



**HOME BUILDERS & REMODELERS ASSOCIATION
OF CONNECTICUT, INC.**

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*Your Home
Is Our
Business*

March 8, 2016

To: Senator Gary Winfield, Co-Chairman
Representative Matthew Lesser, Co-Chairman
Members of the Banking Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: **Opposition to HB 5561, AAC Fairness in Consumer Contracts**

The HBRA of Connecticut is a professional trade association with about eight hundred (800) member firms statewide employing tens of thousands of CT's citizens. Our members, all small businesses, are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry and to consumers. We build between 70% to 80% of all new homes and apartments in the state each year and engage in countless home remodeling projects.

The HBRA of CT has a number of concerns with HB 5561.

The definition of "inconvenient venue" is too limiting and should be expanded to include any judicial district in Connecticut. We may do construction work, for example, on a second home at one end of the state that is owned by a consumer on the other end. The consumer may have agreed to the work in the second home. If a dispute arises and the agreement states it would be governed by the laws and in the courts of Connecticut, the bill as written may invalidate the provision if it is heard in a judicial district that does not meet the requirements of the bill.

The provision that all material terms of the consumer contract be contained in a single document does not recognize the common reality that construction contracts often reference specifications, plans and warranties that are separate documents. These separate documents contain material terms that benefit both the consumer and the contractor. Thus, lines 26-27 and 32 need to be amended to reflect separate documents that are referenced within an agreement.

Lines 40-41 can be construed to make it unconscionable to include provisions in a contract that a dispute shall be resolved through arbitration or mediation. These are common provisions that save all parties litigation costs. We urge these lines be struck from the bill.

We question whether lines 42-44 would extinguish liquidated damages clauses in contracts, which, again, are common provisions. If it does, we urge these lines be struck from the bill.

We are unsure of the impact of lines 53-56 and to what contract provisions it is intended to address. We suggest that normal procedural due process rules be followed in civil matters

Vision: "Building CT's Economy, Communities and Better Lives One Home at a Time"
Mission: "Using Effective Advocacy and New Knowledge to Solve Our Member's Problems."

and be allowed by contracts – if this is the intent of these lines, we suggest revised drafting to reflect this intent.

Finally, we strongly oppose lines 77-82, which seems to create a private attorney general provision that allows any person to bring a civil action for a violation of this bill. This can only generate a lot more litigation, which would benefit only trial lawyers. It would be in derogation of any arbitration or mediation provisions of a contract, and cause both parties to expend unnecessary funds on legal and related costs. We urge you to delete this provision from the bill.

Thank you for the opportunity to submit this testimony on this legislation.