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Housing Committee public hearing -- February 23, 2016

S.B. 152 – Disclosure of fair housing laws to purchasers of rent housing **SUPPORT**

This bill is substantially the same as H.B. 6133 of the 2015 session of the General Assembly, which passed the House but was never called in the Senate. The bill attempts to educate potential purchasers of rental housing as to fair housing law by assuring that a simply plain-language summary of the anti-discrimination laws will be given to the buyer at the time a purchase contract is signed. We are sometimes surprised by the extent to which some property owners are unaware of anti-discrimination requirements decades after those laws were put into place. For example, many property owners are still unaware that it is illegal to refuse to accept a Section 8 voucher if the rent is within Section 8 limits or a Department of Housing security deposit guarantee if it is sufficient to cover the landlord's security deposit requirement -- even though that has been the law in Connecticut since 1989, more than a quarter of a century ago. Anything that helps property owners -- especially new ones -- understand their legal obligations is win-win in nature. It prevents the discrimination itself, and it helps property owners avoid the problems that arise when they violate the law.

S.B. 153 – Security deposits in State Elderly/Disabled Public Housing **NO POSITION**

This bill is substantially the same as H.B. 6142 of the 2015 session of the General Assembly, which passed the House but was never called in the Senate. The bill effectively allows housing authorities that operate State Elderly/Disabled Public Housing to retain the security deposit until the tenant vacates. Under the existing statute, the security deposit must be returned after one year if there is no basis for a claim against it. Because of the small amounts of money involved and the short-term retention by the housing authority, some housing authorities do not ask for security deposits at all. It is expected that this bill will result in more housing authorities requiring security deposits from their low-income elderly and disabled tenants. To balance this change, the bill contains several critical protections for tenants. These include: (1) a right to installment payment of the deposit over a period of at least one year in an amount that is reasonable in light of the income of the tenant and (2) a clear statement that housing authorities are not required to impose security deposits. In addition, security deposits are subject to the Security Deposit Act, which requires that they be escrowed in a bank account and that they cannot be used for housing authority expenses unless the housing authority establishes a legitimate claim for the funds at the end of the tenant's occupancy. They cannot, as a result, be converted into a source of operating funds for the housing authority.

S.B. 154 – Interest on security deposits **NO ACTION, OR AMENDMENT OF THE BILL**

Under existing law, interest on security deposits is supposed to be paid annually, either as direct payment to the tenant or as a credit on the next month's rent, at the option of the landlord. This provision is often ignored and the compounded interest not paid until the end of the tenancy. This bill would require the landlord to ask the tenant a month before the annual date which method of payment he or she would like. In reality, crediting the tenant's account is likely to be confusing for both parties because the tenant may not know how much to pay as rent, so that tenant choice in this matter is of limited value to the tenant. We suggest that the Committee take no action on the bill. In the alternative, if the Committee wants to put the payment vs. credit decision in the hands of the tenant, we suggest that the landlord's choice be treated as the default method and that the bill simply require that, if the tenant requests a particular one of the two payment methods, the landlord must use it. This could be accomplished by changing the applicable parts of l. 25-30 to read as follows:

> ....as the landlord or owner shall determine, provided that, if the tenant requests the use of one of the two methods, the landlord or owner shall use that method.

S.B. 156 – DOH data collection and analysis **SUPPORT**

This bill does two things. First, it requires DOH to develop regulations on how it will gather the data that it is already required to collect and report under a number of state and federal laws, including C.G.S. 8-37qqq and C.G.S. 8-37aa through 8-37ff. Second, it adds some detail to matters that should already be included in that reporting. This data is particularly important because one of the fundament duties of the Department of Housing is to assure that all programs it supports implement "an affirmative duty to promote fair housing" (quoted from C.G.S. 8-37ee). There is enough reason to believe that this goal is not being accomplished that the availability of adequate data takes on great importance. The data collection requirements of the statutes, however, do not necessarily require the issuance of regulations. The Committee may want to consider modifying l. 13-14 of the bill so as to require DOH to gather the data and produce the reports that the Committee believes should be produced by a date certain, rather than for DOH to promulgate regulations by a date certain on how to gather and produce that information.

S.B. 157 – Study of State Elderly/Disabled public housing **NO ACTION**

Since 1961, state law has provided that state "elderly" public housing is actually housing for both seniors and persons with disabilities. In light of the fact that the state Constitution now prohibits discrimination against persons with physical or mental disabilities, it is hard to justify any plan that would restrict disabled access to State Elderly/Disabled public housing. Other studies have recommended the creation of more housing opportunities for persons with disabilities as a way to reduce demand and greater on-site services to deal with any issues that may arise. Indeed, the Resident Coordinator Program was created to help resolve on-site issues, and the state's enhanced efforts in recent years to develop supportive housing in the community have helped relieve some

pressure on public housing as well. There is no need to repeat the studies that have previously been done. Perhaps instead OLR should be asked to retrieve those studies on this subject, which may well still be relevant.

H.B. 5335 – Bedbugs **SUPPORT (with some concerns)**

This bill is the same as H.B. 6759 of the 2015 session of the General Assembly, which was approved by the Housing Committee but not acted upon by either House. It is a compromise between competing interests, which the bill attempts to balance. Its core principles are that (1) bedbug infestations are a serous problem, (2) removal should be treated as a public health issue, not a fight over whose fault they are, (3) landlords are the only entity that can carry out the treatment and should do so expeditiously, (4) tenants should cooperate by preparing their units for treatment but landlords should prepare the units if necessary to implement treatment, and (5) a cost adjustment may be appropriate if landlord preparation of the unit is necessary. The bill includes a number of provisions that attempt to recognize that tenant preparation of a unit may be difficult or impossible for many tenants because it can involve serious physical effort, adequate understanding of what is needed to be done, and actual cost. As a result, the bill attempts to include some cost protections. While we have some significant concerns about the bill -- in particular, about the potential imposition on low-income tenants of costs that they will not be able to pay and about the permission given to landlords to delay effective professional treatment by attempting to do their own treating -- the bill also has provisions which, we hope, will generate quicker and more effective treatment. On balance, we have accepted the bill as a compromise and do not oppose it, as long as amendments do not change the balance in a way that is harmful to tenants, who, it should be remembered, are the victims of bedbugs.

As background, it should be noted that existing Connecticut landlord-tenant law is not silent on the duty to exterminate insect infestations. It is plainly a landlord responsibility under Genl. Stats. §47a-7. H.B. 5335, however, does provide more detail as to how this is to be accomplished in regard to bedbug infestations. As a practical matter, only the landlord can do actual extermination, both because he has the resources and because the tenant has no right to enter any other tenant's apartment. It is well known that bedbugs travel easily, and their presence in a particular apartment does not necessarily mean that they were brought there by the tenant.

We do suggest that the Committee should re-look at lines 76-81 to be sure that its provisions regarding removal of potentially infested property from the unit without the landlord's consent are reasonable. We are not sure that is a correct statement of how an infestation is supposed to be handled.

H.B. 5337 – Compensation for property taken for school construction **SUPPORT**

The bill provides that compensation for property taken by eminent domain for school construction cannot be less than the value at which it is assessed by the town for property tax purposes. It seems reasonable to treat the town's own current assessment of the value of the property as the floor for this purpose.

H.B. 5339 – Failure to register foreclosure actions **SUPPORT**

This bill increases the civil penalty for a lender's failure to file required notices of foreclosure with the town. Under existing law, a bank or other entity that forecloses on a residential mortgage must provide the town with contact information for a person in charge of the property so that the town can reach someone if there are problems with the property (e.g., blighted conditions or lack of maintenance). An initial filing must be made at the time the foreclosure action is initiated, and the filing must be updated within 30 days of the completion of the foreclosure action and the transfer of title to the foreclosing party. The penalty for non-compliance is minimal -- $100 for not filing the first registration and $250 for not filing the update. This bill raises the penalty to $1,000 for the initial registration and $1,250 for the update. Even at these enhanced amounts, the penalties remain minimal, especially since foreclosing parties are almost always institutional in nature -- banks, mortgage companies, etc. The increased penalties are a small step toward better enforcement.

H.B. 5342 – Enforcement of fair housing laws **REJECT**

This bill's statement of purpose says it is to "provide defendants with equal protection in the housing discrimination complaint process." There is nothing in the CHRO complaint process, however, that denies landlords, sellers, and real estate agents a fair chance to defend and be heard. A review of data for the last six months of 2015 from CHRO's Housing Discrimination Unit reveals that, of the 111 cases closed by the unit during that period, 40% were withdrawn or dismissed without relief to the complainant, 46% were settled through conciliation with an average settlement of $2,644 for the complainant, and only 14% remained contested cases requiring administrative hearing or transfer to the Superior Court. This data does not suggest that the system is unfair or unreasonable.

The two specific proposals in this bill are, in any event, not reasonable. Section 1 would prohibit a complainant from filing more than one complaint about each set of discriminatory housing practices. It is unclear what this means. Could a complainant claim multiple grounds (e.g., discrimination based on race, families with children, and source of income)? Could a complainant refile if his or her original complaint was drafted poorly (as may especially happen if the complainant has no lawyer) and it has to be rewritten to adequately describe the issue? Would a complainant be prohibited from filing complaints against multiple respondents (e.g., a landlord and a real estate agent) from the same set of circumstances?

Section 2 would limit awards to "actual economic loss," thereby eliminating punitive damages for outrageous behavior and any award at all for emotional damages. This is simply an undesirable proposal. The severity of discrimination is usually not measured by dollars lost (which may be small) but by the nature of the conduct itself. For example, the economic loss to an applicant from a landlord who refuses to rent to African Americans may be no more than the gasoline cost for driving to another apartment or the dollar difference in the rent; but the behavior itself may be inexcusable, outrageous, and egregious. If the statute permits only minimal awards, victims of discrimination will be less likely to file complaints and illegal discrimination will be allowed to continue.