CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Wednesday, **March 23, 2005**.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Lynne Nowick

Legislator William Lindsay

MEMBERS NOT PRESENT:

Legislator Jon Cooper • Excused Absence

Legislator Jay Schneiderman • Excused Absence

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ALSO PRESENT:

Mea Knapp • Counsel to the Legislature

Warren Greene • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Alexandra Sullivan • Chief Deputy Clerk of the Legislature

Joe Muncey • Budget Review Office

Michael Beresik • H&R Block

Mizell Ewing • H&R Block

Joan Perotti • H&R Block

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MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 1:13 P.M.*)

CHAIRMAN ALDEN:
Good afternoon. We're going to start the Consumer Protection Committee, and it's going to be led by the Horse Owners Association, you will lead us in the Pledge.

SALUTATION

CHAIRMAN ALDEN:

As is the tradition, I just ask for a moment of silence for those that have given their life in defense of this country and those that are serving right now.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. We're scheduled to have one public hearing, and I would ask the Clerk's Office, was the publication made and are papers in order?

MS. JULIUS:

Yes, Mr. Chairman. The applications were made and everything is duly filed and in proper order.

CHAIRMAN ALDEN:

Thank you.

MS. JULIUS

You are welcome.

CHAIRMAN ALDEN:

Okay. We have one card for this public hearing on, **(1191), a local law to protect consumers by requiring full disclosure of Refund Anticipation Loan Information.** We have Michael Beresik. Come on up. Now, you have the option to stand or sit.

MR. BERESIK:

I prefer sit if that's okay.

CHAIRMAN ALDEN:

Great.

MR. BERESIK:

Mr. Chairman, thank you for the opportunity •• for the opportunity to appear this afternoon. My name is Mike Beresik. I'm Assistant Vice President for Government Relations at H&R Block. I have with me today Mizell Ewing and Joan Perotti who represent 225 H&R block employees at 28 offices in Suffolk County. Last year, we prepared taxes for over 40,000 County residents, and we prepare about one of every seven individual federal returns nationally.

I'd like to submit written testimony for the record and briefly summarize our views on refund loans in the bill before the Legislature today in a few points, if I may. First, Refund Anticipation Loans serve a real need. Many taxpayers need or want access to their federal tax refund faster than the IRS can provide it, which can take from eight to 56 days depending on how a return is filed and how a refund is issued. Many need to pay overdue bills, avoid late fees and damaged credit ratings, make emergency home or car repairs and sometimes even avoid eviction. RALs are popular with consumers, satisfaction is high, there are few consumer complaints.

Second and most importantly, H&R Block strongly supports and practices full disclosure for RALs. We want our clients to understand all of their options, both for no added fee IRS refunds and for added fee bank products. We objectively present these with layered disclosures covering costs, times and responsibilities. We will submit for the record a Power Point presentation that

delineates our layered disclosure process.

But briefly, we have a welcome brochure that highlights all the refund options that a client has in advance. We present a Facts about RALs Document to each client that features all the important characteristics of the loan, a full fee schedule that includes annual percentage rates and timelines and a transaction example. We have a side by side comparison of all of what we call settlement options, options for settling a refund, including all fees and APRs shown on the computer screen. There's a bank Truth and Lending Act Disclosure, and an application in which the word loan or RAL is used over 100 times.

And finally, in our customized block advantage report that we present to our clients, we caution them that advanced planning can help avoid the need for refund loans in the future. We believe that full disclosure is the cornerstone of effective consumer protection, and we provide such disclosures about refund loans to ensure that our clients can make an informed decision about the products.

Regarding Resolution 1191, we fully support the bill's goal of providing full disclosure. We do, however, have some technical concerns with some of the language. In it's current form it may not provide flexibility for us to use the comprehensive disclosures that I've just described. It also doesn't conform to requirements that are currently present in other neighboring jurisdictions here in the State of New York. If the County Legislature decides that it wants to proceed with legislation, we would be very happy to provide technical suggestions to ensure that the bill is workable and allows the kind of best practices that we already practice to qualify. We look forward to working with you, the members of the committee and the staff to ensure that Suffolk County consumers are both fully informed and well protected. I have my colleagues here who would be delighted to answer any questions.

CHAIRMAN ALDEN:

Any questions from the committee? Actually, I'm going to close the public hearing. Doesn't look

like there's any questions. Thank you. Just to point out, we don't have to conform to, you know, like, what the City does and what Nassau County does, but that was my intention, to try to, you know, like, keep it so it's a regional approach. So I think the consumer, you know, sometimes does stray across the lines and things like that. But I look forward to looking at your, you know, you're proposed changes. I'm not guaranteeing I'm going to incorporate all of them, but if they do make sense and, you know, it's not detrimental to what I'm trying to do as far as protect the consumers, I will incorporate the changes that we discussed earlier and that you are going to send me a hardcopy of.

MR. BERESIK:

Absolutely. Thank you, Mr. Chairman. We appreciate your consideration and willingness to hear our views.

CHAIRMAN ALDEN:
Thank you. I told you I would get you out on time to get the train.

MR. BERESIK:
I appreciate that, Mr. Chairman.

CHAIRMAN ALDEN:

Motion to close to myself, seconded by Legislator Lindsay. All in favor? Opposed? Public hearing is **closed. (VOTE:3•0•0•2)**

(Not present: Legis. Cooper and Schneiderman)

Legislator Schneiderman needs an excused absence for Consumer Protection on Wednesday, he has a press conference in Riverhead. Legislator Cooper would like to request an excused absence from the CPC Committee Meeting today, an urgent matter has come up that the Legislator must attend to. So we're left with three members of the committee. Commissioner? We will go right to the agenda. We don't have any other cards for the public portion, so we will

go right to the agenda.

TABLED RESOLUTION

1037. Adopting Local law no •• 2005, a Local Law to require the installation of carbon monoxide detectors in connection with heating system conversions. (CARACCIOLO)

CHAIRMAN ALDEN:

I do have to call Charlie up on this or Mea Knapp. Charlie, do you know if this was modified, because Legislator Lindsay expressed a concern about this hitting the consumer rather than the contractor, and we don't have any control really over the consumer, we do over the contractor? And not just that Legislator Lindsay is out there by himself, I have that same concern.

DIRECTOR GARDNER:

Mr. Chairman, the last meeting that I was at with the Legislative Counsel, there is a •• what I consider a pretty good modification, something that everybody can live with, industry as well as the office, still get to the heart of the goal of this proposal, which is to add safety and protection. But it would remove the penalty sections on the consumer completely, and it would also eliminate the requirement that the office receive upwards of 50,000 or so pieces of mail. That's taken care of.

It would essentially •• the contractor would have a two part form signed by both the contractor and the homeowner advising the homeowner of what they are required to do, what needs to be installed. And he would simply say that •• that would be, in effect, his record that, you know, I did what I was supposed to do and the homeowner is aware. And there would be no need to mail anybody.

CHAIRMAN ALDEN:

Okay. So you're not going to get overwhelmed, and we're not putting the burden on the consumer. Was there any other •• all right. Thanks, Charlie. I'm going to skip that one a minute until Legislative Counsel comes out.

INTRODUCTORY RESOLUTION

1191. Adopting Local law No •• 2005, a local Law to protect consumers by requiring full disclosure of Refund Anticipation Loan Information. (ALDEN)

CHAIRMAN ALDEN:

Then we get to my bill again, 1191. I said I'm going to work with the people from H&R Block, and I truly mean that. What I'd like to do today, though, is discharge it from committee, because I think we have done our work.

LEG. LINDSAY:

Make a motion to approve you move it.

CHAIRMAN ALDEN:

I'm going to send it out. If we discharge it, and they're going to get me a hardcopy, I still have a couple of days before the amended date, and we might be able to make those changes. If not, then I promise that I will table it on the floor to allow, you know, like, you time to get those, you know, proposed changes to me. All right. I'll make a motion to approve, seconded by Legislator Lindsay. All those in favor? Opposed? With that provision, though, that I will table it on the floor if I don't get those, but if you wait a year, then I'm going to actually move it on the floor. So I'm going to hold you to your promise too, that you'll have it right out to me.

MR. BERESIK:

Thank you, Mr. Chairman.

CHAIRMAN ALDEN:
1191 is **approved. (VOTE:3•0•0•2) (Not present: Legis. Cooper and Schneiderman)**.

Now we are waiting for just a little bit of a clarification on the installation of carbon monoxide detectors. Okay. Charlie, do you have a copy of the bill?

DIRECTOR GARDNER:

Not the revision.

CHAIRMAN ALDEN:
Section Three, Subsection B, prior to installation of the home heating system, the installer of such heating system shall notify the owner of the residence in writing of the requirements of this section on a form as attached hereto as Exhibit A, and which form may be amended as determined by the Director of the Suffolk County Office of Consumer Affairs. So I think that goes to the issue that you had raised before.

DIRECTOR GARDNER:

Correct. That removes the requirement for both the contractor and the homeowner to send via mail notification to the office.

CHAIRMAN ALDEN:
Right. So the contractors are just going to hold this, if there's a complaint, then we're going to be able to ••

DIRECTOR GARDNER:

Correct. If a complaint after the fact, the contractor would be able to say, look, you know, I made them aware, the homeowner signed it.

CHAIRMAN ALDEN:

All right. We are going to have to hear from Legislator Knapp •• I mean, Legislative Counsel.

MS. KNAPP:

There was an amendment to this bill filed •• there is an amendment being filed right now that would also require that a copy be sent to you for information purposes only just to keep the record correct here.

CHAIRMAN ALDEN:

Now, according to this ••

DIRECTOR GARDNER:

Who sends the copy?

MS. KNAPP:

The installer.

LEG. LINDSAY:

But are we back to the same 50,000 copies going to his office? That's what we don't want.

CHAIRMAN ALDEN:

Right. Although here's the out that we have.

DIRECTOR GARDNER:

We felt that ••

CHAIRMAN ALDEN:

And which may be amended as determined by the Director of the Suffolk County Office of Consumer Affairs. If the Director of the Consumer Affairs says that that requirement is not there, then you can eliminate the paperwork. Otherwise, you're not required to ••

DIRECTOR GARDNER:

The thought was that that form would cover the contractor disclosing to the homeowner that the CO detector is needed, the contractor would sign it and the homeowner would sign it. They would each get a copy. If somebody a year or two later said nobody ever told me that, the contractor is covered by saying here it is, right here.

CHAIRMAN ALDEN:

We're going to end up incurring a cost of looking at each one of these forms and then possibly ••

LEG. LINDSAY:

That's what we don't want, Mr. Chairman. You know, the whole idea here is Consumer Affairs very effectively licenses contractors all other the County. And, you know, this •• I think the onus should be put on them to make the customers aware of this change in the County Law. And they will absolutely do it, because it means more money in their pocket, you know, it's another installation that they can add when they change the boiler or whatever. I don't want to see

Consumer Affairs gets bogged down with 50,000 more pieces of mail.

CHAIRMAN ALDEN:

You know what? Just to pick up a little bit more on what Legislator Lindsay said. This puts the burden on the homeowner to send it to the Office of Consumer Affairs, which I think the intent •• the initial problem that we all had with the bill was putting burdens on the homeowner.

DIRECTOR GARDNER:

Absolutely.

CHAIRMAN ALDEN:

So I would just make a suggestion the ••

LEG. LINDSAY:

I make a motion to reconsider 1037.

CHAIRMAN ALDEN:

Well, we didn't announce the vote on that.

LEG. LINDSAY:

We didn't call the vote yet?

CHAIRMAN ALDEN:

No.

LEG. LINDSAY:

Then I'll make motion to table.

CHAIRMAN ALDEN:

Second. All in favor? Opposed? It's **tabled (VOTE:3•0•0•2) (Not present: Legis. Cooper and Schneiderman),** but I would hope that if the sponsor amends it and takes that point out, I would be •• I would be willing to sign a discharge or make a motion to discharge, because we've done our job except for that, I think.

DIRECTOR GARDNER:

If I can ask Counsel, was the penalty section struck as we discussed?

And if I might, the reasoning we discussed striking the penalty section completely, Mr. Chairman, is that it was not ••

MS. KNAPP:

It's clear that it's on the home heating system installer.

DIRECTOR GARDNER:

Understand that if this were to pass and the requirement was that the contractor had to have this formed signed, there's no need to have •• certainly we wanted the penalty section struck as it had any reference whatsoever to a consumer, but there would not even •• there would not be •• it would not be necessary to have a penalty section in this particular bill, because a licensed contract is required to do whatever state, county, town, municipality, law, code, rule or regulation requires them to do. If he doesn't, the penalty structure exists in the licensing law. We don't need a penalty section in this law, because if the contractor did not do what was required of him at the time, he would be subject to penalty under the licensing law.

CHAIRMAN ALDEN:

And is this more stringent than what you already have at your option?

DIRECTOR GARDNER:

Well, I'm not sure what •• since it was supposed to be struck completely •• what does it say now?

MS. KNAPP:

Seven hundred and fifty dollars for first offense, and up to •• up to $750 for first offense, and up to $1500.

DIRECTOR GARDNER:

So it's basically the same.

CHAIRMAN ALDEN:

It's the same. So it's redundant.

DIRECTOR GARDNER:

It's redundant.

CHAIRMAN ALDEN:

All right. In that regard, you know, as a lawyer, I could argue that it, you know, doesn't matter whether it's in there or not in there if it's completely reflective of •• the only thing that might happen is in the future, if we ever changes the penalty overall, and this is codified, then this would be a lower penalty.

DIRECTOR GARDNER:

That's why we'd rather leave it just in the licensing law, because, I mean, we have raised the penalties in the past. Then if you raise the penalties in the licensing law, but then you would have a different penalty in this one. You'd have to change •• you know.

LEG. LINDSAY:

You know ••

DIRECTOR GARDNER:

The section that says it will be enforced by the Office of Consumer Affairs gives us the power to enforce it, and we would enforce it under the licensing law penalties.

CHAIRMAN ALDEN:

I think that makes more sense to ask ••

DIRECTOR GARDNER:

One less thing you have to amend.

CHAIRMAN ALDEN:
Exactly right. Ask for those two changes. And you can explain the concern that if in the future the penalties are increased, then you would actually have to remember that this law is there and do that separately. I don't think ••

LEG. LINDSAY:

And a couple of years ago, you know, we went through a lot of trouble around here to make everything uniform so that he doesn't have to need a cheat chart to figure out which penalty or licensing fee for this industry and that industry.

DIRECTOR GARDNER:

We literally had to make about 100 changes.

LEG. LINDSAY:

Right. And now that we have a uniform, I'd hate to go down that road again of starting out on ••

CHAIRMAN ALDEN:
I hear you, and I agree with you.

DIRECTOR GARDNER:

We also agreed that with this law •• if this law were to be passed, Mr. Chairman, that we would do a website piece for informational purposes. We would create some vendor handouts so that the information concerning the law would be distributed to all the licensed contractors. And we would also have those handouts sent to the various supply houses to get the word out so the contractors would know what it is that they have to do.

CHAIRMAN ALDEN:

Great. So the vote was three nothing on tabling. So that •• 1037 stands **TABLED. (VOTE:3•0•0•2) (Not present: Legis. Cooper and Schneiderman)**.

I don't think we have anything else. Anybody have anything else for this committee? Seeing no one, thank you very much. We stand adjourned.

(*THE MEETING WAS ADJOURNED AT 1:34 P.M.*)

_ _ DENOTES BEING SPELLED PHONETICALLY