we've got to go back and address that. What happens in one municipality or county -- the way inspections are done may be totally different than one that has a bunch of high-rises and a lot of stuff taking place. What happens in Deal, New Jersey-- I'm sure they don't have but so many inspectors, because they're not building every day. Highway construction and roadways has an impact, indirectly, on communities. And we forget, sometimes, just because you're doing (indiscernible) it doesn't mean you're not impacting the community. It's going to have a problem that we were not aware of.

And so there has to be a little bit different direction and coordination, if you will. But we're going to move something to protect the consumers who, in my mind right now, are in pain out there in certain areas. We're going to try to balance that with protecting, if we have to, the builders and those who create the opportunities for people to have home ownerships. And that's going to indicate that.

Thank you very much.

MS. GAAL: Thank you.

SENATOR RICE: Just for recording purposes, I'm going to change the order of business to do one bill, because I have a Senator who has to go. He may be back, but I want to make sure we get the bills done.

So with that, I just need permission from -- a vote from the members to change the order of business to hear Senate Bill 1407, by Senator Asselta.

Is there a motion?

SENATOR ASSELTA: Motion.

SENATOR CONNORS: So moved.

SENATOR RICE: Second.

Roll call on the motion to change the order of business.

We're going to come back to the hearing after this bill.

Go ahead.

MR. ROTHBERG: On the Senator's motion, Senator Asselta.

SENATOR ASSELTA: Yes.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Yes.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Yes.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Yes.

SENATOR CONNORS: Why don't we just do the other two bills?

SENATOR RICE: You want to do the other two?

SENATOR ASSELTA: Yes, just roll.

SENATOR RICE: As long as they're not controversial.

Okay.

Why don't we do Senate Bill 1407 first. Senator Asselta -- establishes low interest mortgage program in HMFA for volunteer fire and rescue squad members.

I understand, Senator, you have an amendment to that.

SENATOR ASSELTA: Yes, absolutely, Mr. Chairman.

SENATOR RICE: Can we hear the amendment, Bob?

MR. ROTHBERG: Give me one moment.

SENATOR RICE: Sure.

MR. ROTHBERG: Members, late yesterday we were informed by DCA that HMA had received some advice from bond counsel that the use of tax-exempt bond proceeds for loans to municipal volunteers such as firefighters, EMS, and rescue workers would be violative of Federal tax rules, including the general public use tax found in the IRS tax code.

So we are still waiting for HMFA to provide feedback to the amendment. But we've seriously amended the bill to-- Instead of making this a low-interest mortgage loan program, it would be having HMFA establish a way of facilitating the creation of low-interest mortgage loans, by a program of loan guarantees to protect against default on mortgage loans issued by participating lenders to these volunteers: volunteer emergency medical service squads, volunteer rescue squads, and volunteer members of -- unpaid and part-paid fire departments.

SENATOR RICE: Any questions by any of the members? (no response)

Senator, do you accept the amendments?

SENATOR ASSELTA: Absolutely, yes, Mr. Chairman.

SENATOR RICE: If there are no questions, I'll take a mover and a second.

SENATOR CONNORS: I'll move the bill.

SENATOR MADDEN: Second.

SENATOR RICE: Roll call on the bill with the amendments.

MR. ROTHBERG: On S-1407, with the Committee amendments, Senator Asselta.

SENATOR ASSELTA: Yes.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Yes.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Yes.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Yes.

S-1407 is passed as amended.

SENATOR ASSELTA: Thank you, Mr. Chairman, members.

SENATOR RICE: Thank you.

The next bill we're going to hear is Senate Bill 1562, Senator Littell. It clarifies provision of law concerning commissions for sale of local government real estate.

Anybody here to speak on this bill? Any questions on this bill?
(no response)

Jarrod Grasso, New Jersey Association of Realtors, supports the bill with no need to testify.

Thank you very much.

Anyone else? (no response)

I move the bill.

Is there a second?

SENATOR ASSELTA: Second.

SENATOR RICE: Roll call on S-1562.

MR. ROTHBERG: On S-1562, Senator Asselta.

SENATOR ASSELTA: Yes.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Yes.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Yes.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Yes.

S-1562 is passed.

The next bill we're going to hear is Senate Bill 1759 -- exempts senior homeowners from municipal building permit fees, Senator Vitale and Senator Doria.

Anybody to speak on that bill? (no response)

Any questions from the Committee on the bill? (no response)

I'll move the bill.

Is there a second?

SENATOR ASSELTA: Second.

SENATOR RICE: Roll call on Senate Bill 1759.

MR. ROTHBERG: On S-1759, Senator Asselta.

SENATOR ASSELTA: Yes.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Yes.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Yes.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Senate Bill 1759 is released from Committee.

That concludes the bills for vote today. And we'll go back with a motion.

I make a motion to go back into our public hearing.

Is there a second?

SENATOR ASSELTA: Second.

SENATOR RICE: Roll call on the motion.

MR. ROTHBERG: Senator Asselta.

SENATOR ASSELTA: Yes.

MR. ROTHBERG: Senator Connors.

SENATOR CONNORS: Yes.

MR. ROTHBERG: Senator Madden.

SENATOR MADDEN: Yes.

MR. ROTHBERG: Senator Rice.

SENATOR RICE: Yes.

MR. ROTHBERG: Members, just stick around for a minute. I'm digging out the witness slips -- I'm sorry, the signature sheets.

SENATOR RICE: Okay. We're back on the public hearing now.

The next speaker we have-- We have Conor Fennessy, requesting some clarification -- from the New Jersey Apartment Association -- on 1826.

C O N O R G. F E N N E S S Y: Thank you, Mr. Chairman.

I certainly want to applaud you and the Committee for your work this morning, and also the work by the SCI. Their 51-page report does, indeed, provide some light bedtime reading.

In taking a look at the report, there is no mention of the quality of construction, maintenance, or inspections of multifamily homes. A quick search of multifamily, multiple-dwelling apartment or apartments found no references. And we respectfully request a clarification in S-1826 that multiple dwellings and multifamily properties are not subject to the provisions of the bill. The SCI investigation is targeted exclusively at single-family homes and, indeed, construction and inspection of those single-family properties.

SENATOR RICE: Okay. Your comments will be taken into consideration for clarity. We will be doing some amendments to the bill, but not today. Today is for discussion.

MR. FENNESSY: Understood.

SENATOR RICE: I'm looking--

MR. FENNESSY: But it's something we would like to work, certainly, with you and also with OLS on, as you move forward.

SENATOR RICE: Yes. I'm asking staff to take notes now. And, hopefully, between the transcribing and their keeping their ears open as they move around, they're taking their notes.

MR. FENNESSY: Yes, sir.

SENATOR RICE: If I have to take them, I'm not going to be happy.

MR. FENNESSY: Understood.

SENATOR RICE: And they should tell me that, “Don’t forget, we have to do this.”

Staff, you have that, right?

MR. ROTHBERG: Yes, sir.

SENATOR RICE: Is that listed in your testimony here?

MR. FENNESSY: Yes, sir. Absolutely.

SENATOR RICE: Okay. Anything else?

MR. FENNESSY: No, sir.

SENATOR RICE: All right.

MR. FENNESSY: Thank you, Mr. Chairman.

SENATOR RICE: You’re welcome.

The next speaker we have is Mr. Patrick O’Keefe, New Jersey Builders Association.

Pat.

Do you have anyone coming up with you, Pat?

PATRICK J. O’KEEFE: No, Mr. Chairman.

Good morning, Mr. Chairman.

SENATOR RICE: Good morning.

MR. O’KEEFE: On behalf of New Jersey’s builders, let me thank you and the members of the Committee for taking the lead in addressing the SCI’s recommendations.

For those who understand the importance of housing and the responsibilities of the building community in providing it, the SCI’s report was profoundly disquieting.

We appreciate the recognition that there may have only been a few -- or there are only a few in the building profession who have given rise

to these problems, but those few have given all of us a black eye. And we appreciate your, and your member's, willingness to figure out how to eradicate that and move forward.

As several speakers have remarked, where years ago New Jersey's system of supervising home building and protecting home buyers was once a national model, the SCI found that it's "a system mired in the past, a system utterly incompatible with 21st century standards and expectations." The Commission's blunt assessment concluded that this history, as well as those responsible for regulating it, find themselves at a critical crossroad.

Mr. Chairman, today's hearing and your three proposals begin the process of moving away from that crossroad and rebuilding our system and restoring it to its status as a national model.

The basic elements of the statutory framework that protects the home buying public was enacted some 30 years ago. It provides for design and construction standards, the nation's only mandatory state warranty program, and requires builder registration, and establishes disclosure requirements. All separate programs, but they complement one another.

The SCI doesn't suggest jettisoning that framework but, rather, recommends building on it in significant ways. And like any home improvement project, it's advisable that the implementation of the SCI's proposals be done in a way that retains, and even enhances, the interaction of the structure's components.

Your bills, Mr. Chairman, would strengthen that framework by supplementing it in key ways. As I will discuss, your bills, like the current system, share common principles which have the potential of making each

of the elements in the system generally much more effective. Mr. Chairman, I would respectfully suggest -- suggest that the -- to maximize the benefits of the interaction of your bills, you may want to consider a working session involving the key parties, as you've done in the past -- as you did with the redevelopment legislation -- where we can review and concurrently work on these bills to move them forward in the way you want.

I'd like to comment, if I may, on each of the three bills.

Your proposal for a Homebuyers Bill of Rights would serve as a new foundation on which all of the other elements of the oversight system would stand. It has the potential to define what the home-buying public can expect, and also to define the responsibilities that home builders and regulators have in meeting those expectations.

Because of 1824's cohesive role, there should be a coherence between it and those other statutes in the system. And this could be reflected by way of common definitions, as well as consistent standards and procedures. The proposal might even be more effective if it directed regulations that establish clear administrative guidelines regarding its implementation, for example, on escrow management, progress inspections, and other changes that it would implement.

Since the bill of rights would create new entitlements, we believe that it should be clear as to whether or not buyers may contractually modify those rights. We shouldn't wait for experience and the courts to have to determine that. We would also recommend that the statute be definitive as to the extent of those rights and as to the responsibility of the courts to strictly construe them.

With respect to enhancing the home-buyer protections, S-1825-- Despite the problems legitimately cited by the SCI, there is still agreement that New Jersey's mandatory warranty program is the premier home-buyer protection in the nation. S-1825 would broaden, deepen, and lengthen the coverages provided by the New Home Act.

Members of the Committee and you, Mr. Chairman, have already recognized that the warranty is a premium-financed insurance program, where the costs, ultimately, are paid by the home buyers in the price of the home. Adding to what is covered may well lead to an increase in the premiums. It would seem appropriate, therefore, to have the actuaries who advised the Warranty Trust Fund's board to estimate the impacts on the premiums of the changes that are proposed.

S-1825, Mr. Chairman, is also an opportunity to address another concern raised by the SCI -- that of lolling -- by providing for a clear process whereby home buyers preserve their rights.

Specifically, 1825 could stipulate a process that would first place the builder on notice, require a timely response, provide for immediate opportunity to repair, and thereby anchor the rights of the homeowner to appeal to either the warranty or the courts if the repairs do not meet the standard.

In 1825, Mr. Chairman, you respond to the call for a lemon law with a concept that would use the warranty program to make the home buyer whole, while holding the builder accountable. We hope to have the opportunity to work with you, along the lines that the Commissioner of DCA discussed, in using the warranty program to do that.

There are some other aspects of S-1825 on which we would ask for clarifications. Extending warranty coverage to lot defects is one. We think, however, the way the Commissioner earlier suggested it, where it went to improvements on the site -- including drainage -- would address those concerns that we had there. The consideration of how post-closing alterations and inadequate maintenance affect the warranty coverage are also other issues that we may ask you to look at.

With respect to strengthening code enforcement, S-1826, Mr. Chairman-- Your proposals address several of the SCI's recommendations in very progressive ways. Having licensed professionals supplement overloaded building departments would be a major step forward.

I don't read your bill the same way that the SCI does, nor do I disagree that the SCI's approach to that supplementation is inordinate. Having the supplementation occur by way of DCA-approved inspectors would achieve your goal and would avoid any potential insinuation of conflict.

We also ask that you consider reclaiming the misallocated enforcement resources -- this, too, has been suggested by the SCI -- by reinforcing the dedication, by rider, of building fees, and making sure that those who pay to have inspections done -- whether it's the home builder or the homeowner -- see those fees used solely to run the building department.

Mr. Chairman, in conjunction with increasing the fines levied for code violations, we suggest that the judgements be directed back into the New Home Warranty Trust Fund to supplement home-buyer protections, rather than going into the general coffers. This would be one way of repairing the damage that has been done to the solvency of the Trust

by the repeated diversions of its funds in the general revenue expenditures at the State level.

Mr. Chairman, in addition to those, there are several technical recommendations, including such things as the phasing of effective dates, that we will offer at the appropriate time. Today, clearly, is not the place.

Let me conclude once again, Mr. Chairman, by applauding you, your initiatives, and the Committee in finding ways to address the SCI. We look forward to the opportunity to work with you on that.

Thank you.

SENATOR RICE: Thank you very much.

We will get the constituency groups back together. But that's probably after we have a couple more hearings outside of Trenton. As I said, I would like to go to the Middlesex, Monmouth County area, as well as North Jersey, to create some balance there. I've got eminent domain that I'm moving up and down the state in different areas. And I also have the condominium stuff. So this Committee is going to be very busy, or I'm going to be very busy if they don't show up. (laughter) But the point is that we have a lot to do. But your comments are well-taken.

The inspector area is something that -- as you heard from Senator Connors and others -- we are very much concerned about. In other words, we're concerned about what happens on the administration side. What are we really doing? And we have to visit--

Projects get held down, for example, in the builder community. And as a result of that, you're waiting for a permit process. And you may do your foundation -- not your foundation work, but you may do your site prep, and you really can't go beyond that. And sometimes you will find a

developer who may go an inch beyond what should be done before they cease. But during that process, they may have people coming in -- professionals that are well recognized, such as Johnson Controls, or somebody like that -- engineers that document. But then there's still violations and penalties put there. But that only occurred because inspectors for the system didn't move. And your contract -- you're trying to meet time frames on a table according to what your contract says. So there's a lot to be discussed and looked at, in terms of that whole area.

In terms of the bills, overall-- Once again, they are just foundations for discussions. And we have tried to get some of this out to some of you prior to. And we have worked with some of your organizations to help put the foundation together. But I've got to work with my members and others to make sure that a product comes out of here.

And I'm not going to be so anxious to get a product out by July 1, as I am so much trying to get it as right as I can, and get the product out before the session ends. I think that's just as important. We're in the construction season now. And hopefully there's been enough public scrutiny -- SCI investigation and awareness -- that those unscrupulous developers out there, or builders, will try to keep this thing right as we get through this construction season. But going into next year, we should have something fixed in the law. And hopefully it can be a model for other states, since we're always following somebody -- and maybe we should try to lead for a change -- since I've been here.

Are there any questions from any members of the Committee?
Any comments? (no response)

Thank you very much for your comments and testimony.

MR. O'KEEFE: Thank you, Mr. Chairman.

SENATOR RICE: I have two final speakers. They are both from the same place. I would suspect that they know each other, primarily because they seem to live next door to each other, or two doors down. And if they don't, I want to introduce them to each other by bringing them both up at the same time. And that's Violet Peterson and Sonia Giovine.

How do we get that last name, Sonia?

S O N I A M. G I O V I N E: Giovine (indicating pronunciation) is okay.

SENATOR RICE: Giovine. (indicating pronunciation)

I can do the hand thing, but the language gets to me. (laughter)

Okay, ladies.

V I O L E T P E T E R S O N: Good morning, Senator Rice.

SENATOR RICE: You do know each other, is that correct?

MS. PETERSON: Yes, we're in the same development.

SENATOR RICE: Okay. Thank you.

MS. PETERSON: And members of the Committee--

I'm here to talk about the proposal of bill S-1825 and S-1826. I'm a homeowner in Manalapan. Our development, Manalapan Chase, was built by Centex Homes -- a part of the SCI investigation. We were fighting for six years to bring our development up to code. When I talk about code, it's not warranty, it's code violation. It's a problem between the developer and the town. It's not, one is better than the other.

We are fighting-- The problem we have is they are not following the current law. If you don't follow the current law, how is the law -- they going to enforce it? Because when we say code violation, means

the law that is already existing in the state. But then the old law -- they're not emphasizing. How are you going to emphasize the new laws the Committee is passing now?

There is no point in having laws if not enforced or followed. Bill S-1825 and S-1826 provides only modest change to the existing law. By these bills do not address the central complaint of hundreds of homeowners that started the SCI investigation. The Department of Community Affairs, the DCA, and the municipal township construction office have not done -- have not been doing their jobs. The DCA and the municipal building department has failed, for years, in the central mission of overseeing home construction.

It was clear from the complaints of hundreds of homeowners, and documented in the public SCI hearings. In the SCI public hearing of October 12, 2004, SCI Chairman Schiller stated, "To date, we have compiled a detailed and disturbing record. It is the record of a system deeply flawed, a system openly vulnerable to waste and abuse on many levels." The SCI themselves recognized the central problem of the home inspection process, the DCA.

At the public hearing of October 13, 2004, Commissioner Flicker stated, "At every juncture, no matter what the issue, the focus has invariably wound its way back to the same place, to the same critical agency of government, the New Jersey Department of Community Affairs." But we have yet to see anyone held accountable.

If you change the law and it's not enforced, yet again, the homeowners are back to square one. I suggest that you update the bills to include having the township hire licensed structural engineers as code

officers. The current system is a catch-22. The municipal code officers are not licensed engineers. But they just accept everything the builder says and ignore the engineers hired by the homeowners. This was documented time and time again by the SCI.

The Construction Board of Appeals system is a farce. The Appeals Board is staffed with the old-boy network of construction officers and politically connected developers. In my experience, the Appeals Board always sides with the town and the builder, and bullies the homeowners. The Appeals Board should be staffed with professional engineers that will help the broken system to function. Homeowners should have the right to present the case, not to be intimidated.

The DCA should truly reform from top to bottom. The homeowners in the state who have experience will tell you how terrible a job the Bureau (*sic*) of Codes and Standards is doing. Because of this reason, the SCI did an investigation on this matter. If they can't do their job, the Bureau of Codes and Standards should be abolished.

The most important question to Senator Rice and members of the Committee is, what is the punishment for enforcement officers that don't do their job or are deliberately dishonest to the homeowners?

My appeal to you, Senator Rice and Committee members, is to follow up and follow through. It is not simply enough to pass, and talk about, homeowner rights. You have to hold the Governor account-- In my six years of fighting this, not one governor has taken an interest in seeing that the UCC is fully enforced. It has been a total failure on their part.

It was only the homeowners -- SCI -- with the help of Mr. James Nobile, U.S. Attorney, who approached the SCI to do a statewide

investigation on the scandal of new home construction in New Jersey. We pay our taxes to government services. If the government fails to provide those basic services, it is our right and our duty to ask why can't the law be enforced.

It is the duty of the elected representative to protect the citizens of New Jersey. I only ask that you do your job as elected representatives.

Thank you.

Any questions?

SENATOR RICE: No questions.

But why don't we allow your neighbor to speak first?

And I do have some comments, because I want to give you some Political Science 101.

Go ahead.

MS. GIOVINE: Hi, my name is Sonia Giovine, 36 Molly Pitcher Drive, Manalapan.

Thank you for the opportunity.

I live at 36 Molly Pitcher in the Manalapan Chase Development.

I'm concerned about all the bills -- and S-1826, Section 20 of the bill addresses the fines and penalties for construction code violations and failure to repair. The current fines and system of enforcement is a joke. The fines that you proposed are not enough. As I said, the code violation in our development still has not been repaired.

The stucco on my house was removed 18 months ago by Centex Homes because of code violation. But the stucco has still not been

replaced. The code violation has not been fixed. We have lived through two Winters without the stucco on our house. I have a picture right here. (indicating) This is how my house still is for 18 months, two Winters.

Even for the repairs, the township is supposed to help get the right code compliance materials. But the town can't even get the right -- that right, because the town plays some kind of games. When we ask about what kind of material they're going to use, they never get us the right, straight answer. Not even-- They bring the engineer to inspect our homes, and the town always sides with the developer. Who knows why? The town just rubber-stamps whatever the builder says.

There is no enforcement and no accountability. Both the builders and the township delay and delay. Nothing has ever been done. The township does not represent the interests of the homeowners at all. That's Manalapan Township.

It's up to the State to ensure that our homes are brought up to code. And we would like you people to help us. That's why we are here.

As you see in the newspaper, my house has been like this for 18 months. Now they are trying to fix it. They're not following code compliance materials and steps -- step-by-step, how to put the stucco back, which-- I would like to see if Mr. Connolly or someone gives me the right, step-by-step -- how to put the right stucco on my house. Because the proposal that they're bringing right now, with the PEG (phonetic spelling) -- one other subcontractor -- is not -- sound like the way it was done before.

Thank you.

SENATOR RICE: Thank you.

Let me say a couple of things for the record.

Number one is, we don't -- at least I don't -- disagree with you in terms of your comments. The reason we're writing laws-- We have laws that should be enforced. We are the legislative body. Under the Constitution, there is separation of powers, even in your council and mayor. We write the laws. The administration -- in this case it would be administration of the Governor -- administration enforce the laws. When, in fact, we find the law is not being enforced, we have to go back and try to insist that the administration enforce it. But we also have to take a look at the laws that we have written and make sure that we don't have to change them, or amend them, or whatever.

And so this legislation is intended for those of us, as legislators, to do our job with some balance and some fairness for everybody involved in the process.

I know of some of the situations in your area, like other areas of the state, because it's been publicized so much. These penalties are geared toward civil penalties, to get local government, and other people, and the State to be responsible for making sure certain things do happen in a timely fashion. If not, they continue to compound themselves where they become substantial penalties.

But given what's happened in your area, I believe there are still criminal investigations going on, because there is a criminal side to the law as well. And I don't want to get into all those details. I don't know them all, and who some of the participants may have been. And so we're going to be looking at the penalty area. This is a foundation to work from.

Assemblywoman Beck was here earlier, who is from that area. They put in about 19 bills. I'm not going to do 19 bills. I don't think we

need to do 19 bills. We need to consolidate the intent of bills. And we'll look at see what she has in her packages. And we're going to look at the penalty provisions that she may have in one of her bills -- or Senator Palaia may have -- to see if they make sense to where we are trying to go.

So we are trying to move in the right direction. But enforcement, also, starts at the local level. And if you have a government that's not performing at the local level, then I hate to tell you this, it's incumbent upon you to remove them and get somebody that's going to have some integrity to perform.

MS. PETERSON: It's very difficult.

SENATOR RICE: And I'm just putting it all in perspective now. I'm not going to have you get mad with my Committee because of what's happening there. We've got to do it from the State perspective.

But my point is, at the State level, the same thing-- If we're not performing -- and, certainly, your legislators are, because I know them -- to try to make it better, then we ought to be held accountable.

In the interim, we have to do as Senator Connors suggested, and Senator Madden suggested. We have to take a look at the administration side to see how we can force compliance on their side and force them to do their job. We have to look at that side to determine what are your needs. If you tell me that the problem, in their municipality, with enforcement is that you don't have enough personnel, then we as legislators -- our job is to see if we can identify the dollars -- talking about the State -- to give you what you need to get your personnel and to make sure they're trained properly. Tell us what your needs are, in terms of resources.

So we're going to be revisiting the administration, because we may not have to give them resources, in terms of new resources. We may have to, as was indicated earlier, redirect some resources, or dedicate some to make sure they stay in the areas they should be in for the oversight, for the enforcement, etc.

And so we're going to be paying attention. And we're hoping, when this process is over, there's accountability far beyond what we are trying to do, after the fact, to the problems you're having. I know that your legislators, your local government people, and others are going to stay on top of that with the State. And whatever is coming up in that situation versus other situations is what's going to really help us to define and help drive legislation to tighten up those voids that some people talked about this morning.

I did not say that the three bills here were perfect. They are working tools. If I thought that they were perfect, I would tell you as the Chairman. And I would be trying to drive them out of here, and do what I have to do to get them out of Committee. The purpose is to hear from individuals like yourselves and others -- including the administration -- then go to some other areas of the state and hear from people. And I will probably be in your area, as indicated earlier. So I will probably be hearing from some more residents down there.

Let me ask you a question though, while you are here. You say you live in a condominium development.

MS. PETERSON: No, it's a single home.

SENATOR RICE: Oh, okay, a single home.

MS. PETERSON: Yes.

SENATOR RICE: All right. I just wanted to be sure of that.
Any questions from yourself, Senator?

SENATOR MADDEN: No.

SENATOR RICE: Okay. Let me thank you ladies very much. I do hear your human cry. I don't want to talk about my district and my city -- about some similar problems. Some of them are very crazy nightmares, but they're not as deep as your stucco and stuff like that. They're mostly internal.

MS. GIOVINE: It's not only me.

SENATOR RICE: We have read about other municipalities. I know when it hits home it's personal. It takes a different spin. But, unfortunately, we have to look at it from your side, but we have to be objective and recognize it's not just Manalapan, it's all over. So whatever we have to do-- We're going to have to make sure that our legislation addresses the worst of the situation, as well as the least of the situation.

Yes, ma'am.

MS. PETERSON: The question I have-- You want to solve a problem. We all have a problem. Why don't we just hire a licensed engineer, because he will know what's wrong in the house? Because when you have a--

SENATOR RICE: Let me cut you off. I will go back to that.

First of all, your municipality should have a licensed engineer, a municipal engineer.

MS. PETERSON: Not construction. They have--

SENATOR RICE: Then you need to address that locally. But also, the inspectors from your town -- whether they're shared inspectors

from another town, or they're State inspectors -- are supposed to be licensed and certified inspectors. And so that's an area that needs to be looked at.

But you're telling me you don't have a licensed municipal engineer in your town?

MS. PETERSON: I think they have the one who walks -- looks at the -- the building of the development. They have that kind of engineer. What engineer do you call that?

SENATOR RICE: Civil engineer.

MS. PETERSON: Civil engineer, right. But not a construction engineer. When the code officer comes to my house, he will say it's the warranty. But it's a code violation. So that's why our house took -- how many years -- from 2001 to now to repair the stucco. It was so long, because--

SENATOR RICE: Being licensed is not going to make that person not give you misinformation. I'm talking from the engineering perspective.

MS. PETERSON: Yes.

SENATOR RICE: The BOCA code people -- that's called BOCA.

MS. PETERSON: Yes.

SENATOR RICE: They are licensed and certified people. And, to be quite frank about it, some of them are brighter than the engineers. Don't let the degree thing fool you with some of these civil engineers. Believe me.

MS. PETERSON: No, but it's the--

SENATOR RICE: I'm being honest. Okay?

MS. PETERSON: Okay. I'm not--

SENATOR RICE: But my point is that, by law -- unless I'm missing something -- and staff and/or a Senator can correct me -- your town -- if they're doing construction, they have to have BOCA people inspecting that. And whether they do -- privatize it out or hire someone in-house-- And they have to be certified, licensed people. Your engineer -- municipal engineer should be capable of doing that, or your mayor and council need to bring someone in.

And that's my point. I don't want to be-- Look, I spent 16 years as a council person. And I'm smart enough to know that I'm not going to privatize everything. By the same thing, some things need it. But also, I'm not going to tell 555 other municipalities at the local level that you have to hire this kind of a person, who may not even be available. I will say you have to have -- meet these criteria in a person. And that's what's required by law right now.

And that's why I say that when you look at certain areas of the state, yes, we have these nightmares as they relate to the construction of projects, and the pain that people are going through with these projects -- should never have been built that way, etc. But by the same token, locally, you've got some corruption -- regardless of where that corruption may be -- which this legislation is not going to address all of that. But we do have the criminal statutes, we have the Federal statutes. So I don't want you to think that, when you see a law like the bills we are passing, there aren't other mechanisms out there. The key is, as you said, is to enforce them. That's why the U.S. Attorney General and others come in. Because when you start talking about spending dollars, you're talking Federal dollars.

They're going to kick in automatically. Whether you request them or not, they're going to come in, because we have to request them.

There may be stuff in the mail -- that the transaction of this development is going through the mail. All of a sudden, the feds are going to kick in -- probably the postal service. So there are laws behind laws.

But we hear you loud and clear. And the reason you are here, and the reason these bills are up, is because we are trying. There are those of us who are paying attention. We aren't going to be perfect. But we're not giving up either.

MS. PETERSON: Thank you.

SENATOR RICE: Thank you very much.

MS. PETERSON: Thank you.

MS. GIOVINE: Thank you.

SENATOR RICE: That concludes this hearing. I don't have anyone else on the speaker forms. There will be others.

Thank you very much.

The meeting is adjourned.

(MEETING CONCLUDED)