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**Official Report
of Debates
(Hansard)**

Wednesday 20 November 2013

**Journal
des débats
(Hansard)**

Mercredi 20 novembre 2013

**Standing Committee on
the Legislative Assembly**

**Stronger Protection
for Ontario Consumers Act, 2013**

**Comité permanent de
l'Assemblée législative**

**Loi de 2013 renforçant
la protection
du consommateur ontarien**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 20 November 2013

Mercredi 20 novembre 2013

The committee met at 1208 in committee room 1.

**STRONGER PROTECTION
FOR ONTARIO CONSUMERS ACT, 2013
LOI DE 2013 RENFORÇANT
LA PROTECTION
DU CONSOMMATEUR ONTARIEN**

Consideration of the following bill:

Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts / Projet de loi 55, Loi modifiant la Loi sur les agences de recouvrement, la Loi de 2002 sur la protection du consommateur et la Loi de 2002 sur le courtage commercial et immobilier et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone, and welcome to the Standing Committee on the Legislative Assembly. We're here to discuss clause-by-clause consideration of Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts.

I'd like to welcome the committee members here today. We will return now to the motions that were stood down at the last meeting. I should also point out to everyone that, under the programming motion, we have three hours today to complete our amendments. If we don't get those amendments completed, those amendments will be amended as up to date—so if we don't get a few amended for some reason, they have to stay that way, okay? That's under the programming motion agreed to by the House leaders.

Okay, so the first one I think we would have here—just to go back to schedule 1, section 4—would be a PC motion. There were a couple stood down. It's 0.3.0.1R—*Interjection.*

The Chair (Mr. Garfield Dunlop): Okay, so hold on a second.

Interjection.

The Chair (Mr. Garfield Dunlop): Oh, I'm sorry. We'll go back to that, yes.

It's just motion 0.3. Mr. McDonell, can you go ahead with that one? You'll have to read it into the record again, please.

Mr. Jim McDonell: Okay, so you're looking at 0.3?

The Chair (Mr. Garfield Dunlop): It's 0.3, the PC motion, and that part was stood down before, because we had a replacement after that.

Mr. Jim McDonell: We were looking at withdrawing that in favour of the government motion or amendment that's coming through.

The Clerk of the Committee (Mr. Trevor Day): Okay, so 0.3 is withdrawn?

The Chair (Mr. Garfield Dunlop): You're withdrawing 0.3?

Mr. Jim McDonell: There's a government amendment that looks after most of what we were looking at.

The Clerk of the Committee (Mr. Trevor Day): Okay, so that's withdrawn.

The Chair (Mr. Garfield Dunlop): So that's withdrawn. Okay.

So then we go to the government motion, Mr. Dhillon? And that's—let me make sure I got the right one on this.

Mr. Vic Dhillon: I move that subsection 16.5(1) of the Collection Agencies Act, as set out in—

The Chair (Mr. Garfield Dunlop): Hold on. Just excuse me a sec. Which one is this again?

The Clerk of the Committee (Mr. Trevor Day): Which one are you reading now?

Mr. Vic Dhillon: The government motion—

The Clerk of the Committee (Mr. Trevor Day): What number?

Mr. Vic Dhillon: It's 0.3.0.1R.

The Clerk of the Committee (Mr. Trevor Day): So 0.3.0.1R—this is the replacement. Okay, that's in the secondary package that everyone received.

The Chair (Mr. Garfield Dunlop): That's on everybody's desk? Okay.

Mr. Vic Dhillon: Is that the right one?

The Clerk of the Committee (Mr. Trevor Day): Yes.

Mr. Vic Dhillon: I'll start again—

Mr. Jim McDonell: Chair?

The Chair (Mr. Garfield Dunlop): Yes, go ahead.

Mr. Jim McDonell: Just to clarify the number in the top corner that he's reading, is it 0.3.0.1R? Which one is he reading now?

The Chair (Mr. Garfield Dunlop): He's reading 0.3.0.1R.

Mr. Jim McDonell: Okay.

The Chair (Mr. Garfield Dunlop): Okay?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): All right.

Mr. Vic Dhillon: Thank you. I'll start all over again.

The Chair (Mr. Garfield Dunlop): Yes, thank you very much. Go ahead.

Mr. Vic Dhillon: I move that subsection 16.5(1) of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following clause:

"(c) disclosed to the debtor in the agreement all information that is reasonably necessary to explain the sources of the agency's funding and all other information that is prescribed about the sources of the agency's funding."

I think this just combines the previous motions and it's just coming up with a compromise. I think the words "reasonably necessary" were necessary to improve this motion.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much. I go now to the official opposition. Any questions on it?

Mr. Jim McDonell: No. We're fine.

The Chair (Mr. Garfield Dunlop): Okay, then we'll go to the third party, Jagmeet?

Mr. Jagmeet Singh: I reviewed this and I think it satisfies the concern about disclosure of the source of the funding. My only issue, and I ask both counsels to respond to this—and let's just get this right at the beginning for the record: Hartung?

Mr. Neil Hartung: That's right.

Mr. Jagmeet Singh: Got it.

Ms. Cindy Forster: I made him practise.

Mr. Jagmeet Singh: I did. I was reviewing Hansard and I think I called you all sorts of different names. Every time, I changed the counsel's name, so I felt bad.

Mr. Neil Hartung: As a bureaucrat, it's my duty to keep pace, so I'm quite happy with that.

Mr. Jagmeet Singh: I think I assisted you in your duties, then.

Could I ask both the legislative counsel and the ministry counsel their opinion on the use of the words "reasonably necessary"? I'm going to propose an amendment, if you agree with me, that I think "reasonably" weakens the word "necessary," and it opens it up to interpretation, and that just having "all information that is necessary to explain the sources" is stronger. Would you provide your input on whether "reasonably" weakens the term "necessary" and does it open up the opportunity to have a grey area where you have to assess what is reasonable and what is not? Mr. Wood, please.

Mr. Michael Wood: Very often in law, the standard is used of a "reasonable person." I'm not sure exactly whether there is a huge difference between "that is necessary" and "that is reasonably necessary," because I suspect—and Mr. Hartung, the ministry counsel, may want to confirm this or modify it—that a court would, if faced with interpreting the phrase "that is necessary," would take into consideration the circumstances and not view something as "necessary" if it wasn't "reasonable"

in the circumstances. So I don't see a huge amount of difference there, because, in law, the standard of a "reasonable person" is supposed to be a somewhat objective standard, anyway.

Mr. Jagmeet Singh: Mr. Hartung?

Mr. Neil Hartung: I agree with Mr. Wood. I would also note that the Collection Agencies Act has a registrar who's responsible for licensing matters. So the word "reasonable" allows that registrar to communicate to the licensees what is determined to be reasonable, whereas if it's an absolute standard like "necessary," I think you invite multiple interpretations of what truly is necessary. It's a grant, almost, of discretion to the person who administers the statute, who is the registrar, to say what they think is reasonable in the circumstances. It would be up to the licensee to try and oppose that in some fashion, likely through a hearing at the Licence Appeal Tribunal or through the imposition of terms and conditions.

Mr. Jagmeet Singh: Okay, I am satisfied with that. I don't think it's necessary to add an amendment, so I'm okay with moving to the next step. Those are all my comments. Thank you very much.

The Chair (Mr. Garfield Dunlop): Okay. Any questions, government members?

Mr. Vic Dhillon: No questions.

The Chair (Mr. Garfield Dunlop): Okay. Based on that, then, I'm going to call the vote on 0.3.0.1R. All those in favour of that amendment? That's carried.

Mr. Vic Dhillon: Chair?

The Chair (Mr. Garfield Dunlop): Yes?

Mr. Vic Dhillon: We'll be withdrawing the original. I believe the Clerk is aware of that.

The Chair (Mr. Garfield Dunlop): Okay. Thank you. So, at the bottom, then:

Shall schedule 1, section 4, as amended, carry? Carried.

That's the whole section. That's carried. We'll now go to schedule 1, section 9. The PC motion had been withdrawn.

Interjection.

The Clerk of the Committee (Mr. Trevor Day): We're on 0.8.

Ms. Cindy Forster: Of the package?

The Clerk of the Committee (Mr. Trevor Day): Of the package.

The Chair (Mr. Garfield Dunlop): Of the package, yes. It was stood down, though, wasn't it?

The Clerk of the Committee (Mr. Trevor Day): It was.

The Chair (Mr. Garfield Dunlop): It was stood down at the previous meeting, so we're going back to schedule 1, section 9. It's a PC motion.

The Clerk of the Committee (Mr. Trevor Day): It's 0.8.

The Chair (Mr. Garfield Dunlop): It's 0.8. Mr. McDonell, we understand this motion was dependent on an earlier motion that did not pass.

Mr. Jim McDonell: You're talking about schedule 1, section 9?

The Clerk of the Committee (Mr. Trevor Day): Yes.

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Jim McDonell: It was a housekeeping item, so it belonged to the other one, so we'll have to withdraw. The other one didn't pass.

The Chair (Mr. Garfield Dunlop): Okay, so you're withdrawing this?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. In that case, then, shall schedule 1, section 9, carry—as amended, carry? No, it's not amended, is it?

The Clerk of the Committee (Mr. Trevor Day): It was amended by—

The Chair (Mr. Garfield Dunlop): I'm sorry. It was amended by another motion.

Shall schedule 1, section 9, as amended, carry? Carried.

Okay. Thanks, everyone. Now we'll go back to the end of this. Shall schedule—

Mr. Jim McDonell: What number?

The Chair (Mr. Garfield Dunlop): The whole schedule, schedule 1.

Shall all of schedule 1, as amended, carry? Carried.

Okay. Thanks, everybody.

We're now going to schedule 2, section 4.

Mr. Jagmeet Singh: Which number is that?

The Chair (Mr. Garfield Dunlop): It's your motion, 0.11.1. I believe that was withdrawn before, Mr. Singh.

The Clerk of the Committee (Mr. Trevor Day): It was deferred, so it's on. Mr. Singh.

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Garfield Dunlop): So, it's been deferred—

Interjection.

Mr. Jagmeet Singh: Sure. I'll move the motion.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Jagmeet Singh: I move that subsection 43(1) of the Consumer Protection Act, 2002, as set out in subsection 4(2) of schedule 2 to the bill, be struck out and the following substituted:

“Cancellation: cooling-off period

“(1) A consumer may, without any reason, cancel a direct agreement at any time from the date of entering into the agreement until,

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“(a) in the case of a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, 20 days, or such other period as is prescribed, after,

“(i) the consumer has received the written copy of the agreement,

“(ii) the supplier has confirmed with the consumer, in accordance with the prescribed requirements, after entering into the agreement that the consumer has agreed to enter into the agreement, and

“(iii) the supplier has met all the requirements for entering into the agreement; or

“(b) in the case of all other direct agreements, 10 days after the consumer has received the written copy of the agreement.”

“Person doing confirmation

“(1.1) The person who contacts the consumer on behalf of the supplier for the purpose of making the confirmation described in clause (1)(a) shall not be the same person who enters into the agreement with the consumer on behalf of the supplier.

“No contacting the consumer

“(1.2) Except for making the confirmation described in clause (1)(a), a supplier that has entered into a direct agreement with the consumer shall not initiate any contact with the consumer during the period during which the consumer is entitled to cancel the agreement under subsection (1).”

The Chair (Mr. Garfield Dunlop): More time to explain that?

Mr. Jagmeet Singh: Sure. It sets out when the 20 days begin, so when the cooling-off period will commence, as well as a requirement that the individual or the person who signs the agreement can't be the same person who actually confirms the agreement, to add that extra level of consumer protection; and then a clause regarding the concern around a consumer who has made or entered into an agreement, that during the cooling-off period there shouldn't be any further soliciting that goes on during that period of time. There should be a cooling-off period that also precludes soliciting. Those are the components.

The Chair (Mr. Garfield Dunlop): Okay. We'll go to the government members. Any questions on it?

Mr. Vic Dhillon: This is a pretty reasonable motion. We tried to work with the ministry on the wording. We weren't able to come up with the appropriate wording. We somewhat agree with this, but we feel that this would be better dealt with through regulations.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions from the government members?

Okay, the official opposition: Any questions on this?

Mr. Jim McDonell: You guys okay with it? Do it with a regulation.

The Chair (Mr. Garfield Dunlop): Okay. Further questions on this?

Mr. Vic Dhillon: Perhaps the ministry counsel may want to explain.

Mr. Neil Hartung: It does introduce some changes to how the cooling-off period generally works. The general rule for the cooling-off period is, once you receive a copy of the agreement, the cooling-off period starts. This amendment would say that the cooling-off period essentially doesn't start until the verification call is made, which potentially lengthens the period to an uncertain time frame. That was one of the things that we were struggling with: that you wouldn't be able to have that certainty as to when the cooling-off period actually begins and finishes. When disclosing to the consumer when they're going to receive this brand new rental in their house, they won't be able to say with any degree of certainty that it's going to be on the 25th or 26th, or it

might be on the 30th. For that reason, from sort of a practical, pragmatic perspective of how to implement this amendment, we ran out of time and out of the ability to solve this problem.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: Yes, we have a problem with this because it allows the incumbent, I guess, to contact the consumer, but it doesn't allow the direct seller to contact the consumer. We think that's a bit of a disconnect. I think that if there are negotiations going on in the background, we don't believe that—like some of the other agreements we've seen by this government and agreed to, the incumbent shouldn't be allowed to take on aggressive resale tactics. But not to allow the original direct seller to be involved: We think that's a problem.

The Chair (Mr. Garfield Dunlop): Okay. Any further comments from anyone?

Those in favour of the amendment? Those opposed? That doesn't carry.

Mrs. Amrit Mangat: It carried?

The Chair (Mr. Garfield Dunlop): It doesn't carry.

We'll now go to the next motion. That's the PC motion. That's 0.13R, in that same area. Mr. McDonell.

Mr. Jim McDonell: I move that section 4 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Section 43 of the act is amended by adding the following subsection:

“Previous supplier not to contact consumer

“(1.1) If a consumer enters into a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, if the consumer has previously entered into another such agreement with another supplier and if the consumer or the consumer's duly authorized agent gives notice to that supplier to terminate that previous agreement and notifies that supplier that the consumer has entered into a direct agreement that is designed to replace the previous agreement, the supplier that receives the notice of termination shall not contact the consumer during the period described in clause (1)(a) with respect to the replacement agreement to attempt to have the consumer revoke the notice or enter into another such direct agreement with the supplier.”

We feel that this is a clearer motion, and it's really talking about contacting the customer when it's terminated.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments, Mr. McDonell?

Mr. Jim McDonell: Not at this time.

The Chair (Mr. Garfield Dunlop): Any questions from the third party on this motion, this amendment? No questions?

Any questions from the government members?

Mr. Vic Dhillon: Just that we won't be supporting this because it hinders fair business practices. Our intention is to strike the right balance, so we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonell?

Mr. Jim McDonell: The purpose of this is—we're talking about trying to promote competition. Some of the small suppliers—we're finding, or hearing about aggressive retention activities that really go against the ability for these direct sellers to actually make a sale. They're not allowed to contact, according to this legislation, during the 20-day period, so really, you're never going to see this competition take place that I think this bill is trying to do.

The Chair (Mr. Garfield Dunlop): Okay. Further questions from anyone?

Those in favour of Mr. McDonell's motion? Those opposed? You're opposed?

Mr. Jagmeet Singh: No, we're in favour.

The Chair (Mr. Garfield Dunlop): Okay, you're in favour.

Mr. Vic Dhillon: Chair?

The Chair (Mr. Garfield Dunlop): We had the hands go up in between here. Let me do this again: Those in favour of Mr. McDonell's motion?

Mr. Vic Dhillon: So you had—

The Chair (Mr. Garfield Dunlop): And those opposed? Everyone here.

Okay, I'll be supporting the motion in its original form, so it does not pass.

Mr. McDonell, on the next one, will you be withdrawing your previous motion?

Mr. Jim McDonell: The previous one?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Jim McDonell: We replaced it.

The Chair (Mr. Garfield Dunlop): Okay. That's withdrawn.

Committee, shall schedule 2, section 4, carry? It's carried.

We'll now go to schedule 2, section 14.1. We have an NDP motion: Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. Mr. Chair, I just want to clarify something with legislative counsel and yourself, and then we might be able to—

The Chair (Mr. Garfield Dunlop): Pardon me? I'm sorry.

Mr. Jagmeet Singh: I have to clarify something with legislative counsel and yourself, and we might be able to withdraw this motion—one sec.

The Chair (Mr. Garfield Dunlop): Okay.

So, Mr. Singh?

Mr. Jagmeet Singh: Yes. I'm just asking for a five-minute recess to clarify something, so it's not encumbering anyone in an awkward way.

The Chair (Mr. Garfield Dunlop): Okay. Can we agree to a five-minute recess, everyone?

Mr. Bas Balkissoon: Okay. Sure.

The Chair (Mr. Garfield Dunlop): Okay, a five-minute recess.

The committee recessed from 1231 to 1236.

The Chair (Mr. Garfield Dunlop): Okay, everyone. Thanks for that recess.

Mr. Singh, we're back to you again.

Mr. Jagmeet Singh: Thank you very much. On this motion, motion 14.1, I'm not moving this motion because there is another motion that deals with the same matter and it addresses the right section. So I'm not moving this 14.1.

The Chair (Mr. Garfield Dunlop): It's withdrawn. So we'll move now to schedule 2, section 5. We have a PC replacement motion, which is 0.15R. Mr. McDonell, go ahead, please.

Mr. Jim McDonell: I move that section 43.1 of the Consumer Protection Act, 2002, as set out in section 5 of schedule 2 to the bill, be struck out and the following substituted:

“Restriction on time for performance

“43.1(1) A supplier under a direct agreement that requires the supplier to supply a water heater to the consumer shall not supply the heater until the period described in clause 43(1)(a) has expired, unless,

“(a) the consumer has waived the right described in clause 43(1)(a), in writing, and the supplier has verified by a telephone call to the consumer that he or she consents to the heater being supplied before the period described in clause 43(1)(a) has expired; or

“(b) the prescribed circumstances exist.

“Effect of contravention

“(2) If a supplier supplies a water heater in contravention of subsection (1),

“(a) the consumer's right to cancel the direct agreement under clause 43(1)(a) is continued for 20 days after the contravention; and

“(b) if the consumer cancels under clause 43(1)(a) or under clause (a), the supplier,

“(i) shall remove the water heater without charge,

“(ii) shall refund any administration and installation costs charged under the cancelled agreement,

“(iii) shall pay any administration and installation costs incurred by the consumer in making a replacement agreement with another supplier, and

“(iv) shall not make any change to the consumer in connection with the cancelled agreement except a monthly rental charge prorated for the time from the date of installation of the heater to the date of the cancellation.

“Third-party charges

“(3) If a supplier supplies a water heater in contravention of subsection (1), the consumer exercises the right to cancel the direct agreement under clause 43(1)(a) or under clause (2)(a) and the consumer incurs charges from a third party that are related to the supplier's contravention, the supplier is liable to reimburse the consumer for the amount of those charges.

“Recovery of amount

“(4) The consumer may commence an action, in accordance with section 100, to recover the amount described in subsection (3) and may set off the amount against any amount owing to the supplier under any consumer agreement between the consumer and the supplier, other than the direct agreement described in subsection (1).

“Application to prescribed goods and services

“(5) Subsections (1) to (4) also apply, with necessary modifications, if the direct agreement requires the supplier to supply other goods or services that are prescribed.”

The Chair (Mr. Garfield Dunlop): Any comments or explanations, Mr. McDonell?

Mr. Jim McDonell: Clause (a), the first one, just adds the waiver in there that allows that to happen. Clause (b) is just housekeeping. So if we install within the 20 days without consent, we're looking at extending that. For instance, if the heater gets installed on day 19, it doesn't give much left for the consumer to actually make his—if the cooling-off period only has one day left, there may not be time to actually fulfill that or follow through on it, so that just gives them more time for that to happen.

As we go down through it—just looking after the cost that the consumer pays, that he is reimbursed in full, so he's not out of pocket for any of these things.

If we go back to the end, the last part, it just allows the minister to designate other goods and special treatment. Right now, it only applies to hot water heaters.

The Chair (Mr. Garfield Dunlop): Questions from the third party?

Mr. Jagmeet Singh: Yes. I understand that this would allow—if I'm not mistaken—the consumer to waive the cooling-off period, and if it's done, in writing after a verified telephone call. I understand some of the rationale for that, and there has been some discussion around, “It allows consumers to have the choice.”

I think, at the end of the day, though, the cooling-off period where there is no installation is important for consumer protection, and there have been consumer advocacy groups that have said that you shouldn't be able to waive that cooling-off period. For those reasons, we're not going to be able to support the amendment.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: We'll be voting against it because, again, this could be better dealt with in regulations.

The Chair (Mr. Garfield Dunlop): Any other questions from anyone? All those in favour of Mr. McDonell's amendment? Those opposed? That does not carry.

Mr. McDonell, we now go back to your original motion; we have it on the list here as well. Will you be withdrawing that?

Mr. Jim McDonell: We'll withdraw the old one.

The Chair (Mr. Garfield Dunlop): Okay. Withdrawn.

We'll now go to the NDP motion 0.15.1: Mr. Singh?

Mr. Jagmeet Singh: I move that subsection 43.1(3) of the Consumer Protection Act, 2002, as set out in section 5 of schedule 2 to the bill, be struck out and the following substituted:

“Third-party charges

“(3) If a supplier supplies good or services to a consumer in contravention of subsection (1) and the consumer incurs charges from a third party that are related to the supplier's contravention, including, but not limited to, the removal or return of any goods that the consumer is liable to return to the third party, the supplier is liable to

reimburse the consumer for the amount of all those charges.”

The Chair (Mr. Garfield Dunlop): Any more explanation you’d like on that?

Mr. Jagmeet Singh: Yes. It just provides some protection to the consumer if a supplier contravenes subsection 1. So if the supplier violates this code, there’s a remedy suggested. The remedy is that the supplier would have to return the consumer to their whole condition, so basically put them back in the position that they were in before.

It just adds an extra layer of protection, specifically with third-party charges. If the agreement is with another individual but there are some ancillary charges, some other charges that are also a part of that, those third-party charges are also covered by the person who contravenes the act. If you violate the act, you have to return the person to their whole condition, including any other charges that may have flowed from it.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: Chair, again, a fairly good motion, but we’ll be voting—

Interjection.

Mr. Vic Dhillon: Okay. I’ll continue. It’s a fairly good motion that we will support.

The Chair (Mr. Garfield Dunlop): You’ll support? That’s good. I’m glad you’ve got staffers here.

Any comments?

Mr. Jim McDonell: No.

The Chair (Mr. Garfield Dunlop): Okay. In that case, all those in favour of Mr. Singh’s amendment? That’s carried.

The next item is government motion 0.15.1.1: Go ahead, Mr. Dhillon.

Mr. Vic Dhillon: We’ll be withdrawing this motion.

The Chair (Mr. Garfield Dunlop): This is being withdrawn, 0.15.1.1?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Withdrawn.

That takes us to: Shall schedule 2, section 5, as amended, carry? That’s carried.

Schedule 2, section 5.1—it’s a new section. It’s a PC motion.

Mr. Toby Barrett: It’s found on page 0.16: schedule 2, section 5.1 of the bill.

I move that schedule 2 to the bill be amended by adding the following section:

“5.1 The act is amended by adding the following section:

“Application to other kinds of consumer agreements re water heaters etc.

“43.2(1) Sections 42.1, 42.2, 43 and 43.1 also apply, with necessary modifications, to all consumer agreements that,

“(a) require the supplier to supply to the consumer a water heater or other goods and services that are prescribed; and

“(b) are Internet agreements, remote agreements or any other kinds of agreements that are not direct agreements.

“Conflict

“(2) In the event of conflict between subsection (1) and sections 37 to 40 (Internet agreements), subsection (1) prevails.

“Same

“(3) In the event of conflict between subsection (1) and sections 44 to 47 (remote agreements), subsection (1) prevails.”

The Chair (Mr. Garfield Dunlop): Mr. Barrett, we have to rule this out of order. It’s outside the scope of the intention of the bill.

We’ll now go to schedule 2, section—

Mr. Jim McDonell: Chair?

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Jim McDonell: Just a comment on it. We can’t comment on it?

The Chair (Mr. Garfield Dunlop): We’ve ruled it out of order, yes.

Mr. Jim McDonell: Because we just find it’s a gaping hole. You’re ruling out everything but a direct agreement. You have Internet; you get calls. There’s no interest in fixing up the—

Mr. Jagmeet Singh: A question: Is there a way to ask for unanimous consent to open up this section?

The Clerk of the Committee (Mr. Trevor Day): With unanimous consent, the committee can consider a motion ruled out of order.

Mr. Bas Balkissoon: Nobody has had time to look at this in depth.

Mr. Jim McDonell: But does it really matter how people are first contacted? The agreement should apply. Internet agreement or direct mail—

The Chair (Mr. Garfield Dunlop): So are you seeking unanimous consent for us to—

Mr. Jim McDonell: Yes, seeking unanimous.

The Chair (Mr. Garfield Dunlop): So I’m asking for unanimous consent so he can discuss this—for the committee to consider this motion.

Mr. Jagmeet Singh: Mr. Chair, some questions on that: Can he provide reasons? I’m going to ask for something quite similar. This overlaps with something that I’m going to be asking for later on.

The Clerk of the Committee (Mr. Trevor Day): Unanimous consent first. If he gets it, he moves it and we move on.

Mr. Jagmeet Singh: So to get the unanimous consent, can you make an argument for why there should be unanimous consent on this issue, just to say, “This is what we’re looking for” and then ask for—

The Clerk of the Committee (Mr. Trevor Day): Members aren’t permitted to debate a ruling of the Chair. You are open to ask for unanimous consent to get the committee to consider it anyway, but that’s—

Mr. Jagmeet Singh: I see.

Mr. Jim McDonell: So I can ask for unanimous consent that we review this amendment?

The Chair (Mr. Garfield Dunlop): Is there unanimous consent that we review this at all? I'm not getting unanimous consent; no. We'll move on to the next motion.

Schedule 2, section 5.1, and that is an NDP motion. That's 0.16.1.

Mr. Jagmeet Singh: Before I move this motion—because once I move it, then the Chair will be required to rule it out of order—

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Jagmeet Singh: Before I move this motion—because once I move it, it will be ruled out of order, so I'm not moving it yet. Just as a friendly discussion with my fellow colleagues here as MPPs, there's a motion that we may discuss, in a couple of seconds, that talks about opening up the protection provided by this bill, which is for direct agreements, and there's a defined remote agreement. Remote agreements are basically anything but direct agreements, so it could be telephone—I understand it should apply to Internet as well.

Remote agreements are basically not direct agreements. Direct agreements are door-to-door. My argument is going to be that we should provide the same protections that we provide to people door-to-door to people who are reached through the telephone or reached through other means that are remote. The “remote agreement” definition is included in the act.

Before I move it, one last comment: Would both counsels agree that this would only apply to the water heater situation? Is that correct, that the remote agreement—

Mr. Bas Balkissoon: Chair, you can't do that.

The Chair (Mr. Garfield Dunlop): We don't have an amendment on the floor. So why don't you make the amendment and we'll ask each of them to make a comment. Okay?

Mr. Jagmeet Singh: As soon as I make the amendment, it can be ruled out of order. Then I won't be able to discuss this. So if I just could ask a quick question and then I'll move ahead as you like, Mr. Chair.

Would you agree with that comment, Mr. Wood, that this would apply to water heaters?

Mr. Michael Wood: Am I allowed to answer?

The Chair (Mr. Garfield Dunlop): He's not allowed to answer. There's no motion to comment on.

So you can go ahead, if you want; I am going to probably rule it out of order, though.

Mr. Jagmeet Singh: I'm sure I get some points for creativity, though.

In light of the circumstances, would I be able to ask for a very brief recess of two minutes, just to ask a question so that I could make a submission?

The Chair (Mr. Garfield Dunlop): If it's agreed, everybody?

Mr. Bas Balkissoon: Two minutes? Sure.

The Chair (Mr. Garfield Dunlop): Two-minute recess, fine.

The committee recessed from 1250 to 1255.

The Chair (Mr. Garfield Dunlop): The recess time is up. I'll go back to Mr. Singh again.

Mr. Jagmeet Singh: That was very helpful. Thank you so much. I'm just going to move it. It will be ruled out of order, and that's okay. We'll just leave it at that.

The Chair (Mr. Garfield Dunlop): So it's withdrawn at this point?

Mr. Jagmeet Singh: I'm just going to read it out and it will be ruled out of order. I'm not going to ask for unanimous consent.

I move that schedule 2 to the bill be amended by adding the following section:

“(5.1) Subsection 47(1) of the act is repealed and the following substituted:

“Cancellation of remote agreement

“(1) A consumer may cancel a remote agreement at any time from the date the agreement is entered into until 20 days after the consumer receives a copy of the agreement.”

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Singh. I'm going to rule it out of order because section 47(1) of the bill is not open.

We'll now go to schedule 2.

Mr. Bas Balkissoon: Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Bas Balkissoon: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to schedule 2, section 6. Shall schedule 2, section 6, carry? It's carried.

Shall schedule 2, section 7, carry? Carried.

Finally, shall schedule 2, as amended, carry?

Mr. Jim McDonell: Can we have a recorded vote on that?

The Chair (Mr. Garfield Dunlop): On this one?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. A recorded vote has been asked for. On this one, we're asking for a recorded vote.

Ayes

Balkissoon, Dhillon, Mangat, Qaadri.

Nays

Barrett, McDonell.

The Chair (Mr. Garfield Dunlop): The schedule carries, as amended.

Schedule 3—we've got a number of amendments here. Amendment 0.17 by the PCs: Mr. McDonell.

Mr. Jim McDonell: We'll be withdrawing our existing one. We have a revised one in. Do we want to just read the revision?

The Clerk of the Committee (Mr. Trevor Day): Do the revised one.

Mr. Jim McDonell: I move that subsection 35.1(3) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

“Request for inquiry by registrar

“(3) A person or a registrant acting on behalf of a person may request that the registrar make an inquiry to

determine the number of written offers that the brokerage acting for a seller has received to purchase real estate.”

The idea around this is that the potential purchaser would be able to ask about offers before he actually made a binding offer.

The Chair (Mr. Garfield Dunlop): Any questions from the third party on this?

Mr. Jagmeet Singh: My concern is that I think we’re contemplating—OREA requested that we have an amendment so that they don’t require that brokers or brokerages hold on to offers, because there are certain issues around holding on to offers. They can keep track of the offers or another document, as prescribed, and we’re contemplating an amendment for that. In the case of if the brokerage doesn’t have the actual offer, but has another document, how would they be able to then fulfill this inquiry? If they don’t actually have the offer but they have the other document, would that still satisfy the inquiry? Because they don’t have a number of written offers. They may have a number of other written documents.

The Chair (Mr. Garfield Dunlop): Please feel free to respond to that.

Mr. Jim McDonell: There’s a good chance that we may amend this bill. I think there’s a common interest to make sure that any amendments to offers or any counter-offers are made in a simpler form. This would apply to those as well.

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We wanted to have it so that somebody can request to know if there are any official offers on a property. Right now, I believe the way the legislation is written, they have to make an offer before they can actually inquire. We’re just making it so they could actually inquire if there are offers before they make a binding offer. I think that’s kind of the practice today, but this is a problem. By putting this in legislation, it just allows them to do that.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: Chair, we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments from anyone on Mr. McDonell’s amendment? Those in favour of the amendment?

Mr. Jim McDonell: Recorded vote, please.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Barrett, Forster, McDonell, Singh.

Nays

Balkissoon, Dhillon, Mangat, Qaadri.

The Chair (Mr. Garfield Dunlop): Okay, so that won’t carry. It changes the format. That one is lost.

The NDP motion is next: 0.17.1.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. Can I just confirm that the government is moving a motion that addresses this same issue?

Mr. Vic Dhillon: Yes.

Mr. Jagmeet Singh: We’re happy with the wording that the government is going to be proposing, so we don’t need to move our motion, then.

The Chair (Mr. Garfield Dunlop): Withdrawn?

Mr. Jagmeet Singh: Yes, I’m not moving it.

The Chair (Mr. Garfield Dunlop): Okay. Government motion number 1.

Mr. Vic Dhillon: I move that clause 35.1(4)(b) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

“(b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2).”

The Chair (Mr. Garfield Dunlop): Would you like any time to explain that?

Mr. Vic Dhillon: This is supported by OREA. As Mr. Singh stated, this is, I think, worded a bit better and clarifies the issues around it.

Mr. Jagmeet Singh: I just want to be able to read it—sorry, so—

The Chair (Mr. Garfield Dunlop): Hold on.

The Clerk of the Committee (Mr. Trevor Day): Are you reading number 2 or number 1?

Mr. Vic Dhillon: I’m reading number 2. I don’t have number 1. Oh, yes, I do have number 1. It doesn’t state “government motion.”

Actually, Chair, I—

The Chair (Mr. Garfield Dunlop): It’s government motion number 1.

Mr. Bas Balkissoon: Yes, it’s not written as “government motion.”

Mr. Vic Dhillon: There’s no indication—

Mr. Bas Balkissoon: That’s why he read the wrong one.

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Oh, I apologize. We’ll do that again, okay?

Mr. Jagmeet Singh: Yes, because it wasn’t what I was looking at.

The Chair (Mr. Garfield Dunlop): I want him to re-read that one in.

Mr. Vic Dhillon: I will, Chair.

In the notes that we got, motion number 1 doesn’t indicate which party this comes from—

The Chair (Mr. Garfield Dunlop): Yes, you’re right.

Mr. Vic Dhillon: —so I apologize.

The Chair (Mr. Garfield Dunlop): That’s our fault, too. Let’s do number 1 again.

Mr. Vic Dhillon: That’s fine. I move that subsection 35.1(2) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be amended by adding “or copies of all other prescribed documents related to those offers” after “real estate”.

The Chair (Mr. Garfield Dunlop): Okay. Any further explanation on government motion 1?

Mr. Vic Dhillon: Again, it’s the same as I explained before, Chair.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonnell? Any questions from the official opposition?

Mr. Jim McDonnell: No.

Mr. Jagmeet Singh: Why was it broken up over two motions, 1 and 2, versus keeping it all in 2?

Mr. Bas Balkissoon: They're different clauses.

Mr. Vic Dhillon: Yes. Could legislative counsel explain?

Mr. Michael Wood: There are two government motions involved here. One affects subsection 35.1(2) of the Real Estate and Business Brokers Act. The second motion affects section 35.1(4), which actually is identical to an NDP motion that follows it. The NDP motion is labelled 2.1, and that seems to be identical to government motion 2.

Mr. Bas Balkissoon: But 1 and 2 are different.

The Chair (Mr. Garfield Dunlop): They're somewhat different, and number 2 resembles yours, Mr. Singh.

Any questions, then, on government motion 1? Those in favour of it? That's carried.

Okay, government motion 2: Mr. Dhillon?

Mr. Vic Dhillon: Sure.

The Chair (Mr. Garfield Dunlop): I know you've read it once before, but do it again, and we'll just make sure it's okay for them.

Mr. Vic Dhillon: Not a problem.

I move that clause 35.1(4)(b) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

"(b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2)."

The Chair (Mr. Garfield Dunlop): Okay. We've heard your explanation. Would you like to explain any more on that?

Mr. Vic Dhillon: I explained that—

The Chair (Mr. Garfield Dunlop): Okay. Any questions from the official opposition on this? Or from Mr. Singh?

Mr. Jagmeet Singh: No, thank you.

The Chair (Mr. Garfield Dunlop): Okay. All those in favour of that? That's carried.

We'll now go to 2.1, the NDP motion.

Mr. Jagmeet Singh: I'll withdraw that.

The Chair (Mr. Garfield Dunlop): It's identical and it's out of order.

Mr. Jagmeet Singh: It is identical to the previous one.

The Chair (Mr. Garfield Dunlop): Thank you. Okay, then. Shall schedule 3, section 1, as amended, carry? Carried.

Schedule 3, section 2: Shall schedule 3, section 2, carry? Carried.

Schedule 3, section 3: Shall schedule 3, section 3, carry? Carried.

Shall schedule 3, as amended, carry? Carried.

Okay. We stood down sections 1, 2 and 3, so we've got to go back to those for a moment and make sure they all get passed properly here.

Shall sections 1 to 3 carry? Carried. All right.

Shall the title of the bill carry? Carried.

Shall Bill 55, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Mr. Toby Barrett: Chair, just a comment before we report: I know that a number of amendments were not passed, or were not felt worthy of being incorporated within the actual legislation. At least one amendment that was passed was felt to be already in regulation, not legislation, although it did become legislation courtesy of this committee. I think it was the credit counselling debt consolidation amendment, I guess, of the last week, where a credit counsellor has to maintain money in Ontario that they receive.

This difference between legislation and regulation—I know this committee has done a lot of work on these amendments. The only thing I would offer up is if any of these amendments were felt worthy by staff to be reviewed or to be considered as regulation down the road, I'd just like to offer that up, if the committee felt that was appropriate.

Some of these amendments obviously weren't appropriate for this legislation by the decision of this committee, but if they have any merit at all, if the bureaucrats could consider them down the road as possible regulation. We have no real say in that, unless there are going to be hearings on the regulation. But I just wanted to throw that out. I don't know whether I would ask the committee to comment on that—

The Chair (Mr. Garfield Dunlop): Well, thank you for your advice on it. You're asking for them to consider it, and we appreciate your advice.

Mr. Toby Barrett: I guess my—

Interjection.

Mr. Toby Barrett: I'm sorry?

Mr. Bas Balkissoon: Staff are all here, and they're listening.

Mr. Toby Barrett: Okay. I guess that's maybe good enough for me, is it?

The Chair (Mr. Garfield Dunlop): I guess so.

Mr. Toby Barrett: We don't need a motion or anything?

Laughter.

The Chair (Mr. Garfield Dunlop): Shall I report the bill, as amended, to the House? Carried.

We are back here next week—at what time?

The Clerk of the Committee (Mr. Trevor Day): Twelve noon.

The Chair (Mr. Garfield Dunlop): Twelve noon for Bill 49.

Thank you very much, everybody, for your time. We're adjourned.

The committee adjourned at 1309.

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