



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

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*Your Home  
Is Our  
Business*

February 14, 2012

To: Senator Joseph Crisco, Jr., Co-Chair  
Representative Robert Megna, Co-Chair  
Members of the Insurance & Real Estate Committee

From: Elizabeth Verna (Verna Developers), Chairman of the Board & President  
George LaCava (Trilacon Development Corp.), Immediate Past President  
Kevin Santini (Santini Homes), President, CT Institute of Professional  
Builders & Remodelers, Inc. (HBACT's educational, charitable foundation)  
Bill Ethier, CAE, Chief Executive Officer

Re: **Raised Bill 16, An Act Exempting New Home Builders' Employees  
From Real Estate Licensing Requirements**

The HBA of Connecticut is a professional trade association with about one thousand (1,000) member firms statewide employing tens of thousands of CT's citizens. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry. **We are in strong support of Raised Bill 16.**

**Background:** CT's real estate licensing law ensures that third parties (i.e., real estate brokers or agents) afford some level of protection to their clients (i.e., sellers or buyers of real estate). Under section 20-329, a property owner is exempt from real estate licensing when selling or renting their own property. There are eight additional exemptions from licensing under CT law, including an owner's employees who are on-site residential superintendents or custodians, and all employees of nonprofit housing developers.

**The Problem:** For a for-profit home building company, the "owner" exemption is afforded to only the real person or persons who hold an ownership interest in the building company. Non-owner employees of the building company are not provided this exemption and this prevents them from engaging in any activity that can be construed to be related to "negotiating or selling" the building company's own homes, such as 1) showing a model home, 2) explaining the builder's construction practices or designs, 3) walking a buyer through a subdivision showing site development practices, 4) answering questions about home features or available options, such as floor or wall coverings or a huge variety of other items, 5) answering whether a wall can be moved, a bonus room can be added, or many other changes, or 6) *even to handing out a brochure to prospective customers.* This interpretation of the real estate licensing law, enforced by DCP, is a tremendous burden on the effective management and operation of the for-profit home building business.

It is unreasonable to expect that all an employee can do when working with prospective buyers of new homes is say, "I'm sorry, you can speak only with the owner of the company. Here's his card." Often, the owner of the company is not on site. They are out managing many other aspects of the business or at different home building sites. Deferring a

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prospective home buyer not only risks losing that buyer but also does a disservice to the buyer who expects and deserves immediate attention.

**Reasons to Support RB 16:** The problem above begs the question: Who is protected by requiring a building company's employees to be licensed as real estate brokers or salespeople to "negotiate or sell" the building company's own homes? We submit neither the seller nor buyer is served.

**As for protecting the seller (i.e., the building company), all employees of a home building company, which includes the owner of the company, are in essence and reality the voice of the company.** Each speaks for the company in the capacity for which they were hired. No employee is a "third party" in the same shoes as real estate brokers or agents, who by law act in a third-party, fiduciary capacity. A home building company does not need fiduciary or statutory protection from its own employees. The interests of the company are protected through the employer-employee relationship. Unlike third-party brokers or agents, employees serve under the control and direction of their employer. **A company's employees do not have to be licensed as real estate brokers or agents in order to "protect the interests of their own company employer."**

**As for protecting buyers,** most buyers today come to new home sites unrepresented by an agent. Even when an agent is involved, they all defer to the builder's employees to answer construction and pricing questions. Moreover, if a builder's employee is licensed, they represent the seller, not the buyer. And buyers can always hire their own buyer-broker. **Most importantly,** the DCP and New Home Construction Contractor (NHCC) registration act protect consumers. A NHCC, by definition, sec. 20-417a(5), "means any person [broadly defined to mean any company form] who contracts with a consumer to construct or sell a new home or any portion of a new home prior to occupancy." A NHCC is not relieved of responsibility under the NHCC registration act for the conduct of its employees, reinforcing the employer-employee relationship and which ensures all employees act within the bounds of the NHCC registration act. See 20-417b(a). The consumer protections afforded by the NHCC registration act include payments into the NHCC guarantee fund, a statutory registration notice that must be provided to every prospective new home buyer, liability under the CT Unfair Trade Practices Act, and more. In addition, other laws, such as the federal Fair Housing Act, fully apply to NHCC and all its employees to protect home buyers.

**The practice of builders using Realtors for marketing will not change with the employee exemption we seek.** Many builders use Realtors for their marketing expertise, knowledge of markets and, especially, to gain access to the MLS to better market their homes, not for their construction expertise or knowledge of the builders' business or homes.

**A number of other states, including Rhode Island, fully exempt the employees of all owners.** RB 16 is properly limited to employees of registered new home construction contractors under CT law. But, as with the nonprofit developer employee exemption, we suggest adding to RB 16, "**and while such employee is performing duties in the regular course of, or incidental to, the management of such new home construction contractor.**"

**We strongly urge your support of this rational, reasonable exemption to an unnecessary application of the real estate licensing law.** Thank you very much for your favorable consideration of Raised Bill 16.