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**Official Report
of Debates
(Hansard)**

G-30

**Journal
des débats
(Hansard)**

G-30

**Standing Committee on
General Government**

Rebuilding Consumer
Confidence Act, 2020

1st Session
42nd Parliament
Monday 29 June 2020

**Comité permanent des
affaires gouvernementales**

Loi de 2020 visant à rétablir
la confiance chez
les consommateurs

1^{re} session
42^e législature
Lundi 29 juin 2020

Chair: Goldie Ghamari
Clerk: Isaiah Thorning

Présidente : Goldie Ghamari
Greffier : Isaiah Thorning

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 29 June 2020

Lundi 29 juin 2020

The committee met at 1000 in committee room 1 and by video conference.

**REBUILDING CONSUMER
CONFIDENCE ACT, 2020
LOI DE 2020 VISANT À RÉTABLIR
LA CONFIANCE CHEZ
LES CONSOMMATEURS**

Consideration of the following bill:

Bill 159, An Act to amend various statutes in respect of consumer protection / Projet de loi 159, Loi modifiant diverses lois en ce qui concerne la protection du consommateur.

The Chair (Ms. Goldie Ghamari): Good morning, everyone. I call this meeting to order. We're here today for clause-by-clause consideration of Bill 159, An Act to amend various statutes in respect of consumer protection.

We have the following members present in the room: MPP Harris and MPP Rakocevic. The following members are participating remotely: MPP Bob Bailey, MPP Daryl Kramp, MPP Sheref Sabawy, MPP Mike Schreiner, MPP Jennie Stevens, MPP Daisy Wai and MPP Christine Hogarth.

Staff from Hansard, broadcast and recording, and legislative counsel join us remotely today. Staff representatives from the Ministry of Government and Consumer Services, the Ministry of the Environment, Conservation and Parks and the Ministry for Seniors and Accessibility also join us remotely.

To make sure that everyone can understand what is going on, it is important that all participants speak slowly and clearly. Please wait until I recognize you before starting to speak. Since it could take a little time for your audio and video to come up after I recognize you, please take a brief pause before beginning. As always, all comments should go through the Chair.

The Clerk has distributed the amendment packages to all members and staff electronically.

Are there any questions before we begin? We will now begin the clause-by-clause consideration.

Bill 159 is comprised of three sections, which enact 10 schedules. In order to deal with the bill in an orderly fashion, I suggest we postpone these three sections in order to dispose of the schedules first. Is there agreement on this? Yes.

With that, we're now going to turn to schedule 1 of Bill 159. There are no amendments to sections 1 to 12. Does the committee agree to bundle them together? Thank you.

Is there any debate on sections 1 to 12? Are the members ready to vote? All in favour, please raise your hands. All those opposed, please raise your hands. I declare the motion carried.

Interjection.

The Chair (Ms. Goldie Ghamari): Yes, sorry—I haven't had my coffee yet this morning. Schedule 1, sections 1 to 12, are carried.

We now turn to section 12.1, NDP motion number 1. Who would like to move the motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 1 to the bill be amended by adding the following section:

"12.1 The act is amended by adding the following section:

“Application of the Ombudsman Act

“1.21.1 The condominium authority is deemed to be a governmental organization for the purposes of the Ombudsman Act, and its chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion number 1, schedule 1, Condominium Act, 1998, to the committee members: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly; I therefore rule the amendment out of order.

Turning now to—

Mr. Tom Rakocevic: Madam Chair?

The Chair (Ms. Goldie Ghamari): MPP Rakocevic?

Mr. Tom Rakocevic: A question: So if the Chair rules it out of order, there is no ability to ask for a UC or anything of that sort?

The Chair (Ms. Goldie Ghamari): An ability to seek unanimous consent? There is.

Mr. Tom Rakocevic: Okay.

The Chair (Ms. Goldie Ghamari): Are you seeking unanimous consent?

Mr. Tom Rakocevic: Yes. I would seek unanimous consent to be able to debate this, at least, here in this committee—

Mr. Mike Harris: To move the motion?

Mr. Tom Rakocevic: To move the motion.

Mr. Mike Harris: That's fine.

The Chair (Ms. Goldie Ghamari): Okay. So we have unanimous consent. In that case, is there any debate on NDP motion number 1? MPP Rakocevic.

Mr. Tom Rakocevic: I appreciate the ruling of unanimous consent.

Quite simply, this motion would allow the Ombudsman to have authority over the Condominium Authority of Ontario. This is something that I think is in the best interests of transparency. In fact, a government member has moved this multiple times as a private member's bill. It is a good idea, it is good legislation, and we, in the opposition, support this move.

We need to bring more transparency to our delegated authorities. It is something that we hear over and over again from stakeholders regarding delegated authorities, and it is my hope that the government will vote for this.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I want to just acknowledge and thank the government members for granting unanimous consent for us to debate this particular amendment, which I fully support. I think we need more oversight, particularly of the condominium authorities, and I think the Ombuds provides an avenue for that oversight. I've had numerous individuals come to my office at times with concerns around decisions made under this act and would have liked to have been able to reach out to the Ombuds to register their concerns and ask for an Ombuds investigation.

Frankly, I was going to put forward a very similar amendment but was told by the drafters that it likely would have been ruled out of order, so I'm happy to see us have the opportunity to debate this amendment, and I appreciate the member for bringing it forward, and I support it.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are the members ready to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 2, section 12, sub 2: Who would like to move that motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 1 to the bill be amended by adding the following section:

"12.2 The act is amended by adding the following section:

"Application of FIPPA

"1.21.2 The condominium authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and its chair or its board is deemed to be its head."

The Chair (Ms. Goldie Ghamari): On NDP motion number 2, schedule 1, Condominium Act, 1998: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I, therefore, rule the amendment out of order.

MPP Rakocevic.

Mr. Tom Rakocevic: I seek unanimous consent to move this motion.

The Chair (Ms. Goldie Ghamari): MPP Rakocevic is seeking unanimous consent from the committee to move motion number 2. Do we have unanimous consent from the committee? Agreed.

Is there any debate on motion number 2? MPP Rakocevic.

Mr. Tom Rakocevic: This is just another provision of the government member's PMB that the opposition does support because we want to bring more oversight and accountability to government, and we're hoping that government members will support this motion.

The Chair (Ms. Goldie Ghamari): Before we continue with further debate, I just want to recognize MPP Glover. MPP Glover, can you please confirm that you are MPP Chris Glover and that you are present here today? You'll have to unmute your mike.

Mr. Chris Glover: Hi. Yes, I'm not able to unmute my own mike. Anyway, I am Chris Glover and I am present here today.

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The Chair (Ms. Goldie Ghamari): Thank you. Can you confirm where in Ontario you are joining us from?

Mr. Chris Glover: I'm in Toronto.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate on NDP motion number 2? Seeing none, are the members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

There are no amendments to sections 13 to 16. Does the committee agree to bundle them together? Thank you. Is there any debate on sections 13 to 16? Are the members ready to vote? All those in favour, please raise your hands. All those opposed, please raise your hands. Sections 13 to 16 of schedule 1 are carried.

There are no amendments to sections 16.1 to 17.1 Does the committee—

Interjection.

The Chair (Ms. Goldie Ghamari): My apologies. We'll now turn to schedule 1, section 16.0.1, government

motion number 3. Who would like to move the motion? MPP Harris.

Mr. Mike Harris: I move that schedule 1 to the bill be amended by adding the following section:

“16.0.1 Clauses 2(2.1)(b) and (c) of the act are repealed and the following substituted:

“(b) the builder, within the meaning of the New Home Construction Licensing Act, 2017, is licensed as a builder in respect of that project under that act; and

“(c) the vendor, within the meaning of the New Home Construction Licensing Act, 2017, is licensed as a vendor in respect of that project under that act.”

The Chair (Ms. Goldie Ghamari): Thank you. Further debate?

Committee members, the proposed amendment is out of order because it seeks to amend a section of a parent act that is not before the committee. As Bosc and Gagnon wrote in a note on page 771 of the third edition of House of Commons Procedure and Practice, “an amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

MPP Harris?

Mr. Mike Harris: Madam Chair, I seek unanimous consent to be able to move this motion.

The Chair (Ms. Goldie Ghamari): Is there unanimous consent from the committee? Yes.

MPP Harris has moved government motion number 3. Is there further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 3, section 16.0.1, please raise your hands. All those opposed, please raise your hands. I declare government motion number 3, section 16.0.1, carried.

There are no amendments to sections 16.1 to 17.1. Does the committee agree to bundle them together? Thank you. Is there any debate on sections 16.1 to 17.1 of schedule 1? Seeing none, are members prepared to vote? All those in favour of sections 16.1 to 17.1 please raise their hands. All those opposed, please raise their hands. Schedule 1, sections 16.1 to 17.1, are carried.

Turning now to schedule 1, section 18, we have government motion number 4 on section 18, sub 2. Who would like to move this motion? MPP Harris.

Mr. Mike Harris: Madam Chair, just give me two seconds. We may withdraw this.

The Chair (Ms. Goldie Ghamari): All right. Are you requesting a recess?

Mr. Mike Harris: Not necessarily. Madam Chair, I think we’re going to withdraw this motion.

The Chair (Ms. Goldie Ghamari): Withdraw? All right. Government motion number 4 is withdrawn.

Mr. Mike Harris: Oh, sorry, Madam Chair. I take back my previous statement.

The Chair (Ms. Goldie Ghamari): Are takebacks allowed?

Interjections.

The Chair (Ms. Goldie Ghamari): Okay. Well, in that case, MPP Harris, would you like to move government motion number 4?

Mr. Mike Harris: I would. Thank you, Madam Chair.

I move that subsection 18(2) of schedule 1 to the bill be amended by striking out “Sections 11, 16, 16.1 and 16.2” at the beginning and substituting—hold on—“Sections 11 and 16 to 16.2.” Sorry for the confusion.

The Chair (Ms. Goldie Ghamari): Just to confirm, “hold on” is not part of the motion, correct?

Mr. Mike Harris: “Hold on” is not in the motion.

The Chair (Ms. Goldie Ghamari): Okay, so can you just—

Mr. Mike Harris: I can reread it, absolutely.

The Chair (Ms. Goldie Ghamari): Yes, please.

Mr. Mike Harris: I move that subsection 18(2) of schedule 1 to the bill be amended by striking out “Sections 11, 16, 16.1 and 16.2” at the beginning and substituting “Sections 11 and 16 to 16.2.”

The Chair (Ms. Goldie Ghamari): Thank you. MPP Harris has moved government motion number 4, section 18(2). Is there further debate? Seeing none, are members prepared to vote? All those in favour of section 18(2), government motion number 4, please raise your hands. All those opposed, please raise their hands. I declare schedule 1, section 18(2), carried.

Shall schedule 1, section 18, as amended, carry? Carried. Shall schedule 1, as amended—sorry. We’ll have to raise hands. We didn’t see the proper number of hands there, so I’m going to repeat this. Shall schedule 1, section 18, as amended, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Shall schedule 1, as amended, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 1, as amended, carried.

Turning now to schedule 2: There are no amendments to sections 1 to 9 of schedule 2. Does the committee agree to bundle them together? Great.

Is there any debate on schedule 2, sections 1 to 9? Seeing none, are members prepared to vote? Shall schedule 2, sections 1 to 9, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 2, sections 1 to 9, carried.

Shall schedule 2 carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 2 carried.

Turning now to schedule 3: There are no amendments to sections 1 to 10. Does the committee agree to bundle them together?

Is there any debate on sections 1 to 10 of schedule 3? Seeing none, are members prepared to vote? All those in favour of schedule 3, sections 1 to 8, please raise their hands.

Interjection.

The Chair (Ms. Goldie Ghamari): My apologies. All those in favour of schedule 3, sections 1 to 10—not 1 to 8—please raise their hands. All those opposed, please raise their hands. I declare schedule 3, sections 1 to 10, carried.

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Shall schedule 3 carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 3 carried.

Turning now to schedule 4, section 1, and government motion number 5: MPP Harris.

Mr. Mike Harris: I move that section 1 of schedule 4 to the bill be amended by adding the following subsection:

“(0.1) The definition of ‘builder’ in subsection 1(1) of the New Home Construction Licensing Act, 2017, is repealed and the following substituted:

“‘builder’ has the same meaning as ‘builder’ as defined in section 1 of the Ontario New Home Warranties Plan Act; (‘constructeur’)”

The Chair (Ms. Goldie Ghamari): Is there further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 5, section 1, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

We turn now to government motion number 6, with respect to subsection 1(1). MPP Harris.

Mr. Mike Harris: I move that subsection 1(1) of schedule 4 to the bill be amended by striking out “of the New Home Construction Licensing Act, 2017” in the portion before the definition of “new home” and substituting “of the act”.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 6, subsection 1(1), please raise their hands. Thank you.

Just a quick reminder to members for the voting process: Because there is a bit of a lag, when I ask you to raise your hands, please keep your hands raised until I say you can lower them. This way it will resolve any issues with lag. Thank you.

All those opposed to government motion number 6, subsection 1(1), please raise their hands. I declare the motion carried.

Once again, I’ll remind members: When I ask you to raise your hands, please raise your hands and keep them raised until I say you can lower them.

Turning now to government motion number 7: MPP Bailey.

Mr. Robert Bailey: I move that section 1 of schedule 4 to the bill be amended by adding the following subsections:

“(1.1) The definition of ‘owner’ in subsection 1(1) of the act is repealed and the following substituted:

“‘owner’ has the same meaning as ‘owner’ as defined in section 1 of the Ontario New Home Warranties Plan Act; (‘propriétaire’)”

“(1.2) The definition of ‘vendor’ in subsection 1(1) of the act is repealed and the following substituted:

“‘vendor’ has the same meaning as ‘vendor’ as defined in section 1 of the Ontario New Home Warranties Plan Act; (‘vendeur’)”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 7, sections 1.1 and 1.2, please raise their hands. You may lower them. All those opposed to government motion number 7, please raise their hands. I declare the motion carried.

Is there any further debate on schedule 4, section 1, as amended? Seeing none, are members prepared to vote? Shall schedule 4, section 1, as amended, carry?

All those in favour, please raise their—MPP Rakocevic, a point of order?

Mr. Tom Rakocevic: Well, I have a question. Can I—

The Chair (Ms. Goldie Ghamari): Sure.

Mr. Tom Rakocevic: Are we dealing with the entire schedule 4?

The Chair (Ms. Goldie Ghamari): We’re looking at schedule 4, section 1.

Mr. Tom Rakocevic: But not schedule 4 in its entirety?

The Chair (Ms. Goldie Ghamari): No.

Mr. Tom Rakocevic: Okay.

The Chair (Ms. Goldie Ghamari): We haven’t gone to the other sections yet. This is just amendments to schedule 4, section 1. Okay? Thank you.

Shall schedule 4, section 1, as amended, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. Schedule 4, section 1, as amended, is carried.

Turning now to schedule 4, section 2, we have NDP motion number 8, with respect to section 2. Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 2 of schedule 4 to the bill be amended by striking out clause 3(3)(b) of the New Home Construction Licensing Act, 2017 and substituting the following:

“(b) promoting the protection of the public interest, and consumers in particular.”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of—

Mr. Tom Rakocevic: Recorded vote.

The Chair (Ms. Goldie Ghamari): MPP Rakocevic has requested a recorded vote.

Ayes

Glover, Rakocevic, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to the independent Green Party member’s motion number 9: Who would like to move this motion? MPP Schreiner.

Mr. Mike Schreiner: I move that section 2 of schedule 4 to the bill be amended by striking out clause 3(3)(b) of the New Home Construction Licensing Act, 2017 and substituting the following:

“(b) promoting the protection of the public interest by prioritizing consumer protection.”

The Chair (Ms. Goldie Ghamari): Is there further debate? MPP Schreiner.

Mr. Mike Schreiner: I brought this amendment forward because this is supposed to be a consumer protection bill. I think we need to make it explicit that the most important part of this bill as it relates to the public interest is prioritizing consumer protection. We had numerous presenters come to committee expressing deep concerns that the interpretation of what the public interest is is too broad and it needs to be narrowed to specifically focus on consumer protection.

I think if we look at the history of the home warranty program in Ontario, consumer protection has not been the priority. We've had Justice Cunningham's report reveal this. We've had the Auditor General's report reveal this. I think it's important in a bill that purports to be about consumer protection that we be very clear that that's the top priority of this schedule.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: I'd just like to say this motion poses a risk of forcing the regulatory authority to ignore other potentially important public interest priorities that are not strictly consumer protection, such as environmental protection, public safety or public health. This motion may also create fairness concerns that would undermine the regulatory authority's legitimacy, since it would be expected to make objective, evidence-based decisions regarding licensing of new home builders and vendors and not favour any particular portion of the public.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

1030

Mr. Tom Rakocevic: This amendment is very similar to the NDP amendment that was just raised that the government voted against. It is very important to make consumer protection very explicit in any changes that we are proposing today. I will be supporting it.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I just wanted to respond to MPP Harris's point. The reason I phrased this amendment in this way was not to strike out the public interest, because I do recognize that there are a variety of public interests that should and could be considered. But the consumer protection should be the priority. It doesn't preclude other public interest considerations, which is why I left that part in the bill through my amendment, but I think it needs to be clear that consumer protection is the priority of a bill about consumer protection.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of Green motion number 9, with respect to—sorry? MPP Schreiner. Yes?

Mr. Mike Schreiner: Sorry, I was just trying to ask for a recorded vote. Thank you, Chair.

The Chair (Ms. Goldie Ghamari): Yes, of course.

Committee members, we're going to try something a little different. What we're going to do from our end is we're going to unmute everyone's microphones, so your mikes will all be unmuted. What I would request is that

everyone who is joining us on the Zoom chat, you are responsible for muting and unmuting your microphone. This way, if someone wants to bring a point of order or request a recorded vote of something, they won't have to wait for broadcasting to unmute.

We're just going to try this and see how it works. Hopefully, there won't be too many issues there. Right now broadcasting is making sure that, on our end, your mikes are not locked. Can you just maybe test very quickly your mute and unmute function just to make sure that you have the ability to mute and unmute yourselves?

Mr. Mike Schreiner: Great. Thank you, Chair. It works.

The Chair (Ms. Goldie Ghamari): Perfect. Okay, great. I would just ask everyone to remain on mute, unless you want to bring up a point of order or a question and then you can unmute yourselves. That way, hopefully, it will be a little better. Thank you.

MPP Schreiner has requested a recorded vote for Green motion number 9, with respect to section 2.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Wai.

The Chair (Ms. Goldie Ghamari): I declare motion number 9 lost.

Turning now to NDP motion number 10, subsection 2(2): Who would like to move this motion? Mr. Rakocevic.

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

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

“Restriction re use of heating, etc. equipment during construction

“(4) The administrative agreement shall require the regulatory authority to ensure that builders do not use, and do not allow to be used, the heating, ventilation and air conditioning equipment within a new home during the construction of the home, except as permitted by the regulations.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: One of the concerns that we definitely heard from new home purchasers as well as people from the HVAC industry and contractors was that installation of HVACs get put into new homes, then there might be usage, or inappropriate usage sometimes, during construction and then that could lead to when homeowners take possession of the home. We need to find some language to protect homeowners. Again, this would likely help a lot of homeowners avoid having to make warranty claims, if we pay attention to this and we fix the system.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Harris.

Mr. Mike Harris: Thank you, Madam Chair. While we certainly acknowledge the intent of this motion, we feel it would be more appropriate to do this through regulation.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I think we should be explicitly stating it here. What we are doing is we are leaving things to regulation within this bill and we've heard very loudly and clearly from advocates for consumer protection that we need to explicitly state the protections. If this bill is about consumer protection, let's deal with it in the front end and not hope that it's addressed in the back end.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: Thank you, Chair. I'm going to speak in favour of this motion. While it could be put forward in regulation, as the honourable member has suggested, I certainly would feel more comfortable, and I believe many of the individuals who came to committee and many consumer advocates would feel much more comfortable and reassured, if it was explicit in the legislation itself. So I'll be voting for this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Is there any further debate on schedule 4, section 2? Seeing none, are members prepared to vote? Shall schedule 4, section 2, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 2, carried.

There are no amendments to sections 3 to 4. Does the committee agree to bundle them together?

Is there any further debate on schedule 4, sections 3 and 4? Seeing none, are members prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. Schedule 4, sections 3 and 4, are carried.

Turning now to schedule 4, section 5, I have NDP motion number 11 with respect to section 5(2). Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: Thank you, Chair. I move that section 5 of schedule 4 to the bill be amended by adding the following subsection:

“(2) Section 11 of the act is amended by adding the following subsection:

““Conflict of interest

“(3) No person may serve as a member on the board if, at the time of appointment, they would have a real or

apparent conflict of interest, as defined in the regulations.””

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Thanks again, Chair. Conflict of interest is something we should always avoid in board construction. It is something that we've heard overwhelmingly from consumer protection advocates throughout the envisioning of this bill. It is something that I have personally heard loud and clear, that there are issues with builder control, of home warranties in Ontario, and that has led to so many of the problems. I think we need to explicitly state that there cannot be conflicts of interest, and this is something that I believe the consumer advocates appreciate, and they have spoken to this loud and clear. We hope that the government will support this.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Harris.

Mr. Mike Harris: Thank you, Madam Chair. This amendment would be fairly difficult to enforce, and there are a few unintended consequences that would arise from this which could potentially prohibit homeowners from serving on their regulatory board as well, Madam Chair.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Schreiner.

Mr. Mike Schreiner: Thank you, Chair. I'm going to be speaking in support of this amendment. I've submitted a very similar amendment, and I think we've heard from numerous presenters at committee who have raised concerns about conflict of interest on boards. Justice Cunningham explicitly talked about concerns around conflict of interest as it relates to boards.

1040

While I do agree with MPP Harris, that it could create a situation where certain consumer advocates may not be able to serve on the board because they would be in a conflict of interest, I think all of those advocates that I've talked to have said that they would much prefer to not be eligible to serve on the board if they were in a conflict position because their feeling was nobody should serve on the board if they're in a conflict position.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare NDP motion number 11 lost.

Turning now to Green motion number 12, subsection 5(2)—

Mr. Mike Schreiner: I'll withdraw, Chair. It's the exact same amendment.

The Chair (Ms. Goldie Ghamari): All right. Thank you, MPP Schreiner. Green motion 12 is withdrawn.

Is there any further debate on schedule 4, section 5? Seeing none, are members prepared to vote? All those in favour of schedule 4, section 5, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 5, carried.

There are no amendments to sections 5.1 to 5.4. Does the committee agree to bundle them together? Thank you. Is there any debate on schedule 4, sections 5.1 to 5.4? Seeing none, are members prepared to vote? All those in favour of schedule 4, sections 5.1 to 5.4, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, sections 5.1 to 5.4, carried.

Turning now to NDP motion number 13, with respect to section 5.5: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 4 to the bill be amended by adding the following section:

“5.5 The act is amended by adding the following section:
“Application of the Ombudsman Act

“22.1 The regulatory authority is deemed to be a governmental organization for the purposes of the Ombudsman Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): Is there further debate? MPP Rakocevic.

Mr. Tom Rakocevic: If this is supposed to—

The Chair (Ms. Goldie Ghamari): Sorry to interrupt you, MPP Rakocevic. I've been informed, committee members, that this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic.?

Mr. Tom Rakocevic: I'm seeking unanimous consent to move this.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent from the committee to move this motion? Agreed. Thank you.

Further debate on NDP motion number 13? MPP Rakocevic.

Mr. Tom Rakocevic: Very simply put, we must prioritize consumer protection. In the current system, we see that many, many new home purchasers are not feeling safe when they're purchasing new homes, and they find out the hard way that their warranties are not protected and they do not have the protections that they deserve. I think that making HCRA subject to the Ombudsman Act would therefore bring more oversight to this, and this is so important, that we get it right. I'm hoping the government members will support this. We need to prioritize consumer protection and ensure transparency and accountability.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: The Ontario Ombudsman generally has no jurisdiction over private entities or individuals, and the regulatory authority would be a private, not-for-profit

corporation. Extending the Ombudsman jurisdiction to the regulatory authority would need further consultation across government and other stakeholders, including with the Ombudsman himself, in order to understand the implications of doing so, Madam Chair.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: That being said, I still think that this is definitely something worth exploring and that it would bring more oversight and protect new home purchasers.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of NDP motion—

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 4, section 5.6: This is NDP motion number 14. Who would like to move it? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 4 to the bill be amended by adding the following section:

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

“Application of FIPPA

“22.2 The regulatory authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion number 14, section 5 of schedule 4, New Home Construction Licensing Act, 2017, committee members, this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: I seek unanimous consent.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent? We do. All right.

MPP Rakocevic has moved NDP motion number 14. Is there further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Again, I thank the members for granting unanimous consent. Again, this is something that was ultimately envisioned, this level of oversight, by a government member who had introduced it multiple times. We agree that we want to promote more oversight. It's the

same rationale as discussed with the previous motion, and we hope that the government will support this.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: Just like the previous motion, FIPPA generally does not apply to private end-user individuals, and the regulatory authority in this case would be a private, not-for-profit corporation. There already are provisions that would require the regulatory authority to follow any prescribed processes and procedures for providing public access to the authority's records and for protecting personal information in those records.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I'm going to speak in favour of this motion. FIPPA oversight, I think, is critically important. It's not unheard of to have FIPPA oversight of private, not-for-profit organizations, particularly those engaged in government business as it relates to the public. There are times when people need and should have access to information and should be able to require that access or ask for that access under FIPPA. So I think this would add a level of oversight and add a level of protection to the public that would, in some cases, need to request information over processes or decisions that HCRA might make. So I'm going to vote in favour.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I appreciate that support. Governments create delegated authorities; we enable them to have power. I think it is so important that we then, in turn, provide the highest level of oversight, transparency and accountability. I think that this motion does that, and I hope that the government will support it.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.
1050

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 4, section 6: There being no amendments, are members prepared to vote? Is there any debate? No? Are members prepared to vote? All those in favour of schedule 4, section 6, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 6, carried.

Turning now to schedule 4, section 7, we have NDP motion number 15. Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 7 of schedule 4 to the bill be amended by adding the following subsection to section 34 of the New Home Construction Licensing Act, 2017:

“Provision of information to building inspectors

“(3) The regulatory authority shall, in accordance with the regulations, provide inspectors appointed under section 3 of the Building Code Act with prescribed information about the performance and conduct of licensees.”

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Tom Rakocevic: This will really make the job of municipal inspectors a lot easier. We know that there are bad builders out there, and by providing information to municipal inspectors who have been in contravention and other problems, I think overall will help municipalities better inspect new home construction and, ultimately, this will certainly help promote more quality home construction in Ontario. I hope that members of the committee will support this. I do believe this will strengthen the legislation and will certainly tip it in favour of consumer protection.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Mike Schreiner: I put forward a very similar—well, actually, the exact same amendment, reading it now. The reason I support this amendment is not only for the consumer protection aspect and, in particular, making sure building inspectors are fully informed to do their jobs, but it was also recommended in the Auditor General's report. The Auditor General said that providing this information to building inspectors would help municipalities plan their inspections and improve builder compliance with the Ontario building code. I think that is overall in the best interest of not only consumers but also builders, to ensure compliance and ensure that those few bad actors out there are not damaging the reputation of all builders, and it certainly would assist municipalities in doing the work they do in enforcing the Ontario building code. So I'll be voting in favour of this amendment.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Mike Harris: Within this bill and within the act there are already provisions for a Lieutenant Governor order in council to prescribe such persons as possibly inspectors appointed under section 3 of the Building Code Act, 1992, to whom the regulatory authority would be required to share the prescribed information that could include the performance and conduct of licensees.

I'd also like to note that Tarion has indicated that it accepts the Auditor General's recommendation to work to improve disclosures on Tarion's Ontario builder directory, including additional information about each licensed builder. Tarion is working collaboratively with HCRA on recommendations that they will be responsible for implementing if HCRA is designated by the government as the new regulator for builders and vendors of newly built homes.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Tom Rakocevic: I think it's so important to explicitly state this. As the government member said, this comes directly out of the Auditor General's recommendation number 17. This is putting the onus on Tarion actually

passing this information on. Rather than perhaps it could happen or allowing it or even it being dealt with in regulations, why not explicitly state this?

If you look at the builder directory right now, it is not a snapshot of what is happening. The most perfect example is to look at Cardinal Creek. What is happening in the scope of the warranty issues that have happened there is not encapsulated, as we speak, in the builder directory. So to simply think that this will be addressed by Tarion itself when consumer protection advocates have spoken so clearly against issues and there are clear examples of Tarion not coming through and protecting consumer protection—let's just explicitly state it here. Let's not wait for regulations, and certainly, let's not see if Tarion may or may not fix itself. We could make this explicit. This will improve consumer protection. This will empower inspectors across the province of Ontario. This is the right thing to do, and I really hope that you will support it.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Glover.

Mr. Chris Glover: I'm going to speak generally about this particular amendment but also the amendments in general. We've got 57 amendments before us, and the majority are either from the NDP or the Green Party. Each one of those amendments speaks to the depositions that we heard. What we've heard is that home insurance, home warranties, have been an absolute disaster in this province for 42 years and they've cost people their entire life savings. They've caused people so much stress that this led to illness and potentially to death of some of the consumers, people who bought their homes.

I've got to say that I am really disappointed that the government side is not supporting any of the opposition amendments. These amendments were clearly asked of us by the deputants who had been so negatively impacted by the home warranty situation, the policies that we have. For the government to say, "Oh, well, don't worry about this. We're going to do it in regulation"—the homebuyers in Ontario have been promised that for the last 42 years, and it never happened.

There's a chance to actually change the situation now, to change the legislation, and if we don't take it upon us now to change this, then in four years or six years, there will be another committee, there's going to be another review of Tarion and we're going to hear from another generation of homebuyers who have been absolutely destroyed by the current legislation.

I would ask the government members to please look deep inside yourselves, listen, think about what you've heard over the last week from the deputants and please support the amendments that are being brought forward by the opposition. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I would just say, in response to the member opposite, it's great that you're considering putting this into regulations. Certainly, we're cautiously optimistic that Tarion may indeed fulfill this. But I think, given the history of the organization, the poor payout

numbers we've seen, the damning reports that have come out, particularly from Justice Cunningham and the Auditor General, as well as just the heart-wrenching stories of people's life savings that have been ruined because of those few incidents, but still a significant number of instances where people had had construction that hasn't met code, I think anything and everything we can do in legislation to help facilitate and ensure compliance with the Ontario building code is beneficial to builders themselves, to municipalities and their ability to enforce the code, and obviously the consumer protection.

So I'd encourage the government to make it explicit in legislation. That way, none of us, regardless of which side of the aisle we're on, have to worry about whether or not this is going to be covered off in regulations in the future or maybe covered off for a while in regulations and then those regulations change.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Stevens and then MPP Kramp.

Mrs. Jennifer (Jennie) Stevens: I have to say that if the people on the other side of the aisle support this amendment, I feel that at the end of the day this will put teeth into this bill. Putting regulations forward really doesn't give this part of the bill any teeth or give the residents any kind of confidence in feeling that they are going to be protected down the line. I feel that consumer protection is in the name of this bill and I feel that the delegates that spoke last week put their life savings into a lot of bad players within the building code part of this bill. I just feel that if you support this amendment, it will help with putting a little more teeth into the bill and bring confidence back to our residents in Ontario.

1100

The Chair (Ms. Goldie Ghamari): MPP Kramp.

Mr. Daryl Kramp: While I share a number of concerns from all sides of the committee, and we heard lots of this from our witnesses—I'll do this as a response to MPP Glover—as if the government and/or the department or Tarion or nobody is doing anything on this reality. If that were the case, I could have that same indignation and anger, but the reality is that, out of Justice Cunningham's report, 32 of the 37 recommendations are already in play, and with the Auditor General's recommendations, Tarion has already completed 11 of them, two more since the spring, eight more to be done by 2020 and six to be done by 2021, and that's well in advance of the time requirement suggested by Justice Cunningham to be completed within the next couple of years. So everybody is moving very, very aggressively on this file, and I think we will see even more from the motions coming forward today.

We have heard, we have listened and, quite frankly, we've responded, and I think the organization's responsibility of changing the administration and direction is certainly going to have an impact that's going to benefit the consumer, as well as help protect the industry.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? MPP Rakocvic?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to independent Green Party motion number 16: MPP Schreiner.

Mr. Mike Schreiner: It's the exact same motion that we just defeated, so I withdraw.

The Chair (Ms. Goldie Ghamari): Green motion number 16 with respect to schedule 4, section 7 has been withdrawn.

Turning now to schedule 4, sections 8 to 13: There are no amendments to sections 8 to 13. Does the committee agree to bundle them together? Is there any further debate on schedule 4, sections 8 to 13? Seeing none, are members prepared to vote?

Interjection.

The Chair (Ms. Goldie Ghamari): My apologies. Before we go to section 8, shall schedule 4, section 7, carry? All those in favour, please raise your hands. All those opposed, please raise your hands. I declare schedule 4, section 7, carried.

Turning now to schedule 4, sections 8 to 13: Is there any further debate on sections 8 to 13? Seeing none, are members prepared to vote? All those in favour of schedule 4, sections 8 to 13, please raise their hands. All those opposed, please raise their hands. Schedule 4, sections 8 to 13, are carried.

Turning now to schedule 4, section 14, we have Green motion number 17 with respect to section 14: MPP Schreiner.

Mr. Mike Schreiner: I move that section 14 of schedule 4 to the bill be amended by adding the following subsection:

“(1) Subsection 82(1) of the act is amended by adding the following clauses:

“(i.1) information about any orders, directions or other requirements made under the Building Code Act, 1992 that have been issued to a licensee;

“(i.2) information about any offences under the Building Code Act, 1992 that have been committed by a licensee;”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I brought this amendment forward because I believe it's critically important that we require any information about any offences under the building code by a licensee, or any other orders or directives issued to a licensee, be made public on the directory.

We heard over and over again from many presenters to committee about the fact that the builder they are in

conflict with, and that they know has violated a building code, was not listed on the directory for whatever reason. And we've had numerous instances where presenters came to committee and said they went to the directory for information to be able to make an informed decision as a consumer, and the builders who were in violation or had had directives presented against them were not on the directory. It wasn't listed on the directory.

I think it's important to provide consumers with adequate information so they can make an informed decision on what for most people is the biggest investment decision they're ever going to make. Sometimes in our society, we say “buyer beware.” It's pretty hard to be aware when we have known violators not even listed on the directory.

Likewise, I think it's so important—there are so many good home builders out there, so many builders who do great work. For their reputations to potentially be tarnished because of some bad actors out there who are not in compliance with the code, I think, actually does harm and potential damage to builders as well.

I would argue that having a directory that provides consumer information is important and benefits both consumers and builders. I would hope the members support this particular amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: We've talked a little bit about this before. I'm not sure whether MPP Schreiner intended this or not, but following through with this amendment would indirectly amend the Building Code Act, 1992, which at this point is not open for amendment.

Currently, Tarion has the authority to oversee the builder directory, but Bill 159 would remove that authority from Tarion and enable HCRA to oversee the directory. HCRA will have to consult extensively on this directory in order to ensure it's transparent and fulfills certain key consumer protection pieces, not to mention that this would make quite a lot of red tape involved for municipalities, as they would then now have to report to HCRA. There isn't really a mechanism for that in place at the moment. These types of decisions, again, as we mentioned before, are better left to regulation, Madam Chair. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I'll be supporting this amendment. I believe it's already enabled by HCRA, but I think it's so important to emphasize this.

The fact of the matter is, the current builder directory isn't working. It's not working for new home purchasers. A simple example is looking at Cardinal Creek and other places. The builder directory is not putting all the information out there and not painting an accurate picture of what the system is today.

I will be supporting it. We have to be all about transparency and we have to give all the information that's needed to prospective home purchasers. I think that it is the best interest of all of us. I will be supporting it.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Mike Schreiner: Recorded vote, please, Chair.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 4, section 14: Is there any further debate? Shall schedule 4, section 14 carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 14, carried.

Turning now to schedule 4, section 15: Is there any further debate? Are members prepared to vote? All those in favour of schedule 4, section 15, please raise their hands. All those opposed, please raise their hands. Schedule 4, section 15, is carried.

Turning now to schedule 4, section 16: We have government motion number 18. Who would like to move this motion?

Mr. Mike Harris: We'll withdraw this motion.

The Chair (Ms. Goldie Ghamari): The motion is being withdrawn.

Is there any further debate on schedule 4, section 16? Seeing none, are members prepared to vote? All those in favour of schedule 4, section 16, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 16, carried.

Turning now to schedule 4, section 17: We have government motion number 19. MPP Harris?

Mr. Mike Harris: We'll be withdrawing this motion as well.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Is there any further debate on schedule 4, section 17? Seeing none, are members prepared to vote? All those in favour of schedule 4, section 17, please raise their hands. All those opposed, please raise their hands.

Sorry, we'll have to pause for a moment because everything seems frozen. Okay, we're going to redo the vote because there seem to be some technical difficulties.

At this point, we're going to take a five-minute recess to deal with the technical difficulties. I ask the members not to stray too far from their computers, tablets and laptops until we can resume. Thank you.

The committee recessed from 1114 to 1119.

The Chair (Ms. Goldie Ghamari): We'll now resume clause-by-clause of Bill 159, An Act to amend various statutes in respect of consumer protection. We had some technical difficulties, so we're going to go back. We were on schedule 4, section 17, government motion number 19. All those in favour—

Interjection.

The Chair (Ms. Goldie Ghamari): Oh, it was withdrawn, right. Sorry.

Shall schedule 4, section 17 carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 4, section 17, carried.

There are no amendments to schedule 4, sections 18 to 21. Does the committee agree to bundle them together? Agreed. Is there any further debate on schedule 4, sections 18 to 21? Seeing none, are members prepared to vote? All those in favour of schedule 4, sections 18 to 21, please raise their hands. All those opposed, please raise their hands. Schedule 4, sections 18 to 21, are carried.

Is there any further debate on schedule 4 as amended? MPP Rakocevic.

Mr. Tom Rakocevic: I want to recognize and acknowledge that the government did allow us to debate things on unanimous consent here, not just for this schedule but previous schedules, and that I appreciate that. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Tom Rakocevic: Yes, I did have more to say on that—

The Chair (Ms. Goldie Ghamari): MPP Rakocevic.

Mr. Tom Rakocevic: On the entirety of schedule 4, I'd like to just speak to it very quickly. I think the committee has heard a number of NDP motions to, I believe, strengthen and improve the legislation that is there before us. This was done in consultation with stakeholders, people that I know to be experts in the area of consumer protection, people that have had intimate knowledge facing the building industry when their warranties weren't granted, Tarion itself, when their warranties are not being honoured—and really having to go through turmoil that is absolutely undeserved. It's very disappointing that that system existed.

I know that the legislation here is supposed to be something that they say is in terms of consumer protection—to improve that, in their own words—but we've heard, throughout hearings, consumer protection advocates say that this legislation is a missed opportunity or that it does not go far enough in achieving those ends.

Government members, by their own admission, are leaving a lot of things for Tarion to fix itself, as well as HCRA to be able to fix itself—although it hasn't been enabled yet—for it to essentially govern itself at arm's-length from everybody and come out in a way that will strengthen consumer protection. But this is not what we are hearing when we've gone to hearings. We've seen explicit amendments put forward here that would make consumer protection explicit in the language of this bill—that has been rejected.

We have seen amendments put forward here that would bring FIPPA and Ombudsman oversight, something I think we could all agree upon that would strengthen consumer protection and would bring more transparency and enhance oversight. Yet, these have been rejected. We talked about things that would pass information on to inspectors and municipalities that would certainly protect prospective new home purchasers. We've seen amendments here that would strengthen the builder directory, which we know is not working and does not enable proper consumer protection. There have even been practical suggestions, again, worked with industry as well as with consumers, around

explicitly stating HVAC systems not being used inappropriately during the construction of homes. Again, these things—it continues to be said they'll be dealt with in regulations. We've also brought in amendments here that would actually explicitly define "conflict of interest" and not allow for it, and this is something that is so important on all boards, and again, this has been voted against.

If this legislation is supposed to enact consumer protection, I think it must be explicitly stated. I don't think consumers appreciate hearing things like, "We'll deal with it in regulations," or "Allow Tarion to fix itself," because Tarion hasn't been working for so long. We can all go back to Einstein's definition of insanity—I won't explain it; I think you all know it. That's something that we would like to see. We've tried to strengthen schedule 4, and the government doesn't seem to be willing to take these amendments and is just telling us, "Don't worry. We'll get to some of those things in regulation." So I will not be supporting schedule 4.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: Thank you, Chair. I'm going to be speaking against schedule 4 as well. I think the government had a number of opportunities to strengthen this bill. For decades, new homebuyers have been let down by the province of Ontario. This bill had a real opportunity to bring in transformative changes. I believe one consumer advocacy organization rated it a two out of 10, on a scale of 10 being the best, in terms of moving us forward. Yes, it does move us forward a bit, but not enough to address the way in which consumers have been let down in this province. I think both Justice Cunningham and the Auditor General's reports reveal that. While the government has taken some steps, as the members opposite have pointed out, to address some of the recommendations in both Justice Cunningham's and the Auditor General's reports, major steps have not been taken, major recommendations have not been fulfilled.

I think the least the government could have done was to make it explicit that this was about consumer protection, to make the directory work for buyers so they can be fully informed when making decisions, to make the system work better for municipalities and their building inspections, address issues of conflict of interest to ensure that that does not happen, and to ensure proper oversight through existing provisions, such as FIPPA.

It's unfortunate that the government has chosen not to strengthen schedule 4, especially when they chose not to go with—and we'll talk about this in schedules 4 and 5—a multi-provider model, which is what Justice Cunningham recommended and what has worked well in other provinces. In the absence of moving in that direction, the least the government could have done, I think, is strengthen the model that they have chosen. It's unfortunate that that did not happen, by the rejection of amendments from the official opposition and the Green independent as well. So I'll be voting against schedule 4, unfortunately.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those—

Mr. Tom Rakocevic: Recorded vote.

Mr. Mike Schreiner: Recorded vote, please.

The Chair (Ms. Goldie Ghamari): MPP Rakocevic and MPP Schreiner have requested recorded votes. Shall schedule 4, as amended, carry?

1130

Ayes

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

Nays

Glover, Rakocevic, Schreiner, Stevens.

The Chair (Ms. Goldie Ghamari): I declare schedule 4, as amended, carried.

Turning now to schedule 5: There are no amendments to sections 1 to 4. Does the committee agree to bundle them together? Is there any debate on schedule 5, sections 1 to 4? Are members prepared to vote? All those in favour of schedule 5, sections 1 to 4, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, sections 1 to 4, carried.

Turning now to schedule 5, section 5, we have NDP motion number 20 with respect to section 5. Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 5 of schedule 5 to the bill be amended by adding the following paragraph to subsection 2.0.1(2) of the Ontario New Home Warranties Plan Act:

"4. Policies governing the limits on compensation, as defined in subsection 2.6(1) and including severance and other entitlements, that may be provided to the chief executive officer and other executives of the corporation."

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Tom Rakocevic: I don't think it's enough that we know what executives at Tarion are making. I think we need to go a little further and we should cap what the executive compensation should be. I think this is something that the government could support, and I'm hoping that they will do so.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Mike Harris: Tarion, like all administrative authorities, is a private not-for-profit corporation that is not publicly funded and is responsible for making their own decisions regarding the internal operations, which include staffing and compensation levels. Tarion is currently required through a minister's order to publicly disclose compensation and other payments it provides to directors and certain officers of the corporation on an annual basis and is thus already required to be transparent and accountable in this regard.

Additionally, the amendments proposed in schedules 1, 6, 7, 8 and 9 to the bill would give the responsible minister authority to order most administrative authorities to publicly disclose the compensation and other payments made to its directors, officers and employees on an annual basis.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Mike Schreiner: I'll be supporting this amendment. I've put forward essentially the exact same amendment. To disclose salaries is one thing. To actually give the people of this province confidence that Tarion will not be abused by excessive management salaries is a completely different thing, and that's exactly what this amendment is calling for.

I want to remind the members opposite and remind Ontarians who are tuning in today that the Auditor General's report said that Tarion senior management was rewarded for increasing profits and minimizing financial aid paid to homeowners. Bonuses to senior management totalling 30% to 60% of their annual salaries were based on increasing profits, primarily by restricting warranty payments to homeowners.

We, as a government, have a responsibility to the people of this province to ensure that delegated authorities operate in a responsible way that puts the public interest and, I would highlight, the consumer interest as their top priority. The numbers that Mr. Ferland put forward during his presentation says it all. Tarion paid out almost three times more for their own salaries and benefits than the claims they paid out in 2018. He said the numbers were even worse in 2017. I don't think there's any confidence among the public given those numbers, and I would hope that the members opposite would let the numbers speak for themselves. This is a deeply flawed organization. The people of this province deserve to know that the salaries and bonuses of executives will not take priority over what this organization is supposed to be doing, and that's protecting consumers and coming to their aid and defence when there are major defects in the largest investment most of these people will ever make in their life.

To me, the numbers speak for themselves. I think the people of Ontario deserve to have confidence in us as legislators and Tarion as an organization, that their interests will be protected and that salaries and bonuses will not be where most of the money goes.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I echo the sentiments that were just said by the independent member.

My understanding from the government is that the rationale not to support this motion is, "It's up to Tarion to determine their own salaries and it's not our role to get in there and make modifications around that sort of thing." But ultimately, we're here today because we are about making modifications to Tarion and many elements. I don't believe that a lot of these modifications go far enough, certainly in protecting consumer protection in the way I've outlined at the end of schedule 4.

But we have seen their CEO, at a time when consumers were seeing their lives ruined, being incentivized through the compensation structure of Tarion and how they pay their executives and making almost a million dollars. We heard multiple presenters talk about the salary structure and what was going on with the executives. This is something that I certainly would have thought the government—if any amendment—would have supported here.

This is something that's long overdue, and I'm really hoping that the government members will change their minds and do the right thing here and support this amendment. It's not enough that we show people what the executives are making, but let's take some action and let's pay them responsibly here.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris, and then MPP Glover.

Mr. Mike Harris: With all due respect to the members who have taken part in the debate on this particular motion, my esteemed colleague from Guelph has brought up the years 2017 and 2018. Those would have been the years at the end of the previous Liberal government, leading into the new Progressive Conservative government. There have been great steps taken since 2018. Granted, we did come through and win that election part-way through 2018, so the numbers won't be completely reflective. But 2019 numbers and as we move forward into 2020—I think you'll see a massive shift in what compensation looks like.

One of the first things that the Ministry of Government and Consumer Services did was recommend to Tarion that they reduce salaries and get spending under control, which they have done. I believe now—I can say, "Don't quote me on this," but it's going to be on the record—in some cases it was near 50% in reductions in salaries and bonuses, which is quite substantial in the year and half to two years that we've now been in government. So I would like to just get that on the record.

I'd also like to say that my colleague Mr. Kramp earlier did also mention that by the end of 2020, we will have 76% of the Auditor General's recommendations implemented. So to say that nothing is being done, I don't think that that's fair. We have, again, taken great strides to make the board compensation and executive compensation at Tarion much more reflective of what they should be.

The Chair (Ms. Goldie Ghamari): MPP Glover.

You have to unmute yourself, MPP Glover.

Mr. Chris Glover: Sorry about that. Anyway, thank you for the comments, MPP Harris. I just want to respond to a couple of them. One is, you said that Tarion is not publicly funded, and that's accurate. It's funded by consumers. What we heard very clearly through the deputations was that it's controlled by the builders, and the builders will continue to have a majority of the seats on the board of Tarion. So it's funded by consumers, it's controlled by builders and it's a bloated bureaucracy, to put it bluntly, and we just heard the numbers about the low levels of payout to consumers versus to the people in there.

We have an opportunity here to change the structure of the board so that consumers are represented—so that the consumers who are actually paying for Tarion are represented. We have an opportunity to have Ombudsman oversight. We have an opportunity to create transparency through freedom of information, bringing this into the freedom of information act, and none of those things are being done.

That, I think, is just awful because—and again, I'll say it—in two years or four years or at some point in the not-

too-distant future there's going to be another committee investigating Tarion, and there's going to be another generation of consumers who have been let down and whose life savings invested in their property have been wiped out who will be deputing again. Thank you.

1140

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: Again, with all due respect to the members opposite and MPP Glover, there was a ministerial order that was introduced to Tarion to change their bylaws to reflect that no one group can form a majority on the board, and this was done in November 2019. Tarion has fully complied with that order, which means now that there's one-third representation of ministerial appointments, one-third representation of Tarion appointments and one-third representation of builders' appointments. To say that there's a bias towards builders or that builders control the board—again, since our government has taken leadership of this province, we have done some very good things to already reform the way that Tarion is doing business, and this bill will continue to do that.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Just one comment to the comment that was just made: You don't have to be a licensed builder to sit on a board and essentially bring the interests of builders explicitly and essentially do what they want. So it's not just about having licensed builders on the board; it's about having proper consumer protection represented there. This is something that we've heard from consumer protection advocates, and I don't agree with that statement. That's all.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of—

Mr. Mike Schreiner: Recorded vote, please.

The Chair (Ms. Goldie Ghamari): MPP Schreiner has requested a recorded vote on schedule 5, section 5.

Ayes

Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning to Green motion number 21 with respect to section 5: Who would like to move that? MPP Schreiner?

Mr. Mike Schreiner: Yes. Given that this motion was just voted down, I'll withdraw.

The Chair (Ms. Goldie Ghamari): Green motion number 21 has been withdrawn.

Turning now to Green motion number 22 with respect to section 5: Who would like to move that motion? MPP Schreiner?

Mr. Mike Schreiner: I move that section 5 of schedule 5 to the bill be amended by striking out clause 2.0.1(3)(b) of the Ontario New Home Warranties Plan Act and substituting the following:

“(b) promoting the protection of the public interest by prioritizing consumer protection.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: Again, Chair, I just want to make the point that while I recognize the importance of promoting the public interest in this bill, I think a bill that's on consumer protection to address what has been a failure to protect consumers for a number of years now should be explicit that the priority of the bill is to provide for consumer protection.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Mike Schreiner: A recorded vote, please.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Is there any further debate on schedule 5, section 5? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 5, please raise their hands. All those opposed, please raise their hands. Schedule 5, section 5, is carried.

There are no amendments to sections 6 to 8. Does the committee agree to bundle them? Sorry. We're having some technical difficulties again. Thank you for your patience, committee members, as we try to figure out the technical difficulties here with the Web link on Zoom. Okay. I think we have everyone here again. So we'll now resume.

There are no amendments to sections 6 to 8 of schedule 5. Does the committee agree to bundle them together? Is there any further debate on schedule 5, sections 6 to 8?

Mr. Mike Schreiner: I have a quick question, Chair.

The Chair (Ms. Goldie Ghamari): Yes, MPP Schreiner.

Mr. Mike Schreiner: I want to move a motion to add section 8.1, so I'm assuming that's going to be considered after section 8—

The Chair (Ms. Goldie Ghamari): That would be afterwards. Yes, 8.1 is a separate section.

Mr. Mike Schreiner: Thank you, Chair.

The Chair (Ms. Goldie Ghamari): Is there any further debate on schedule 5, sections 6 to 8? Seeing none, are members prepared to vote? All those in favour of schedule 5, sections 6 to 8, please raise their hands. All those opposed, please raise their hands. I declare sections 6 to 8 of schedule 5 carried.

Turning now to schedule 5, section 8.1, we have Green motion number 23: MPP Schreiner.

Mr. Mike Schreiner: I move that section 8.1 be added to schedule 5 to the bill:

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

“Conflict of interest

“2.3.1(1) No person may serve as a member on the board if, at the time of appointment, they would have a real or apparent conflict of interest, as defined in the regulations.

“Regulations

“(2) The Lieutenant Governor in Council may make regulations defining real or apparent conflicts of interest for the purposes of subsection (1).”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: As per our earlier conversation, I just think that keeping in line, particularly with the comments from Justice Cunningham’s report outlining how problematic it is to have conflicts of interest on the board—I just think it’s important for the credibility of the organization that we ensure that there are no conflicts of interest. So here’s another opportunity for the government to move on that. I hope that they’ll be supporting this amendment, as well as the official opposition.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: We’ll be supporting this amendment. Again, just like the previous amendment before it, I think it’s very important to explicitly state consumer protection. If that is the interest of what we are doing today, then why not explicitly state it? It is an important message for the board and all of Tarion to understand what their priority is. Thank you.

1150

The Chair (Ms. Goldie Ghamari): Further debate? MPP Bailey?

You’ll have to unmute yourself, MPP Bailey.

Mr. Robert Bailey: Can you hear me now, Chair?

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Robert Bailey: Hello?

The Chair (Ms. Goldie Ghamari): Yes, we can hear you now.

Mr. Robert Bailey: Hello?

The Chair (Ms. Goldie Ghamari): Hello, MPP Bailey. We can hear you.

Mr. Robert Bailey: Oh, thank you. I pushed the wrong button there. I’d like to speak on the reasons, on the record, why the government will be opposing this motion. There are two or three reasons. The amendment would be difficult to enforce and would not address the conflicts of interest that could arise after board members are appointed or elected.

Another unintended consequence of this motion would be that consumers who are homeowners themselves may be prohibited from serving on the Tarion board because they could possibly be perceived of having a conflict of interest by being a homeowner. Also, the administrative agreement by Tarion which would be required to enter into, the minister is intending to include a code of conduct that would apply to all members of the board that would address any conflicts of interest, those that might arise

from any board member, whether they’re appointed or elected. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate?

Seeing none, are members—

Mr. Mike Schreiner: I’d ask for a recorded vote, please, Chair.

The Chair (Ms. Goldie Ghamari): MPP Schreiner has requested a recorded vote on Green motion number 23, section 8.1.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

There are no amendments to schedule 5, sections 9 and 10. Does the committee agree to bundle them together? Is there any further debate on schedule 5, sections 9 or 10? Are the members prepared to vote?

All those in favour of schedule 5, sections 9 and 10, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, sections 9 and 10, carried.

Turning now to schedule 5, section 11: We have NDP motion number 24 with respect to section 11. Who would like to move that motion? MPP Rakocevic.

Mr. Tom Rakocevic: Thank you, Chair. I move that section 11 of schedule 5 to the bill be struck out and the following substituted:

“11. Subsections 5.1(1) to (4) of the act are repealed and the following substituted:

“Administrator

“(1) The minister shall, as soon as possible after section 11 of schedule 5 to the Rebuilding Consumer Confidence Act, 2019 comes into force, appoint an individual as an administrator of the corporation for the purposes of assuming control of it and responsibility for its activities.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Thank you, Chair. Let’s face it, the people who have spoken, the consumer advocates who have spoken in hearings throughout this bill don’t have confidence that Tarion can fix itself. Tarion has existed for decades and for us to simply believe that’s just going to happen now—they already had the benefit of Justice Cunningham’s recommendations prior to the AG’s recommendations. This is the simplest way to ensure that if we’re looking for change and we want to implement what the AG and others have asked for to improve this, just put in an administrator there and make all the fixes. Don’t leave it up to them, and if they make mistakes again, you go back into the circle if they haven’t implemented it and now you’re asking them again to go back and fix it. You can appoint an administrator. You can fix things today.

Time is really important, and it is of the essence because the longer it takes to get things right—there are people today, as we’re speaking, who are purchasing new homes and who are at risk of facing serious defects and not having their warranties covered. I think we’re covering all bases here, and let’s bring in an administrator.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: Thank you, Madam Chair. You know what? That’s exactly what we are doing. We are fixing things. Like I said, since our government took power part-way through 2018, we’ve made some significant strides in regard to compensation and board structure. Those were some of the immediate concerns that a lot of people had raised. Bill 159 is going to continue down that path.

In regard to what Tarion is doing, like we’ve said repeatedly, by the end of 2020 they’ll already have 76% of the Auditor General’s recommendations implemented. They are working with our government. They are working with our minister, who already has the ability to appoint an administrator, if it is deemed absolutely necessary. We’re confident that that isn’t the case yet because they are working toward an end goal of becoming compliant with the 37 recommendations and, like I’ve said, Bill 159 is going to advance that.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner?

Mr. Mike Schreiner: I put forward the exact same amendment. While I appreciate that in the current legislation the government does have the opportunity to appoint an administrator, the bottom line is Tarion has had decades to fix itself. It has had numerous reports to fix itself, Justice Cunningham’s report in 2017 being the one that should have just really set all alarm bells off and should have had the previous government acting immediately to fix it. Unfortunately, they did not do that.

While I recognize the current government has made a few steps forward, every consumer advocate as well as aggrieved homebuyer who has come to committee, and those outside committee who didn’t have the opportunity to present to committee, has talked about what a deeply flawed organization Tarion is, the fact that it needs a complete and systemic overhaul is absolutely critical, and the fact that this legislation really doesn’t move to the competitive model that the current government members supported when they were in opposition but don’t now.

At the very least, let’s give consumers the confidence that the tough talk that we’ve heard from the minister and members opposite is actually going to be delivered, because I don’t think what we have time for is for Tarion to say it’s going to fix itself and to take a few steps forward and a couple of steps back here and there, and leave consumers waiting for the fix to happen. Let’s back up the tough talk, let’s get an administrator in there and let’s ensure that the fixes the government says they want and the opposition, whether independent or official, say we want—let’s just get it done, for the sake of the people who have suffered under a deeply flawed organization. Here’s an opportunity to back that tough talk up.

The Chair (Ms. Goldie Ghamari): Further debate, or are the members prepared to vote? All right. All those in favour of NDP motion number 24 with respect to section 11—

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare NDP motion number 24 lost.

At this point, seeing that it’s just a few seconds from noon, the committee will now recess, and we will resume at 1 p.m. sharp. Thank you, everyone.

The committee recessed from 1159 to 1300.

The Chair (Ms. Goldie Ghamari): Good afternoon, everyone. The Standing Committee on General Government will now resume. We’re meeting today to go over clause-by-clause for Bill 159, An Act to amend various statutes in respect of consumer protection.

We’re currently on schedule 5, section 11, and we have Green motion number 25 with respect to section 11. Who would like to move that motion? MPP Schreiner.

Mr. Mike Schreiner: It is similar to the motion that was defeated prior to us taking a break, so I will withdraw.

The Chair (Ms. Goldie Ghamari): Okay. Withdrawn.

Is there further debate on schedule 5, section 11? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 11, please raise their hands. All those opposed, please raise their hands. Schedule 5, section 11, is carried.

Turning now to schedule 5, section 11.1: This is NDP motion number 26. Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 5 to the bill be amended by adding the following section:

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

“Application of the Ombudsman Act

“5.3.1 The corporation is deemed to be a governmental organization for the purposes of the Ombudsman Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic—oh, my apologies. Committee members, on NDP motion number 26, schedule 5 of Ontario New Home Warranties Plan Act, this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: Chair, I’m seeking unanimous consent to move it.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent to move the motion? Agreed. Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I acknowledge and appreciate the unanimous consent to allow this amendment to be heard. I've spoken about it earlier this morning: Accountability, oversight and transparency are very important. Allowing the Ombudsman to have oversight here will improve oversight, something that's certainly needed. This is something that consumer advocates have been calling for. I think, overall, this will strengthen the legislation. I hope that we will pursue this.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I'm assuming the government will raise concerns around the need to look at how the Ombuds Act applies to a variety of delegated authorities, boards, commissions etc. But I think in this particular case, having the Ombuds Act is not only important from an oversight standpoint, but also from a standpoint of consumers having a place to go.

One of the things I find, particularly when you have an organization within government that is operating in ways that do not put the public interests and, particularly in this case, the consumer interests first, is people feel like they don't have a place to go to complain and, if those complaints reach a certain threshold, have an investigation to address those complaints. That's the really vital role the Ombuds plays.

Given the history we have here with Tarion, I think that having Ombuds oversight and a place for people to go to be heard and for an investigation to take place, if they believe their interests are not being met or being served properly, is appropriate. I'll be supporting this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 5, section 11.2, NDP motion number 27: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: Thank you again, Chair. I move that schedule 5 to the bill be amended by adding the following section:

"11.2 The act is amended by adding the following section:

""Application of FIPPA

"5.3.2 The corporation is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and the chair of its board is deemed to be its head."

The Chair (Ms. Goldie Ghamari): Further debate? Committee members: On NDP motion number 27, schedule 5, Ontario New Home Warranties Plan Act, this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: Chair, I'm seeking unanimous consent.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent from the committee? There's no unanimous consent.

There are no amendments to sections 12 to 17 of schedule 5. Does the committee agree to bundle them together? Is there any further debate on schedule 5, sections 12 to 17? Seeing none, are members prepared to vote? All those in favour of sections 12 to 17 of schedule 5 please raise their hands.

All those opposed, please raise their hands.

I declare schedule 5, sections 12 to 17, carried.

Turning now to schedule 5, section 18: Amendments—

Mr. Chris Glover: Madam Chair?

The Chair (Ms. Goldie Ghamari): Yes, MPP Glover?

Mr. Chris Glover: I'd just like to make a request. On the shared screen, we've got the motions, but they're not always keeping pace with where we're at. It would be helpful if pace were kept; it's just easier to keep track of which motion we're on. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you. Can we just make sure? All right. We've let the admin clerks know.

Turning now to schedule 5—

Interjection.

The Chair (Ms. Goldie Ghamari): MPP Sabawy?

Mr. Sheref Sabawy: We didn't vote on section 11, Madam Chair.

The Chair (Ms. Goldie Ghamari): Yes, we did.

Mr. Sheref Sabawy: Okay. Sorry. I thought we talked about the motion but we didn't vote on the section overall. Sorry about that.

Interjection.

The Chair (Ms. Goldie Ghamari): Section 11 was carried. The two proposed amendments to 11.1 and 11.2 were lost, and those were voted on.

Mr. Sheref Sabawy: Yes.

The Chair (Ms. Goldie Ghamari): So section 11 has already been voted on and has carried.

Mr. Sheref Sabawy: Okay.

The Chair (Ms. Goldie Ghamari): We'll now turn to schedule 5, section 18, government motion number 28: MPP Bailey. You'll have to unmute your mike.

Mr. Robert Bailey: Madam Chair?

The Chair (Ms. Goldie Ghamari): Yes, I can hear you now.

Mr. Robert Bailey: Madam Chair?

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Robert Bailey: Thank you. Sorry about that. I move that section 18 of schedule 5 to the bill be amended by striking out “A builder of a home may apply” at the beginning of subsection 10.3(2) of the Ontario New Home Warranties Plan Act and substituting “A builder of a home or a prescribed person may apply”.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 28, section 18, please raise their hands.

All those opposed, please raise their hands. I declare the motion carried.

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Turning now to government motion number 29, section 18: Who would like to move that motion? MPP Bailey.

Mr. Robert Bailey: Thank you, Madam Chair. Can you hear me?

The Chair (Ms. Goldie Ghamari): Yes. MPP Bailey, before you continue—

Mr. Robert Bailey: Yes?

The Chair (Ms. Goldie Ghamari):—on government motion numbers 29, 30 and 31 of section 18, schedule 5, Ontario New Home Warranties Plan Act, amendments 29, 30 and 31 are dependent on amendment number 44. I will need unanimous consent to stand down consideration of section 18 of schedule 5. Once we have considered amendment number 44 and section 29, we can go back to section 18. Do we have unanimous consent? Agreed.

Mr. Robert Bailey: Madam Chair, we’re going to 44 now?

The Chair (Ms. Goldie Ghamari): No. We are now going to section 19, but once we’re done 44, then we can go back to 18, if the amendments are carried.

So we’ll turn now to schedule 5, section 19. Is there any further debate? Seeing none, are members prepared to vote?

Mr. Mike Harris: Sorry, Madam Chair?

The Chair (Ms. Goldie Ghamari): Yes?

Mr. Mike Harris: Schedule—

The Chair (Ms. Goldie Ghamari): Schedule 5, section 19.

Mr. Mike Harris: Schedule 5? Is that what we’re on right now?

The Chair (Ms. Goldie Ghamari): Yes.

All right, schedule 5, section 19: Is there further debate? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 19, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, section 19, carried.

Turning now to schedule 5, section 20, we have government motion number 32, with respect to section 20(1). Who would like to move that? MPP Kramp.

Mr. Daryl Kramp: I move that section 20 of schedule 5 to the bill be amended by adding the following subsection:

“(1) Section 14 of the act is amended by adding the following subsections:

“Timelines and procedures for claims

“(5.0.1) The timelines and procedures associated with claims for compensation from the guarantee fund may be prescribed by regulation made by the Lieutenant Governor in Council.

“Conflict

“(5.0.2) In the event of a conflict, a regulation made by the Lieutenant Governor in Council for the purposes of subsection (5.0.1) prevails over a bylaw of the corporation passed under section 23.”

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? Seeing none, are members prepared to vote? MPP Kramp.

Mr. Daryl Kramp: Yes. The only reason I would like to make a couple of points here, I think, is in consideration not only for where we’re at with this, but hopefully moving forward. This bill, quite frankly, has an impact on other motions coming forward in this; I think it’s 35, 36, 37 and 38 by the opposition. I would ask them to consider passing this, and back to your point, have a look at their motions, because I do believe this will not only supersede but perhaps improve their motions.

The committee—I think we all heard and acknowledge that Tarion was literally a disaster. It was a real problem, undeniably. Witness upon witness, whether they were pro or for, were not exactly—there weren’t terms of endearment for Tarion. Subsequently, the Auditor General’s and Justice Cunningham’s reports were very, very clear as well, and they were unabashed in their criticism.

We made a commitment as a government when we came in, because of course, this was established under the previous government and things had to change. We had to better protect new home buyers in this province. Already now, with this bill, what we have before us and proposed, 29 of the 32 recommendations from the Auditor General will be enacted and 32 out of the 37 from Chief Justice Cunningham will be addressed in Bill 159, and of course what is not in that can be addressed in regulations.

We have heard, we have listened, and I would certainly suggest that this motion is very, very important to take into context, not just for this year but for the subsequent ones, because this motion, what it basically does is, it enhances the previous motions by the NDP and supported by the Green member on that as well. We listened, and that’s where I guess you would call it collaboration did come into this process. This was, of course, previously referenced in motion 23 and dealt with in the Auditor General’s recommendation at that point, and of course that was due to the time for submitting a claim. But the previous motions did not address issues such as the timing at which, as an example, a builder has to address the repair.

This motion would permit regulations that could make timelines less restrictive for a new home buyer to submit claims to Tarion for assistance with defects. It also makes deadlines less restrictive to request that Tarion inspect homes for defects and also permit consumers to update their listing of defects once they have already submitted

the claim to Tarion, and of course subsequently then reduce the amount of time builders have to repair those defects.

I'm hoping my colleagues across the committee here will recognize the input that has been received by one and all and accepted by the government and be supportive of this bill. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I appreciate what was said by the government member. I think we've had enough time with this bill to be more prescriptive. A lot of what we're being asked to support are things that will be determined during regulations after this bill is in the rear-view mirror, and I think there has been a missed opportunity for a lot of prescriptive explanation of what the government is in fact looking for.

What's being asked of the opposition, as well as stakeholders out there, is to just, "Trust us. We'll get this right" after the bill has been passed, and I certainly think there has been enough time to be able to say things like getting rid of the 30-day windows, all of these things—if this is the intention of what the government is willing to do at regulations, I don't know why it's not just simply stated at this period of the bill. The government has been in power for two years. They've moved quickly on other items and other priorities, and I'm not sure why so much of the bill is being left up to regulations and for Tarion to just simply fix itself.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I do thank MPP Kramp for the spirit of his amendment and the collaborative nature of needing to listen to people in this regard, but I do have some concerns leaving it completely to regulation and not having an elimination of the 30-day window explicit in the legislation, though I can and will say that an order in council can override any of the bylaws of the corporation, which certainly is a step forward. But I want to remind everyone that 9,700 people—families, consumers—were denied Tarion assistance in only four years, between 2014 and 2018, because they failed to submit their forms within the two 30-day periods allowed by Tarion. The Auditor General recommended that we eliminate those windows, so there will be subsequent amendments put forward to just eliminate those types of windows so people can submit applications. I think this amendment is better than the status quo—absolutely—but I'm just curious why the government would not want it to be explicit in legislation and would prefer to leave it to regulation.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Kramp.

Mr. Daryl Kramp: I think we all should recognize as well that any regulations would definitely override any bylaws that Tarion made on the same subject and they could change. So the government has a responsibility and also has the levers to be able to effect changes if it's not going in the right direction.

1320

I guess this is what I'd call a great move forward, but it's like anything else: We need to be vigilant and ensure that this legislation is going to follow through with the benefits that we all believe it will. Intent alone is not good enough; the results have to be there. That's why we're a watchful government now, rather than what went on for the last 15 years prior to us.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion 32, section 20(1), please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Turning now to government motion number 33, subsection 20(2): Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that section 20 of schedule 5 to the bill be amended by adding the following subsection:

"(2) Section 14 of the act is amended by adding the following subsection:

"Delayed occupancy or closing

"(5.0.3) Subject to the regulations, a person who has entered into an agreement to purchase a home from a vendor or is entitled to receive payment out of the guarantee fund for a delay in,

"(a) occupancy of the new home, as determined by the regulations; or

"(b) closing the agreement of purchase and sale, as determined by the regulations."

The Chair (Ms. Goldie Ghamari): Sorry, MPP Harris, to interrupt. Can we make sure that the proper motion is on the screen? Thank you. Sorry.

Mr. Mike Harris: No problem.

The Chair (Ms. Goldie Ghamari): Okay. You may continue.

Mr. Mike Harris: That was it.

The Chair (Ms. Goldie Ghamari): Did you read the whole thing, (a) and (b)?

Mr. Mike Harris: Yes.

The Chair (Ms. Goldie Ghamari): Okay. Is there further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 33, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Turning now to NDP motion number 34, section 20: Who would like to move that motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 20 of schedule 5 to the bill be amended by adding the following subsection to section 14 of the Ontario New Home Warranties Plan Act:

"Unfinished work, when warranties take effect

"(10.1) Despite subsection (3), if the vendor of a home delivers to an owner a certificate specifying the date upon which the home is completed for the owner's possession and any work is unfinished on that date, the warranties under subsection (1) take effect in respect each item of unfinished work on the day the work is finished."

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Again, this speaks to being very prescriptive in the legislation and to give assurances to consumers that we are laying out for them exactly what the new system is going to look like and not leave it to be determined at a later point once the bill has passed or not passed—well, I guess passed in this case, if it is to happen at all. What happens right now is that sometimes the one-year warranty will begin even before possession is taken of the home, in many cases when the home isn't even habitable.

There are many instances where I think it requires prescriptive legislation to say, "Let's protect homeowners and let's ensure we get when the warranty begins right." I think we could define it in a very simple way for home purchasers. It is something that we have discussed with consumer advocates, and they seem to be in agreement. I hope the government will support this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: I'd like to just quickly say that motion 41, which the government will be presenting in a little bit here, will more effectively deal with some of the concerns that have been laid out in Mr. Rakocevic's motion.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour—

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 35, with respect to section 20: Who would like to move that motion? MPP Rakocevic?

Mr. Tom Rakocevic: Thank you, Chair. I move that section 20 of schedule 5 to the bill be amended by adding the following subsection to section 14 of the Ontario New Home Warranties Plan Act:

"Submission of claims

"(10.2) An owner may submit a claim to the corporation at any time during the applicable warranty period and may submit one or more updates setting out unresolved defects to the corporation at any time during the applicable warranty period."

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic?

Mr. Tom Rakocevic: Thank you. Our earlier NDP amendment spoke to AG recommendation 5. This one speaks to AG recommendation 6. This was mentioned earlier by a colleague, that almost 10,000 claims were rejected just because they weren't able to meet specific deadlines that are challenging—in a very complimentary

language, at best—in terms of describing what homeowners are put through to be able to submit first-year warranty claims. This is plain language. This is to simply get rid of these windows. It comes directly from the Auditor General's recommendations. It is what consumers have been asking for throughout the hearings. It's very simple. It's prescriptive. It tells people out there what this legislation is going to do and how it's going to protect them. I'm hoping that the government will support this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: Thank you, Chair. I submitted a very similar—the exact same amendment, actually. I just want to say how important this is, and I know I've already spoken about the Auditor General's reports and the number of claims denied.

But if any insurance company, or any company, period, operated with the arcane windows that Tarion did as a way to deny legitimate claims against people's warranties, people would be screaming for government to come in and regulate this company, or people would be screaming to boycott and not be a part of this company in any way. So it's understandable why so many consumer advocates are just infuriated by the arbitrary and onerous deadlines that Tarion has operated under in terms of warranty claims.

Having an amendment like this that just clarifies it in a prescriptive way, in a way that protects consumers to be able to issue warranty claims that they have paid for, and deserve access to justice—to me, it just makes absolute sense, so I'm going to be voting in favour of this amendment and I would encourage other members as well.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Kramp.

Interjection.

The Chair (Ms. Goldie Ghamari): You'll have to unmute your mike, MPP Kramp.

Mr. Daryl Kramp: This refers, of course, to a previous comment by my colleague Mr. Harris, when he suggested that in motion number 41, building upon, improving and bringing closure to a number of the issues that remain [*inaudible*] in these issues. So, I just ask my opposition colleagues to take a look at 41 as well because obviously the intention is to provide significantly more flexibility into other warranties. It could be extended because right now, of course, Tarion has just had a garrotte or a natural chokehold around the thresholds. This would be dramatically improved by the orders in council. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Again, I don't see what the issue is with being explicit here. I am sure every single person in this committee, and everybody on all sides—each elected MPP—would agree that we should do away with these windows. I think even simply mentioning this in the legislation up front, rather than later, is something that would bring comfort to new home purchasers. But the ball's in your court.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.
1330

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to Green motion 36 with respect to section 20: MPP Schreiner, would you like to move your motion?

Mr. Mike Schreiner: Since we just voted on the same motion, I'll withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

NDP motion number 37 with respect to section 20: MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 20 of schedule 5 to the bill be amended by adding the following subsections to section 14 of the Ontario New Home Warranties Plan Act:

“Timeline for dealing with claims

“(11.1) The corporation shall set a fair and reasonable timeline for making a decision in respect of a claim.

“Same

“(11.2) The corporation shall promptly notify the claimant of the timeline set in respect of a claim and, in the event of a delay in meeting the set timeline, the corporation shall inform the claimant in writing of the reasons for the delay.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Again, this is another NDP amendment that takes directly from the Auditor General's excellent recommendations, and this is recommendation 7. It speaks to setting fair and reasonable timelines for dealing with homebuyer claims and it requires Tarion to have to provide explanations for the reasons for their delays. Again, this is something that consumers support. It will improve the legislation. I'm hoping that the government members will support this and not leave stuff like this—important things that we could deal with in the front end—to be dealt with in regulations, where we don't know what will happen.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Kramp.

Mr. Daryl Kramp: I will vote against this motion. Once again, we've already previously dealt with this in motion 32. I believe this is unnecessary because motion 32 gives the government the authority and the capacity to override Tarion's bylaws to address procedure and timelines. This, of course, deals with only part of the Auditor General's recommendation, which was the time frame in which homeowners may make a claim. But that wasn't good enough because it failed to recognize a range of other important matters, such as the amount of time that builders

have to repair defects over the period of time during which homeowners may request that Tarion conduct an inspection. So that's why we thought motion 32 was more comprehensive, and so this is unnecessary. Thank you, though. We still agree with the spirit of this bill.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

Mr. Mike Schreiner: I'll be voting in favour of this motion. I just want to say, with all due respect to my colleague, I certainly appreciate the government's desire to bring in regulations that address some of the concerns that have been brought forward by the official opposition and the Green independent over here. I would feel more comfortable if some of these changes were prescriptive in the legislation because there could be a future government that comes in and, without having to come to the Legislature for any changes, could make changes to the regulations, weakening some of these provisions that we would like to see in legislation to protect consumers. If it is in legislation, it's more likely to stand the test of time.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Harris, Hogarth, Kramp, Sabawy, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to Green motion number 38 with respect to section 20: MPP Schreiner, would you like to move that motion?

Mr. Mike Schreiner: I'll withdraw, Chair.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Is there any further debate on schedule 5, section 20, as amended? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 20, as amended, please raise their hands. All those opposed? Schedule 5, section 20, as amended, is carried.

Turning now to schedule 5, section 21: Is there any debate? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 21, please raise their hands. All those opposed, please raise their hands. Schedule 5, section 21, is carried.

Turning now to schedule 5, section 22, we have government motion number 39, with respect to section 22. Who would like to move that? MPP Harris?

Mr. Mike Harris: No, MPP Kramp.

The Chair (Ms. Goldie Ghamari): MPP Kramp? You'll have to unmute your mike. Thank you.

Mr. Daryl Kramp: I'm just trying to find my page. Thank you.

I move that section 22 of schedule 5 to the bill be struck out and the following substituted:

“22. Section 15.1 of the act is repealed and the following substituted:

“Liability of vendor

“15.1 For the purposes of sections 13 and 14, a person shall be deemed to be a vendor of a home if the following conditions apply, even if another person sells the home to an owner or completes a transaction to sell the home to an owner:

“1. The person at any time has registered as a vendor under this act with respect to the home or at any time has been licensed as a vendor under the New Home Construction Licensing Act, 2017 with respect to the home.

“2. The registrar has confirmed that the home qualifies for enrolment in the plan or that the home has been enrolled in the plan, or the builder of the home has complied with section 12, as it read before it was repealed, as the case may be.

“3. The builder of the home has substantially completed the construction of the home.”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 39, with respect to section 22, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Shall schedule 5, section 22, as amended, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. Schedule 5, section 22, as amended, is carried.

There are no amendments to schedule 5, sections 23 to 27.1. Does the committee agree to bundle them together? Agreed. Is there any debate on schedule 5, sections 23 to 27.1? Seeing none, are members prepared to vote? All those in favour of schedule 5, sections 23 to 27.1, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, sections 23 to 27.1, carried.

Turning now to schedule 5, section 28, we have government motion number 40, with respect to subsection 28(1). Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that subsection 28(1) of schedule 5 to the bill be amended by striking out “(b.2) and (b.3)” at the end of clause 22.1(i) of the Ontario New Home Warranties Plan Act and substituting “(b.2), (b.3) and (b.4)”.

The Chair (Ms. Goldie Ghamari): On government motion number 40, subsection 28(1) of schedule 5 of the Ontario New Home Warranties Plan Act, amendment number 40 is dependent on amendment number 44. I will need unanimous consent to stand down consideration of amendment 40. Once we have considered amendment 44 and section 29, you will recall that we can go back to section 18 and then to section 28. Do we have unanimous consent? Okay.

We will now turn to government motion number 41, with respect to subsection 28(1). Who would like to move that motion? MPP Kramp.

You’ll have to unmute your mike, MPP Kramp.

1340

Mr. Daryl Kramp: I move that subsection 28(1) of schedule 5 to the bill be amended by adding the following

clause to section 22.1 of the Ontario New Home Warranties Plan Act:

“(i.1) extending the time of expiration of a warranty provided for under subsection 13(1) in respect of an item that remains unfinished after the date specified in the certificate under subsection 13(3);”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 41, with respect to section 28(1), please raise your hands. All those opposed, please raise your hands. I declare the motion carried.

Turning now to government motion number 42, section 28(1): Who would like to move government motion number 42? MPP Sabawy?

Mr. Sheref Sabawy: Can you hear me?

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Sheref Sabawy: I move that subsection 28(1) of schedule 5 to the bill be amended by adding the following clause to section 22.1 of the Ontario New Home Warranties Plan Act:

“(j.1) governing the timelines and procedures associated with claims for compensation from the guarantee fund under subsection 14(5.0.1), including any steps to be taken by the claimant, the registrant under this act, the licensee under the New Home Construction Licensing Act, 2017 or the corporation before a payment out of the guarantee fund is made;”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Sabawy?

Mr. Sheref Sabawy: If this motion is carried, the timelines and procedures associated with the consumer claims for compensation from Tarion Warranty Corp. would be made subject to regulations. This will explicitly provide the authority to make those regulations to the Lieutenant General in Council. We would like further to clarify the authority to be made in regulations already provided in Bill 159.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 42, with respect to section 28(1), please raise your hands. All those opposed, please raise your hands. I declare the motion carried.

Turning now to government motion number 43, with respect to section 28(1): MPP Sabawy. You have to unmute yourself, MPP Sabawy.

Mr. Sheref Sabawy: Sorry. Can you hear me?

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Sheref Sabawy: I move that subsection 28(1) of schedule 5 to the bill be amended by adding the following clauses to section 22.1 of the Ontario New Home Warranties Plan Act:

“(x) governing the right of recovery of the corporation in respect of payments made out of the guarantee fund, costs incurred relating to a claim, administration fees, penalties and interest, and prescribing that such a regulation prevails over a bylaw made by the corporation;

“(y) prescribing the circumstances in which a person is required to indemnify the corporation, and prescribing that such a regulation prevails over a bylaw made by the corporation;

“(z) prescribing the circumstances in which a person is required to reimburse the guarantee fund in respect of a payment out of the guarantee fund of a claim, or the value of services provided by the corporation in respect of the claim, and the circumstances in which a person is required to pay administration fees, penalties and interest in respect of any payment or services rendered, prescribing rules respecting the time and manner” of “the reimbursement or the payment of such amounts”—

The Chair (Ms. Goldie Ghamari): Sorry, MPP Sabawy. I think that was a misspoken word. Could you please start again from “prescribing rules respecting”?

Mr. Sheref Sabawy: Rules?

The Chair (Ms. Goldie Ghamari): The third line from the bottom. Can you just please restart from there?

Mr. Sheref Sabawy: Yes: “prescribing rules respecting the time and manner” of “the reimbursement”—

The Chair (Ms. Goldie Ghamari): Sorry, again, that’s not what the motion states. Can you please read what’s written in the motion itself?

Mr. Sheref Sabawy: Are you referring to the word reimbursement—

The Chair (Ms. Goldie Ghamari): I’m referring to the word “for”—the “time and manner ‘for’ the reimbursement.” That’s what the motion says, so I would like you to just—

Mr. Sheref Sabawy: Oh, sorry.

The Chair (Ms. Goldie Ghamari): —start again from the third line from the bottom. Thank you.

Mr. Sheref Sabawy: —“prescribing rules respecting the time and manner for the reimbursement or the payment of such amounts, and prescribing that such a regulation prevails over a bylaw made by the corporation.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: I’m just curious. Does this pertain to seeking recovery funds from builders or vendors that, I guess, have been deemed to not honour their warranty? Is that what’s going on here? Could someone provide some clarification on that?

The Chair (Ms. Goldie Ghamari): Do we have ministry staff on the call who could possibly answer this question? MPP Harris?

Mr. Mike Harris: So this motion—

Mr. Matthew Hellin: Yes, I can speak to that if you would like.

Mr. Mike Harris: That’s fine.

Mr. Matthew Hellin: Matthew Hellin, MGCS.

The Chair (Ms. Goldie Ghamari): Sorry, who is that? Can you please state your name for the record?

Mr. Matthew Hellin: Yes, it’s Matthew Hellin, MGCS. That’s the Ministry of Government and Consumer Services.

The Chair (Ms. Goldie Ghamari): Thank you.

Mr. Matthew Hellin: I would like to clarify what’s being proposed here with the proposed clause (z) of this. It is essentially what the member just mentioned, which is to enable Tarion to require reimbursement from builders or vendors for any claims that Tarion needs to make out of

the guarantee fund, where the builder fails to do that. That’s the essence of this.

The Chair (Ms. Goldie Ghamari): Thank you.

Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Okay. From that perspective, it is supportable in the sense that when you looked at the Auditor General’s report, builders were essentially—in my opinion—being subsidized by Tarion because when Tarion actually stepped in to pay for issues with homes, they were unable, for the most part, to re-collect the money back from builders.

I guess my question then is, why not again be prescriptive here? Why leave this to regulations? Why not simply state it in the existing legislation? Why deal with it in the back end? Is there any comment on that?

The Chair (Ms. Goldie Ghamari): Further debate? MPP Sabawy.

Mr. Sheref Sabawy: I support this motion because this motion actually enables Tarion to recover the funds for any service or warranty and allows that to be reimbursed by the vendor or the builder. At the same time, as you can see, it’s actually enforcing that Tarion will be able to recover those vendors—irrelevant to any regulations made by the corporation. So, basically, even if there are any bylaws done, this will enforce Bill 159 to be able to recover that cost from the builders.

1350

The Chair (Ms. Goldie Ghamari): Further debate? MPP Glover? You have to unmute yourself, MPP Glover. There we go.

Mr. Chris Glover: Sorry. I keep forgetting about that change now.

Just for further clarification, because I was thinking about this too around amendment 33 that came up earlier, this says that the corporation will be able to collect from the builders any warranty payments that they made to consumers, but the majority of the money that Tarion collects is from consumers. When you buy a home, you have to pay into the Tarion warranty; you have to buy that Tarion warranty.

I guess my first question would be, how much has Tarion collected from builders in order to pay for warranties? And why doesn’t this say the corporation “shall” collect from builders? Because otherwise, if the money is actually paid out from the consumer fund, then it’s consumers subsidizing developers. Those are my two questions: One is, how much has Tarion in the past collected from builders? And why doesn’t this say “shall” collect rather than “will be able to?”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: Just earlier, as well, to add to what the government member had said—again, Tarion is supposed to be able to recollect the money anyways from the builders when they’re forced to pay out warranties. This already exists, so why not just simply state it very explicitly in the front end of this? That’s my only comment.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Chris Glover: I'll just add to that. I think what this looks like is that consumers are going to have to pay for other consumers' warranties. It's really a method for the developers and Tarion, with this legislation, and it's not changing it—the developers are able to externalize the cost for their own defects and time delays into a consumer-generated fund. Anyways, I'm sure we'll have more discussion about this in the Legislature.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Mike Harris: Just to clear things up a little bit in regards to what this motion accomplishes. It would improve Tarion's ability to recover funds that are ordered by the LAT from builders and vendors. It doesn't necessarily have anything to do with the consumer. So I hope that that clears things up a little bit for those who had some questions.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 43, with respect to section 28(1), please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

At this point, we have a new member who has joined us, so I just have to confirm. MPP Toby Barrett, can you please confirm that you are MPP Barrett and that you are present?

Mr. Toby Barrett: Good afternoon, everybody. Toby Barrett, MPP of Haldimand–Norfolk, Ontario.

The Chair (Ms. Goldie Ghamari): Thank you. MPP Barrett, can you confirm where in Ontario you're joining us from?

Mr. Toby Barrett: Port Dover.

The Chair (Ms. Goldie Ghamari): Thank you. We'll now continue. At this point, we will stand down schedule 5, section 28, as amended, until we deal with the upcoming motions, and then we'll come back to this afterwards.

We'll now turn to schedule 5, section 29, government motion number 44, with respect to section 29(1). Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that subsection 18 of schedule 5 to the bill be amended by adding—

Interjection.

Mr. Mike Harris: Am I in the right place? Motion 29?

The Chair (Ms. Goldie Ghamari): No, we're on government motion number 44.

Mr. Mike Harris: Oh, I thought you said we were going back. Apologies.

The Chair (Ms. Goldie Ghamari): No, afterwards. We still have to deal with this section. MPP Wai? Please unmute your mike, MPP Wai. You're muted still.

Mrs. Daisy Wai: Okay. Is it unmuted now?

The Chair (Ms. Goldie Ghamari): Yes. Now we can hear you.

Mrs. Daisy Wai: Good. Madam Chair, I would like to put forward motion 44, schedule 5.

I move that subsection 29(1) of schedule 5 to the bill be amended by adding the following clause to subsection 23(1) of the Ontario New Home Warranties Plan Act:

“(b.4) subject to the approval of the minister, prescribing conditions for the purposes of subsection 10.3(4.1);”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour, please raise your hands. All those opposed, please raise your hands. I declare government motion number 44 carried.

Turning now to government motion number 45: Who would like to move this motion? MPP Wai.

Mrs. Daisy Wai: I move that subsection 29(2) of schedule 5 to the bill be amended by striking out “22.1(s)” and substituting “22.1(j.1) or (s)”.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion 45 with respect to section 29(2), please raise your hands. All those opposed, please raise your hands. I declare the motion carried.

Turning now to government motion number 46 with respect to section 29: Who would like to move this motion? MPP Hogarth.

Ms. Christine Hogarth: I move that section 29 of schedule 5 to the bill be amended by adding the following subsections:

“(2.1) Clause 23(1)(j) of the act is amended by striking out ‘subject to the approval of the minister, specifying’ at the beginning and substituting ‘subject to a regulation described in clause 22.1(i.1) and to the approval of the minister, specifying’.

“(2.2) Subsection 23(1) of the act is amended by adding the following clause:

“(k.1) Subject to the approval of the minister, providing that, despite clause 13(2)(b), a warranty under subsection 13(1) applies to secondary damage or other damages, losses or expenses that relate in any way to the defect, such as relocation costs and costs associated with advancing a claim, and governing in what circumstances the warranty applies and to what extent;”

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 46, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Turning now to government motion number 47 with respect to section 29: Who would like to move this motion? MPP Hogarth.

Ms. Christine Hogarth: I move that section 29 of schedule 5 to the bill be amended by adding the following subsection:

“(4) Subsection 23(1) of the act is amended by adding the following clause:

“(m.4) subject to the approval of the minister, governing agreements that a vendor enters into with a purchaser, including,

“(i) deeming certain terms or conditions to be included in the agreements,

“(ii) requiring the parties to each agree to include certain specified terms or conditions,

“(iii) prohibiting the agreements from” excluding “certain terms or conditions specified in the regulations, and

“(iv) specifying remedies for the purchaser resulting from non-compliance;”

1400

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 47, with respect to section 29 of schedule 5, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Is there any further debate on schedule 5, section 29, as amended?

Interjection.

The Chair (Ms. Goldie Ghamari): Sorry, one moment. MPP Hogarth, just because of the technical difficulties, it wasn't very clear, the word that you used for government motion number 47, line item (iii). If you could just repeat that sentence, please?

Ms. Christine Hogarth: For (iii)?

The Chair (Ms. Goldie Ghamari): Yes.

Ms. Christine Hogarth: "(iii) prohibiting the agreements from including certain terms or conditions specified in the regulations, and"

The Chair (Ms. Goldie Ghamari): Thank you. With the Zoom link, sometimes it can cause some difficulties there.

All right, at this point, we'll now turn to schedule 5, section 29, as amended. Is there any further debate on schedule 5, section 29, as amended? Seeing none, are MPPs prepared to vote? All those in favour of schedule 5, section 29, as amended, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, section 29, as amended, carried.

We'll now turn back to schedule 5, section 18, government motion number 29. Who would like to introduce this motion? MPP Harris.

Mr. Mike Harris: I've been waiting for this moment all day, Madam Chair.

The Chair (Ms. Goldie Ghamari): I know.

Mr. Mike Harris: This is exciting.

I move that section 18 of schedule 5 to the bill be amended by adding the following subsection to section 10.3 of the Ontario New Home Warranties Plan Act:

"Prescribed conditions

"(4.1) Any conditions prescribed under clause 23(1)(b.4) must be satisfied,

"(a) before the registrar makes a determination that a home qualifies for enrolment in the plan;

"(b) in order for a home to continue to qualify for enrolment in the plan; or

"(c) before the registrar"—

The Chair (Ms. Goldie Ghamari): MPP Harris, could you please repeat the second line, line item (b)?

Mr. Mike Harris: "(b) in order for a home to continue to qualify for enrolment in the plan; or"—

The Chair (Ms. Goldie Ghamari): That's not the word that we have in the motion that was submitted to us. Would you like to take a recess to—

Mr. Mike Harris: Is that a possibility?

The Chair (Ms. Goldie Ghamari): Is the committee okay with a five-minute recess? Okay. Let's do a 10-minute recess. Thank you.

The committee recessed from 1405 to 1418.

The Chair (Ms. Goldie Ghamari): The Standing Committee on General Government will now resume. We're here considering clause-by-clause of Bill 159, An Act to amend various statutes in respect of consumer protection.

We last left off on government motion number 29, moved by MPP Harris. MPP Harris, can you please start from the beginning, with respect to government motion number 29, section 18?

Mr. Mike Harris: Absolutely. Thank you, Madam Chair. I move that section 18 of schedule 5 to the bill be amended by adding the following subsection to section 10.3 of the Ontario New Home Warranties Plan Act:

"Prescribed conditions

"(4.1) Any conditions prescribed under clause 23(1)(b.4) must be satisfied,

"(a) before the registrar makes a determination that a home qualifies for enrolment in the plan;

"(b) in order for a home to continue to qualify for enrolment in the plan; and

"(c) before the registrar enrolls a home in the plan."

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are MPPs prepared to vote? All those in favour of government motion 29, section 18, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Turning now to government motion number 30: Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that section 18 of schedule 5 to the bill be amended by adding "prescribed under clause 23(1)(b.4) and" after "and all conditions" in subsection 10.3(6) of the Ontario New Home Warranties Plan Act.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are MPPs prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare government motion number 30 carried.

Turning now to government motion number 31: Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that section 18 of schedule 5 to the bill be amended by adding "prescribed under clause 23(1)(b.4) and" after "and all conditions" in subsection 10.3(7) of the Ontario New Home Warranties Plan Act.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are MPPs prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare government motion number 31, with respect to section 18 of schedule 5, carried.

Is there any further debate on schedule 5, section 18, as amended? Are members prepared to vote? MPP Rakocevic.

Mr. Tom Rakocevic: I apologize. Could you repeat what you just said? Which section?

The Chair (Ms. Goldie Ghamari): Schedule 5, section 18, as amended. Further debate? Are you sure?

Mr. Tom Rakocevic: Yes.

The Chair (Ms. Goldie Ghamari): Speak now or forever hold your peace.

Mr. Tom Rakocevic: I'm good. Thanks.

The Chair (Ms. Goldie Ghamari): All right.

All those in favour of schedule 5, section 18, as amended, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, section 18, as amended, carried.

Mr. Mike Harris: At least we can have fun, Madam Chair.

The Chair (Ms. Goldie Ghamari): I try.

We'll now turn to schedule 5, section 28. Is there any further debate on schedule 5, section 28?

Interjection.

The Chair (Ms. Goldie Ghamari): Oh, sorry. Turning now to schedule 5, section 28, we have government motion number 40, with respect to subsection 28(1). Who would like to move this motion? MPP Harris.

Mr. Mike Harris: I move that subsection 28(1) of schedule 5 to the bill be amended by striking out “(b.2) and (b.3)” and “the end of clause 22.1(i) of the”—sorry, “at the end of clause 22.1(i)” —

The Chair (Ms. Goldie Ghamari): Sorry, can you just start from the beginning?

Mr. Mike Harris: I sure can.

The Chair (Ms. Goldie Ghamari): Thank you.

Mr. Mike Harris: I move that subsection 28(1) of schedule 5 to the bill be amended by striking out “(b.2) and (b.3)” at the end of clause 22.1(i) of the Ontario New Home Warranties Plan Act and substituting “(b.2), (b.3) and (b.4)”.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Glover.

Mr. Chris Glover: I'm sure the dots are in the right place, but I've lost track of which motion we're on.

The Chair (Ms. Goldie Ghamari): We're currently on government motion number 40, and this is with respect to subsection 28(1). It was previously stood down because we had to carry government motion number 44 first. So now we're going back to this.

Mr. Chris Glover: Okay. I appreciate the clarification. I did want to make sure that all the dots got in the right place.

The Chair (Ms. Goldie Ghamari): Absolutely. That's why I'm here, MPP Glover.

All right. Is there any further debate on government motion number 40? Seeing none, are members prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare government motion number 40, subsection 28(1), carried.

Is there further debate on schedule 5, section 28, as amended? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 28, as amended, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, section 28, as amended, carried.

There are no amendments to sections 30 and 31. Does the committee agree to bundle them together? Are members prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 5, sections 30 and 31, carried.

Turning now to schedule 5, section 32, we have government motion number 48. Who would like to move this motion? MPP Hogarth?

Ms. Christine Hogarth: I move that subsection 32(3) of schedule 5 to the bill be amended by striking out “29(2) and (3)” and substituting “29(2) to (3)”.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? All those in favour of government motion number 48, please raise their hands. All those opposed, please raise their hands. I declare government motion number 48 carried.

Is there any further debate on schedule 5, section 32, as amended? Seeing none, are members prepared to vote? All those in favour of schedule 5, section 32, as amended, please raise their hands. All those opposed—MPP Rakocevic?

Mr. Tom Rakocevic: Again, I apologize. This is not for all of schedule 5 again? This is just the section that the—

The Chair (Ms. Goldie Ghamari): This is schedule 5, section 32.

Mr. Tom Rakocevic: No. Fine.

The Chair (Ms. Goldie Ghamari): I will redo the vote.

Shall schedule 5, section 32, as amended, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

Shall schedule 5, as amended, carry? Is there any debate? MPP Rakocevic?

Mr. Tom Rakocevic: Justice Cunningham laid out a bold plan for reform of Tarion home warranties in Ontario. There was a lot that he suggested, and it was bold change. It was something that consumer protection advocates have called for and have since been repeating over and over. We heard this in committees during hearings. I'm sure each and every one of us—I certainly have heard this through emails, countless conversations and other interactions with consumer protection advocates. They have explicitly stated that the reform—the consumer protection that they're calling for is not fully envisioned in this bill, and we have the ability—the government has an ability to make bold change and to improve the lives and truly protect all new home purchasers in this province.

In schedule 5, the opposition has submitted amendments that would do a number of different things, everything from enhanced oversight through the Ombudsman—a request to have freedom of information was denied in the sense that it wasn't allowed to be discussed. We've had conversations about conflict of interest existing on Tarion's current board as envisioned. We've seen requests to have clearly defined, explicit language refused around everything from deadlines in first-year warranty claims, you name it; things that were laid out by the Auditor General that could be fixed today. In fact, it could have been fixed yesterday, a month ago, years ago—things that we all know.

Caps on executive salaries, when executives at Tarion made it—the entire system was such that refusing claims would actually make executives more money. We talked about bringing in a cap on salaries, an amendment for that, and it was refused.

We are allowing Tarion to fix itself, which it has been doing for 40 years, and it's not fixed. In fact, many, including government members, have referred to it as broken.

Finally, a lot of the changes the government is saying are things that will be addressed—if addressed at all—in

regulations. Quite frankly, that is not satisfactory to consumer protection advocates, and it's not satisfactory to us. As such, we will be voting against schedule 5 of this omnibus bill.

1430

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: We've heard a lot of the same things from the opposition today. While I respect their position—we all sat through the same deputations and all heard from people from all across the province, which is great. One of the nice things about being able to do some of these virtually is people who wouldn't necessarily be able to get here to Toronto, who might be from other parts of Ontario, have been able to participate freely and openly in these discussions.

A lot of what we've heard from the opposition refers back to before our government took power in mid-2018. I think that we really need to focus on where we've come, from that standpoint in June 2018 to where we are now, about two years later. We've seen a drastic reduction in salaries. We've seen a major shakeup in the way that the board is comprised, not only the board members themselves but also the way that those board members are installed or appointed within the board. We've seen 32 of 37 recommendations from Justice Cunningham already get applied to Tarion, and we're making great strides in moving forward with this bill. By the end of 2020, we'll see 76% of the recommendations that Justice Cunningham put forward implemented. We've seen ministerial orders do good work in advancing consumer cause within Tarion. Bill 159 is going to take a lot of that many steps further.

Without throwing this government under the bus, like maybe we should some of the previous governments before this, who really made a mess of this and put us in a position where we have a broken system—this government is going to remedy that, and Bill 159 will do that. Thank you, Madam Chair.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Schreiner.

Mr. Mike Schreiner: I look at Bill 159, and I just think, what a lost opportunity. For 40 years, Tarion has had a monopoly in this province. We've had numerous examples of how that has not worked for consumers in this province. We've heard devastating stories from a number of new home buyers who were unable to claim the warranties they deserved, that they paid for. We've heard horrific stories of what they had to go through.

Justice Cunningham, in 2017, wrote a very damning report of Tarion and, granted, it was mostly related to prior government and prior governments even before that government. And I do concede that the current government has brought forward some changes that have been a couple of steps forward, but the most transformative change that Justice Cunningham put forward was to end the Tarion monopoly and to move to a multi-provider insurance system, something that my party supported going into the previous election, and I believe many members of the current government supported going into the last election. As

a matter of fact, I even think the Premier is quoted as saying, "I believe in competition, and I believe we should have a multi-provider insurance system." But unfortunately, that's not what the government brought forward.

But even with that, I had hoped that, absent that major transformative recommendation that Justice Cunningham put forward—so you could say, "We met 36 of 37," but that one is the most transformative. I'd hoped that we could make some changes today to schedule 5 to at least improve it. Explicitly making consumer protection the number one priority in a consumer protection bill seemed to make sense. Explicitly putting caps on management salaries and bonuses—any organization that pays out three times more in management salaries and bonuses than they do in claims should be ashamed of themselves. I can't even comprehend how—those numbers show how flawed this organization has been.

We had opportunities to put forward and meet recommendations that Justice Cunningham talked about related to conflict of interest on the board. We had opportunities to strengthen, and more explicitly, provide better warranty protection, especially dealing with the 30-day claims. And we had an opportunity to really back up some of the government's tough talk by bringing in an administrator to just take over Tarion and clean house. Unfortunately, the government voted all those amendments down.

While I will concede the government did bring forward some amendments that improve schedule 5, unfortunately for the people of Ontario, and consumers in particular, all those amendments really put everything into regulation. While it's better than not having the regulatory authority to act—at least the government now has the regulatory authority to act if this bill passes—the bottom line is that it's cold comfort for consumers who would like to see concrete action in legislation that will not only give them the assurances they need right now that action will be taken but will also give them assurances that this government or a future government, through the regulatory process, cannot come in and easily revert to Tarion's old way of doing business, which I think we all agree is unacceptable.

I'll be voting against this schedule because I think it needs to be stronger, and I think consumers in particular expect more and better from us as legislators. I had hoped we would accomplish that today, but it unfortunately doesn't look like we're going to go as far as I would like to see in providing the protections that homebuyers in this province need and deserve.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote on schedule 5, as amended?

Mr. Mike Schreiner: Could we have a recorded vote, please?

Ayes

Bailey, Barrett, Harris, Hogarth, Kramp, Sabawy.

Nays

Glover, Rakocevic, Schreiner, Stevens.

The Chair (Ms. Goldie Ghamari): I declare schedule 5, as amended, carried.

Turning now to schedule 6, section 1: Is there any debate? Seeing none, are members prepared to vote? All those in favour of schedule 6, section 1, please raise their hands. All those opposed, please raise their hands. I declare schedule 6, section 1, carried.

Turning now to schedule 6, section 1.1, NDP motion number 49: Who would like to move this motion? MPP Rakocevic?

Mr. Tom Rakocevic: I move that schedule 6 to the bill be amended by adding the following section:

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

“Application of the Ombudsman Act

“43.1 The authority is deemed to be a governmental organization for the purposes of the Ombudsman Act, and its chair is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): Further debate on NDP motion number 49, schedule 6, the Resource Recovery and Circular Economy Act, 2016?

Interjection.

The Chair (Ms. Goldie Ghamari): This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order. MPP Rakocevic?

Mr. Tom Rakocevic: I'm seeking unanimous consent.

The Chair (Ms. Goldie Ghamari): Is there unanimous consent to move the motion? There is. MPP Rakocevic, would you like to speak to this motion?

Mr. Tom Rakocevic: Thank you. I recognize and appreciate the government members also for allowing unanimous consent on this.

Once again, I've mentioned it earlier: Bringing the Ombudsman into our delegated authorities will enhance transparency, accountability and oversight, and I'm hoping that we will support this.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Schreiner.

1440

Mr. Mike Schreiner: In the interest of time, I'm not going to speak to each one of the upcoming amendments. I'm assuming how this vote is going to go, but I'll just say that my hope is that one thing that comes out of these committee hearings and some of the testimony we received from some of the witnesses, as well as emails and phone calls that have come into my office, is to take a look at the role the Ombuds plays and the role FIPPA plays in terms of privacy and information as it relates to our delegated authorities; to look at bringing those authorities under the Ombuds Act as a way to provide additional oversight and to really provide an avenue for the people of Ontario who have challenging and unsatisfactory experiences with certain delegated authorities, that they have recourse through the Ombuds' office to submit complaints and potentially have an investigation of those complaints

take place. So I'm hoping it's something that the government looks at exploring as we move forward.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Daryl Kramp: To the member who just spoke, I understand the realities with regard to a number of these pieces of legislation, none of them referring to the Ombudsman Act. Quite frankly, they don't belong here; they belong in the discussion with regard to the actual responsibility of the Ombudsman, which I do think is a fair discussion that we could and should have down the road.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic?

Mr. Tom Rakocevic: I just want to say I appreciate the comments of the government member.

The Chair (Ms. Goldie Ghamari): MPP Schreiner.

Mr. Mike Schreiner: I was nodding my head yes, but I should be on the record to just say I appreciate MPP Kramp's comments as well. It may be something this committee could even do at some point, to review the Ombuds Act and look at where its most appropriate authority should lie. So thank you for that, MPP Kramp.

The Chair (Ms. Goldie Ghamari): I also appreciate that everyone on this committee appreciates each other. It's very nice, and I appreciate the collegiality. Thank you.

If there's no further debate, we'll now turn to voting. Are members prepared to—

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Barrett, Harris, Hogarth, Kramp, Sabawy.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 50, section 1.2: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 6 to the bill be amended by adding the following section:

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

“Application of FIPPA

“43.2 The authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and its chair is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion number 50, schedule 6, Resource Recovery and Circular Economy Act, 2016, this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

Mr. Tom Rakocevic: I'm seeking UC.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent?

Mr. Mike Harris: Madam Chair, I think we've been pretty clear on how we stand on a few of these. MPP Kramp has spoken very eloquently about how we understand the spirit of the majority of these amendments, but these aren't the right place for them to be enacted, so I think unfortunately we'll just continue on past this one.

The Chair (Ms. Goldie Ghamari): The motion is out of order and beyond the scope of the bill.

There are no amendments in sections 2 to 4, so does the committee agree to bundle them together? Is there any further debate on schedule 6, sections 2, 3 and 4 of the bill? Seeing none, are members prepared to vote? All those in favour of schedule 6, sections 2, 3 and 4, please raise their hands. All those opposed, please raise their hands. I declare schedule 6, sections 2 to 4, carried.

Shall schedule 6 in its entirety carry? Is there any debate? Seeing none, all those in favour, please raise their hands. All those opposed, please raise their hands. Schedule 6 is carried.

Turning now to schedule 7: There are no amendments to sections 1 to 15. Does the committee agree to bundle them together? Is there any further debate on schedule 7, sections 1 to 15? Seeing none, are members prepared to vote? All those in favour of schedule 7, sections 1 to 15, please raise their hands. All those opposed, please raise their hands. I declare schedule 7, sections 1 to 15, carried.

Turning now to schedule 7, section 15.1, NDP motion number 51: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 7 to the bill be amended by adding the following section:

"15.1 The act is amended by adding the following section:

""Application of the Ombudsman Act

"31.2 The authority is deemed to be a governmental organization for the purposes of the Ombudsman Act, and its chair is deemed to be its head."

The Chair (Ms. Goldie Ghamari): On NDP motion number 51, schedule 7, Retirement Homes Act, 2010: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: Seeking UC.

Mr. Mike Harris: Not at this time, Madam Chair.

The Chair (Ms. Goldie Ghamari): All right. We will move on.

Turning now to schedule 7, section 15.2, NDP motion number 52: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that schedule 7 to the bill be amended by adding the following section:

"15.2 The act is amended by adding the following section:

""Application of FIPPA

"31.3 The authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and its chair deemed to be its head."

The Chair (Ms. Goldie Ghamari): On NDP motion number 52, schedule 7, Retirement Homes Act, 2010: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: I earlier referred to Einstein, I think.

Mr. Mike Harris: What goes around comes around.

The Chair (Ms. Goldie Ghamari): All right. We'll move on, then.

There are no amendments to sections 16 to 20 of schedule 7. Does the committee agree to bundle them together? Agreed. Is there any further debate on schedule 7, sections 16 to 20? Seeing none, are members prepared to vote? All those in favour of schedule 7, sections 16 to 20, please raise their hands. All those opposed, please raise their hands. I declare schedule 7, sections 16 to 20, carried.

Is there any further debate on schedule 7? Seeing none, are members prepared to vote? All those in favour of schedule 7 carrying, please raise their hands. All those opposed, please raise their hands. I declare schedule 7 carried.

Turning now to schedule 8: There are no amendments to sections 1 to 16 of schedule 8. Does the committee agree to bundle them together? Is there any further debate on sections 1 to 16 of schedule 8? Seeing none, are members prepared to vote? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 8, sections 1 to 16, carried.

Turning now to schedule 8, section 16.1, NDP motion number 53: Who would like to move this motion? MPP Rakocevic.

1450

Mr. Tom Rakocevic: I move that schedule 8 to the bill be amended by adding the following section:

"16.1 The act is amended by adding the following section:

""Application of the Ombudsman Act

"13.9 Each designated administrative authority is deemed to be a governmental organization for the purposes of the Ombudsman Act, and the chair of its board is deemed to be its head."

The Chair (Ms. Goldie Ghamari): On NDP motion 53, schedule 8, the Safety and Consumer Statutes Administration Act, 1996: Committee members, this amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

Turning now to schedule 8, section 16.2, NDP motion number 54: Who would like to move this motion? MPP Rakocevic?

Mr. Tom Rakocevic: Thank you. Please note, there will be a correction made in a title here. I'll read it out:

I move that schedule 8 to the bill be amended by adding the following section:

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

“Application of FIPPA

“13.10 Each designated administrative authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion 54, schedule 8, the Safety and Consumer Statutes Administration Act, 1996: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

There are no amendments to sections 17 to 25. Does the committee agree to bundle them together? Agreed.

Is there any further debate on schedule 8, sections 17 to 25? Seeing none, are members prepared to vote?

All those in favour of schedule 8, sections 17 to 25, please raise their hands. All those opposed, please raise their hands. I declare schedule 8, sections 17 to 25, carried.

Is there any further debate on schedule 8? Shall schedule 8 carry? All members in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 8 carried.

Turning now to schedule 9: There are no amendments to sections 1 to 16. Does the committee agree to bundle them together? Agreed.

Is there any further debate on schedule 9, sections 1 to 16? Seeing none, are members prepared to vote?

All those in favour of schedule 9, sections 1 to 16, please raise their hands. All those opposed, please raise their hands. I declare schedule 9, sections 1 to 16, carried.

Turning now to schedule 9, section 16.1, NDP motion number 55: Who would like to bring this motion? MPP Rakocevic?

Mr. Tom Rakocevic: I move that schedule 9 to the bill be amended by adding the following section:

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

“Application of the Ombudsman Act

“3.22.1 The corporation is deemed to be a governmental organization for the purposes of the Ombudsman Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion 55, schedule 9, the Technical Standards and Safety Act, 2000: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Ombudsman Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

MPP Rakocevic?

Mr. Tom Rakocevic: I know I quoted Einstein but I have to ask you UC on the TSSA.

The Chair (Ms. Goldie Ghamari): Do we have unanimous consent?

Interjection.

The Chair (Ms. Goldie Ghamari): Moving on, we’ll turn now to schedule 9, section 16.2, NDP motion number 56: Who would like to move this motion? MPP Rakocevic?

Mr. Tom Rakocevic: I move that schedule 9 to the bill be amended by adding the following section:

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

“Application of FIPPA

“3.22.2 The corporation is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act, and the chair of its board is deemed to be its head.”

The Chair (Ms. Goldie Ghamari): On NDP motion number 56, schedule 9, the Technical Standards and Safety Act, 2000: This amendment is beyond the scope of the bill. If passed, the amendment would vicariously amend the Freedom of Information and Protection of Privacy Act, 1990, which is an act that is not opened by Bill 159. It is not possible to do indirectly what cannot be done directly. I therefore rule the amendment out of order.

Turning now to the following sections, there are no amendments to sections 17 to 21 of schedule 9. Does the committee agree to bundle them together? Is there any further debate on schedule 9, sections 17 to 21? Seeing none, are members prepared to vote?

All those in favour of schedule 9, sections 17 to 21, please raise their hands. All those opposed, please raise their hands. I declare schedule 9, sections 17 to 21, carried.

Is there any further debate on schedule 9? Seeing none, are members prepared to vote?

All those in favour of schedule 9 carrying, please raise their hands. All those opposed, please raise their hands. I declare schedule 9 carried.

Turning now to schedule 10, we have NDP motion number 57, with respect to schedule 10, section 1: Who would like to move this motion? MPP Rakocevic.

Mr. Tom Rakocevic: I move that section 1 to schedule 10 to the bill be amended by adding the following subsection:

“(2) Section 7 of the act is amended by adding the following subsection:

“Maximum amount

“(5) Despite subsection 2(1), no person shall make a ticket available for sale on the secondary market or facilitate the sale of a ticket on the secondary market for an amount, including any applicable fees or service charges but excluding any applicable taxes, that exceeds the ticket’s face value by more than 50 per cent of the ticket’s face value.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Rakocevic.

Mr. Tom Rakocevic: This at some point was agreed upon. I believe it was voted on within government and was awaiting enactment, and this government removed this provision. Ticket sales, although they are not a necessity, the fact that ticket purchasers on so many different venues are being gouged—and this has been well documented; you can read about it in the newspapers and the media.

I think, as a government, we need to do things to protect consumer protection in all areas, and this is certainly a

place where we could do so. You just need to look at the Raptors and see how scalpers would purchase up tickets, often thanks to the use of proprietary software, and then turn around and resell them for thousands of times their value, so that regular working families are just simply priced out of being able to attend events. We need to take action on this, and that's why I move this amendment to this bill.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Harris.

Mr. Mike Harris: Thank you. Again, while I understand and agree with the general premise and spirit of the amendment that's been moved here by the opposition, there have already been some steps taken that were introduced within Bill 100. I know that seems like eternities ago now that that bill was introduced. But when that bill is proclaimed, it will enhance transparency and put in some much-needed consumer protections.

I think one of the things that we really want to focus on here is that if you put, say, an artificial cap on ticket sales, we really, really want to try and keep as many resold tickets on legitimate websites and not be promoting a black market or scalpers that you would see on the streets. We want to make sure that tickets are being purchased off legitimate websites, where there are legitimate consumer protections that come along with those sites as well.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

All those in favour of NDP motion number—

Mr. Tom Rakocevic: Recorded vote.

Ayes

Glover, Rakocevic, Schreiner, Stevens.

Nays

Bailey, Barrett, Harris, Hogarth, Kramp.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Is there any further debate on schedule 10, section 1? Are members prepared to vote?

All those in favour of schedule 10, section 1, please raise their hands. All those opposed, please raise their hands. I declare schedule 10, section 1, carried.

Turning now to schedule 10, section 2: Is there any further debate? Seeing none, are members prepared to vote? Shall schedule 10, section 2, carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 10, section 2, carried.

Shall schedule 10 carry? Is there any further debate? Seeing none, all those in favour, please raise their hands. All those opposed, please raise their hands. I declare schedule 10 carried.

Turning now to section 1: Is there any further debate on section 1 of Bill 159? Seeing none, are members prepared to vote? All those in favour of section 1, please raise their hands. All those opposed, please raise their hands. I declare section 1 carried.

Section 2: Is there any further debate on section 2? Seeing none, are members prepared to vote? All those in favour of section 2, please raise their hands. All those opposed, please raise their hands. I declare section 2 carried.

Section 3, the short title: Is there any further debate? Seeing none, are members prepared to vote? All those in favour of section 3, please raise their hands. All those opposed, please raise their hands. I declare section 3 carried.

Shall the title of the bill carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the title of the bill carried.

Shall Bill 159, as amended, carry? Is there any further debate? Seeing none, are members prepared to vote? All those in favour of Bill 159, as amended, carrying, please raise their hands. All those opposed, please raise their hands. I declare Bill 159, as amended, carried.

Turning now to the report, shall I report the bill, as amended, to the House? Is there any further debate? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the motion carried. I shall report the bill, as amended, to the House.

The committee is now adjourned. I want to thank everyone for their co-operation. I also wanted to thank the legislative staff as well as Hansard and our technical support people for being here with us today and making things go by smoothly. I hope everyone has safe and happy travels, wherever they're going back to.

Happy Canada Day. Take care, everyone.

The committee adjourned at 1504.

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Vice-Chair / Vice-Président

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Mr. Mark Spakowski, legislative counsel

Mr. Bradley Warden, legislative counsel