



Raised Bill 6914
An Act Concerning Demolition Licensure and Demolition Permits

Testimony of Commissioner Melody A. Currey

Public Safety & Security Committee
March 3, 2015

Good morning Senator Larson, Representative Dargan, Senator Guglielmo, Representative Zupkus and distinguished members of the Public Safety & Security Committee. My name is Melody Currey, and I am the Commissioner of the Department of Administrative Services. I want to first thank the Committee for raising House Bill 6914 on behalf of the agency. This bill includes two changes that the Department of Administrative Services (DAS) is requesting. I will provide a brief background on each section of bill, and will be happy to answer any questions that the Committee may have. I have with me the Acting State Building Inspector, Joseph Cassidy, who will provide more specific information on this proposal.

DAS has been working with the Department of Energy and Environmental Protection (DEEP) to assist with the Administration's efforts to promote reuse and recycling of building materials. Section 1 of the bill addresses those efforts. That language provides an exemption from demolition licensure and permitting requirements (C.G.S. § 29-402 and § 29-406) for individuals seeking to disassemble the non-structural elements of a building, with the intent of reusing or recycling those building materials. We believe that disassembly work that does not impact the structural elements of a building is not the type of activity that the Demolition Code is intended to regulate, therefore providing this exemption will in no way impact or increase risks to public safety. This change will help promote the important goals of recycling building materials and reducing construction waste in our State, and I urge you to support it.

Section 2 of the bill is necessary to eliminate a conflict between an existing demolition permit statute - C.G.S. § 29-406 - and a Public Act that passed last year, [Public Act 14-74](#):

Existing law (C.G.S. § 29-406) requires a contractor to submit a certificate of insurance as part of a demolition permit application. It further requires that the insurance certificate include "save harmless" language in favor of the municipality. Public Act 14-74, however, prohibits inclusion of representations on insurance certificates that are not covered by the underlying policy. Since "save harmless" protection may not be part of

a typical commercial liability policy, requiring that such language be included on all insurance certificates that accompany demolition permit applications creates a conflict, and puts contractors and insurance agents in an untenable situation. The changes in Section 2 of this bill remedy this conflict, and are needed to provide clarity and certainty to those involved in demolition work statewide.

Please know that the Office of the State Building Inspector, which is within DAS, has issued an Advisory Memorandum on this issue in order to resolve the statutory conflict pending this legislative change. At the end of my submitted testimony, I have attached this Advisory Memorandum, which was issued on 9/24/14 to towns and municipalities, local Building Officials, demolition contractors, awarding agencies and the Department of Insurance.

As you'll see, this Advisory Memo outlines the conflict created by the 2014 Public Act, states our intention to seek a legislative change to resolve this conflict, and provides recommendations on how to comply in the interim. Specifically, the Memo recommends that municipalities accept the following documents instead to fulfill the requirements of the demolition permit statute:

- 1) A certificate of insurance demonstrating the prescribed coverage, and which names the municipality issuing the demolition permit as an additional insured, and
- 2) A separate declaration from the contractor, on company letterhead signed by an officer of the company, with the following statement:

In accordance with Connecticut General Statute § 29-406, we [contractor] hereby agree to save harmless the [town or city] and its agents from any claim or claims arising out of the negligence of the applicant or his agents or employees in the course of the demolition operations associated with [project, title, address]

My staff and I recently met with the Public Safety Leadership and staff to discuss this issue. At that time, questions were raised about what financial guarantee would underlie the contractor's save harmless statement. We have discussed those questions with the Department of Insurance (DOI) and offer a few points for the Committee's consideration.

First, prior to this conflict arising, there was no real guarantee that the prior "save harmless" language that was placed on the insurance certificate was providing any coverage to the towns, since the underlying policy likely did not provide this coverage. Second, since the issuance of this guidance to municipalities, we have not heard of any concerns from towns or demolition firms regarding the change in requirements. Finally, this bill is offered to correct a conflict between an existing demolition statute and a 2014 Insurance Public Act. DAS and DOI agree that whatever insurance instrument is needed to comply with this statute will be commercially available, and we don't believe it is appropriate to legislate any specific insurance instrument(s) to cover

this risk; rather, we believe the parties and the market are capable of addressing this. It is my understanding that the Committee has comments from the Department of Insurance that support this approach.

Thank you very much for the opportunity to testify, and I am happy to answer any questions that you may have.



Memorandum

Date: September 24, 2014
To: Municipal Building Officials
Chief Elected Officials
From: Joseph V. Cassidy, P.E., Acting State Building Inspector
Subject: Insurance Certificate Requirements for Demolition Permits

The State of Connecticut, Office of the State Building Inspector is providing this memorandum and guidance to address a conflict between state laws relating to (1) insurance requirements for demolition permits; and (2) the form and content of "certificates of insurance."

C.G.S. §29-406 outlines the requirements for obtaining a demolition permit, and states in relevant part:

No person shall be eligible to receive a permit under this section unless such person furnishes written notice to the building official (1) of financial responsibility in the form of a certificate of insurance specifying demolition purposes and providing liability coverage for bodily injury of at least one hundred thousand dollars per person with an aggregate of at least three hundred thousand dollars, and for property damage of at least fifty thousand dollars per accident with an aggregate of at least one hundred thousand dollars; *each such certificate shall provide that the town or city and its agents shall be saved harmless from any claim or claims arising out of the negligence of the applicant or his agents or employees in the course of the demolition operations; . . .* (emphasis provided).

Public Act 14-74 relates to "certificates of insurance," and provides in relevant part that:

No certificate of insurance shall warrant that the referenced insurance policy complies with the insurance or indemnification requirements of a contract. The inclusion of a contract number or contract description on a certificate shall not be construed as making such a warranty.

It has come to our attention that the C.G.S. § 29-406 clause requiring that certificates of insurance include save harmless language conflicts with Public Act 14-74 and the Connecticut Unfair Insurance Practices Act under C.G.S. §38a-816, and may be problematic for insurance agents to fully comply given the coverage afforded under standard commercial general liability policies.

Please be advised that the Department of Administrative Services will be working with the legislature next session to revise C.G.S. § 29-406 to eliminate the conflict in the statutes and to ensure that any insurance required to obtain a demolition permit is commercially available and acceptable.

Until the statutory conflict is resolved, the Office of the State Building Inspector will no longer require that certificates of insurance relating to demolition permits include save harmless language. We recommend that municipalities accept the following documents instead to fulfill this statutory requirement:

- 1) A certificate of insurance demonstrating the prescribed coverage, and which names the municipality issuing the demolition permit as an additional insured; and
- 2) A separate declaration from the contractor, on company letterhead signed by an officer of the company, with the following save harmless statement:

In accordance with Connecticut General Statute § 29-406, we [**contractor**] hereby agree to save harmless the [**town or city**] and its agents from any claim or claims arising out of the negligence of the applicant or his agents or employees in the course of the demolition operations associated with [**project title, address**].

