

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
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**Official Report  
of Debates  
(Hansard)**

JP-24

**Journal  
des débats  
(Hansard)**

JP-24

**Standing Committee on  
Justice Policy**

Better for Consumers,  
Better for Businesses Act, 2023

1<sup>st</sup> Session  
43<sup>rd</sup> Parliament

Wednesday 29 November 2023

**Comité permanent  
de la justice**

Loi de 2023 pour mieux  
servir les consommateurs  
et les entreprises

1<sup>re</sup> session  
43<sup>e</sup> législature

Mercredi 29 novembre 2023

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Chair: Goldie Ghamari  
Clerk: Thushitha Kobikrishna

Présidente : Goldie Ghamari  
Greffière : Thushitha Kobikrishna

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Wednesday 29 November 2023

Mercredi 29 novembre 2023

*The committee met at 0902 in committee room 2.*

**The Clerk of the Committee (Ms. Thushitha Kobikrishna):** Good morning, honourable members. In the absence of the Chair and Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

**Ms. Christine Hogarth:** I will nominate MPP Saunderson to chair today.

**The Clerk of the Committee (Ms. Thushitha Kobikrishna):** Thank you. Does the member accept the nomination?

**Mr. Brian Saunderson:** I accept.

**The Clerk of the Committee (Ms. Thushitha Kobikrishna):** Excellent. Are there any further nominations?

There being no further nominations, I declare the nominations closed and MPP Saunderson elected Acting Chair of the committee.

BETTER FOR CONSUMERS,  
BETTER FOR BUSINESSES ACT, 2023  
LOI DE 2023 POUR MIEUX  
SERVIR LES CONSOMMATEURS  
ET LES ENTREPRISES

Consideration of the following bill:

Bill 142, An Act to enact the Consumer Protection Act, 2023, to amend the Consumer Reporting Act and to amend or repeal various other Acts / *Projet de loi 142, Loi visant à édicter la Loi de 2023 sur la protection du consommateur, à modifier la Loi sur les renseignements concernant le consommateur et à modifier ou abroger diverses autres lois.*

**The Acting Chair (Mr. Brian Saunderson):** Good morning, everyone. The Standing Committee on Justice Policy will now come to order. We are here to conduct clause-by-clause consideration of Bill 142, An Act to enact the Consumer Protection Act, 2023, to amend the Consumer Reporting Act and to amend or repeal various other Acts.

As always, please wait until I recognize you before starting to speak and, as always, all comments shall go through the Chair.

Are there any questions before we begin? Seeing none, are there any comments or questions to any section or schedule of the bill, and if so, to which section? Seeing

none, then we will now begin the clause-by-clause consideration of the bill.

Bill 142 is comprised of three sections, which enact two 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? Agreed? Agreed.

Then, on schedule 1, section 1, I note there is a government amendment and I will look to the government for the amendment. MPP Hogarth

**Ms. Christine Hogarth:** I move that the definition of “personal development services contract” in subsection 1(1) of schedule 1 to the bill be amended by striking out “a contract” and substituting “a consumer contract”.

**The Acting Chair (Mr. Brian Saunderson):** Thank you. Would you like to explain the amendment?

**Ms. Christine Hogarth:** This is just a technical amendment to ensure the definition of “personal development services contract” is consistent with other consumer contract definitions in the Consumer Protection Act. It’s a technical amendment.

**The Acting Chair (Mr. Brian Saunderson):** Any debate, comments? Seeing none, are we ready to vote? All right, then I will call the vote. All in favour of the amendment? Opposed? That is carried.

Shall schedule 1, section 1, as amended, carry? Any opposed? Seeing none, that is carried.

That takes us, then, to schedule 1, section 2. I see that there are no amendments to sections 2 and 3 of schedule 1. Does the committee agree to bundle those two together? Agreed? Any discussion? Seeing none, then I’ll call the vote. All in favour? And opposed? Agreed.

Shall schedule 1, sections 2 and 3, carry? All in favour? And opposed? So those two sections carry.

Dealing with section 4 of schedule 1, I see that there are a number of NDP motions. Dealing, then, with motion 2, subsection 4(1), is there a motion?

**Mr. Tom Rakocevic:** Yes, there is.

**The Acting Chair (Mr. Brian Saunderson):** MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 4(1) of schedule 1 to the bill be struck out and the following substituted:

“Disclosure of information

“(1) If a supplier is required to disclose information under this act, the disclosure must be clear, comprehensible, prominent and not misleading.”

**The Acting Chair (Mr. Brian Saunderson):** All right. Would you like to speak to the amendment?

**Mr. Tom Rakocevic:** Yes, I would. Ultimately, it amends the unfair practices section to ensure that for any disclosure, the disclosure must be clear and not misleading. This is actually from a submission from the Law Commission of Ontario. Basically, the source states:

“Section 8(2) para 17 makes it ‘an unfair practice for a person to make a false, misleading, or deceptive representation ... using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive.’

“The need to ensure clear, comprehensible, and prominent disclosure is acute in online consumer contracts. Accordingly, s. 4(1) should be amended, or regulations prescribed, to require disclosure in online consumer contracts to be ‘clear, comprehensible, prominent, and not misleading.’”

We feel that this improves the spirit of the entire bill. It does improve consumer protection, and I’m really hoping that everyone can agree on this in committee.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Dixon.

**Ms. Jess Dixon:** I’m recommending voting against this motion on the grounds that the amendment, as written, will overlap with existing unfair practice rules which are already specifying that it’s an unfair practice for a person to make a false, misleading or deceptive representation. So the protection that this amendment seeks to provide, which is valid, is in fact already provided for under the act.

**The Acting Chair (Mr. Brian Saunderson):** All right. Any further comments? MPP Rakocevic, go ahead.

**Mr. Tom Rakocevic:** According to you, since you’re not supporting this and you said it already does it, what do you think the basis of the misunderstanding is for the submission by the law commission, who have reviewed the bill? Obviously multiple people within the commission have looked at this, and see that this would strengthen and improve and provide more clarity. Why do you feel that’s the case? Like, where’s the misconception here? If someone on the government side could answer that.

0910

**The Acting Chair (Mr. Brian Saunderson):** Please make sure you address your comments through the Chair.

**Mr. Tom Rakocevic:** Oh, I apologize. Yes, through the Chair: if someone on the government benches could answer.

**The Acting Chair (Mr. Brian Saunderson):** Thank you.

Any comments? MPP Dixon.

**Ms. Jess Dixon:** I just reiterate that we are trying to avoid duplicative processes and duplicative laws. I thought the law commission’s presentation was excellent. However, we do maintain that this protection is already provided for, and those are my comments.

**The Acting Chair (Mr. Brian Saunderson):** Any further comments before I call it? Are we ready to vote?

**Mr. Tom Rakocevic:** Recorded vote.

Ayes

McMahon, Rakocevic.

Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I understand there’s motion 3, an NDP motion dealing with subsection 4(1). MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 4(1) of schedule 1 to the bill be struck out and the following substituted:

“Disclosure of information

“(1) If a supplier is required to disclose information under this act, the disclosure must be clear, comprehensible, prominent and accessible.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the amendment?

**Mr. Tom Rakocevic:** Yes, thank you. It’s similar to motion 2, but amends that all disclosures of information must be accessible. Again, the source notes—because this comes from the Law Commission of Ontario: “The need to protect vulnerable consumers is acute in online consumer contracts. Accessibility should be a ‘core protection’ in ... contracts, consistent with the Ontario Human Rights Code and Accessibility for Ontarians with Disabilities Act. Whereas ‘accommodation’ is typically made individually and on request, ‘accessibility’ confirms the duty to create an inclusive environment for all.”

**The Acting Chair (Mr. Brian Saunderson):** Any comments? MPP McMahon.

**Ms. Mary-Margaret McMahon:** Thank you for allowing me at your fun little friendly committee. I’m happy to support this amendment from my colleague. It makes sense, and it’s the right thing to do. I know that you all have residents who would benefit from this amendment. So in a spirit of collaboration, which is what we’re here for, I thank you in advance for your support.

**The Acting Chair (Mr. Brian Saunderson):** Any further comments? MPP Riddell.

**Mr. Brian Riddell:** I recommend voting against this motion because the amendment would overlap with requirements under the Accessibility for Ontarians with Disabilities Act, 2005. The amendment may be unclear and create uncertainty for businesses, because there are many different potential interpretations of the term “accessibility.”

**The Acting Chair (Mr. Brian Saunderson):** Any further comments? MPP Rakocevic.

**Mr. Tom Rakocevic:** This really puts the duty on the businesses to actually make it accessible. I think this is a core thing that we should all be striving for, to ensure that contracts are made in an accessible way, that they are readable. I know there are parts of this legislation that claim to do that very thing but do not state it specifically.

Again, I agree with the law commission’s recommendations. This will only strengthen the bill, and it really puts the duty of responsibility on the side of businesses to ensure that accessibility is in all of their dealings.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** I stand by the rationale that I stated.

**The Acting Chair (Mr. Brian Saunderson):** All right. Are we ready to vote?

**Ms. Mary-Margaret McMahon:** Recorded.

#### Ayes

McMahon, Rakocevic.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I understand motion 4 is another NDP motion to amend subsection 4(1).

**Mr. Tom Rakocevic:** I move that subsection 4(1) of schedule 1 to the bill be struck out and the following substituted:

“Disclosure of information

“(1) If a supplier is required to disclose information under this act, the disclosure must be clear, comprehensible, prominent and in plain language.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** I would, Chair. Thank you very much.

Similar to previous amendments, it mandates that closures must be written in plain language. Surely, this is a very simple request—I think something we could all agree upon. Again, it comes from a recommendation of the Law Commission of Ontario, stating:

“Plain language requirements are understood as being more than ‘clear and comprehensible.’ Plain language requirements connote action. In contracts, it could help consumers find what they need; understand what they find the first time they read it; and use what they find to meet their needs.

“This would concisely communicate to consumers the risks and consequences if they enter into a contract. It reduces the need for consumers to complain or litigate when terms are later discovered.

“Business would also benefit. A plain language requirement would protect business from void terms and contracts under” section “5 (where contractual ‘ambiguities [are] to the benefit of the consumer’).

“Plain language requirements” are “increasingly legislated in the United States, such as the federal Plain Writing Act of 2010.”

I really hope the government will support this amendment. I think we should be moving to plain language in pretty much everything. And I know that there is mention of this in other ways in this act, but not explicitly stated like this. This only strengthens it. It follows the spirit of what the government is attempting to do. I know they have shown interest in that. I’m hoping the government members will speak in support and support this plain request here.

**The Acting Chair (Mr. Brian Saunderson):** Any comments? MPP Dixon, and then MPP Riddell.

**Ms. Jess Dixon:** I am recommending voting against this. We take the position that this requirement is already very clearly set out by use of the word “comprehensible.” Adding the phrase “plain language” is just a duplication of what is already indicated clearly by the bill. Those are my comments.

**The Acting Chair (Mr. Brian Saunderson):** Thank you.

**Mr. Brian Riddell:** I withdraw.

**The Acting Chair (Mr. Brian Saunderson):** Okay. Any further comments? MPP Rakocevic.

**Mr. Tom Rakocevic:** I understand what you’re saying about “comprehensible,” but the term “plain language” is being increasingly used in all ways to connote—something could be comprehensible to one, but not written in plain language. I could provide members here, I don’t know, a research paper in medicine, and a doctor could look at it and it would be considered comprehensible to the doctor, but would it be considered plain language to a non-doctor? I don’t think so.

I do not think this is the same word. I think the members fully understand that there is a difference here. We are only trying to improve this bill that we’ve supported, and I think everyone is in agreement that adding “plain language” only strengthens it. Do the members take issue with what I’m saying, when something could be comprehensible to a person but not necessarily be in plain language? Why is this not an improvement? Why is this a duplication? Through the Chair, does anyone—

**The Acting Chair (Mr. Brian Saunderson):** Thank you. Any further comments, debate? Seeing none, are the members ready to vote?

**Ms. Mary-Margaret McMahon:** Recorded.

0920

#### Ayes

McMahon, Rakocevic, Wong-Tam.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That’s the end of the amendments, so are the members ready to vote on schedule 1, section 4? I will call the vote, then. Shall schedule 1, section 4 carry? All those in favour? All those opposed? I declare schedule 1, section 4 carried.

There are no amendments to sections 5 through 7 of schedule 1. Does the committee agree to bundle them together? Good. Shall schedule 1, sections 5 through 7, carry? All in favour? All those opposed? I declare schedule 1, sections 5 through 7, carried.

Schedule 1, section 8: I see there is a motion 4.1, regarding subsection 8(2). Would you like to speak to that, MPP Wong-Tam?

**MPP Kristyn Wong-Tam:** Yes, Chair. Thank you very much.

I move that paragraph 19 of subsection 8(2) of schedule 1 to the bill be amended by adding “or rebate” after “prize”.

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to your motion?

**MPP Kristyn Wong-Tam:** Yes. Thank you, Chair.

The Ontario Bar Association has provided a submission. I think every member here has a copy. It has been very detailed. What they have actually stated for us is that they support an expanded list of false and misleading practices to be included in section 8 of the act. They would recommend that adding explicit mention of rebates to the list of examples in section 8(2) would be extremely helpful.

While the general categories of section 8(2) may be broad enough to capture some of those rebates, it would still be beneficial to specifically mention this, as it references all those rebates as a rather common deceptive practice that’s oftentimes used by bad actors. And we know that if we are not specific, there is probably just too much room for interpretation.

So, by way of examples, those bad actors can tell consumers that they actually will receive substantial government rebates, in order to mislead those consumers to the actual amount that they may be paying, and will be paying, out of pocket.

**The Acting Chair (Mr. Brian Saunderson):** Any comments? MPP McMahon.

**Ms. Mary-Margaret McMahon:** It’s two words only, really, and it was recommended by the Ontario Bar Association. We are asking for experts and stakeholders to weigh in on our bills as we consider them, and I think it’s a reasonable ask. So I’m going to thank you in advance for your support.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** I recommend voting against this. The concern is already captured in paragraph 3 of subsection 8(2), which forbids or makes it a false, misleading or deceptive representation to advertise or inform consumers of sponsorship endorsements of any level of government or a municipality if such a sponsorship is actually true. Furthermore, it does not provide an absolute list. It does not limit the generality for obvious deceptive practices.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** I think that when the bar association is putting forth a recommendation, especially for a bill that leads with the title “better for consumers,” it’s all, really, about setting up criteria that will be clear, that is predictable and transparent. By way of allowing too much flexibility in the interpretation, by it not saying enough and not restricting it, it actually exposes consumers to predatory behaviour by bad actors, and that’s exactly what the Ontario Bar Association has smartly and rightly flagged for us. I think it would be very wise on our part to take their counsel here.

**The Acting Chair (Mr. Brian Saunderson):** Further discussion?

**Mr. Brian Riddell:** I stand by my prior comment.

**The Acting Chair (Mr. Brian Saunderson):** All right. Thank you. Are we ready to vote? I’ll call the vote, then. All in favour?

**Ms. Mary-Margaret McMahon:** Recorded.

**The Acting Chair (Mr. Brian Saunderson):** It’s too late. We’re into the vote, MPP. Thank you.

Opposed? I declare the motion lost.

So then I will call the vote on schedule 1, section 8. MPP Wong-Tam?

**MPP Kristyn Wong-Tam:** Yes, thank you, Chair. Just to clarify: Can you remind the committee when we call for the recorded vote?

**The Acting Chair (Mr. Brian Saunderson):** You should call for the recorded vote before I have asked “in favour or opposed,” so before the vote has commenced.

**MPP Kristyn Wong-Tam:** Because the verbal portion of it is very fast and fluid, is it preferable that we call for a recorded vote right after we move the motion?

**The Acting Chair (Mr. Brian Saunderson):** Sure, you can do that.

**MPP Kristyn Wong-Tam:** So therefore it’s upfront?

**The Acting Chair (Mr. Brian Saunderson):** Yes, you can do that. That would be fine.

MPP Rakocevic?

**Mr. Tom Rakocevic:** I’m sure Robert wouldn’t be happy with this; I don’t know if this is a point of order or what. Can we state that every amendment that we put forward we’re asking for a recorded vote at this point? Therefore, every single vote that happens will thus be recorded?

**The Acting Chair (Mr. Brian Saunderson):** Yes. So the request that you’re making—does that relate to the amendments that you’re proposing?

**Mr. Tom Rakocevic:** Correct. If the government wants it for theirs, so be it as well. We have no issue with that. But we’re asking that every single one of our amendments be recorded.

**The Acting Chair (Mr. Brian Saunderson):** I’ll make sure the Clerk remembers that, because I won’t. So yes, you can make that request and just keep reminding us, please.

**Mr. Tom Rakocevic:** Okay. Clerk, we’re counting on you, okay?

**The Acting Chair (Mr. Brian Saunderson):** All right. We have dealt, then, with schedule 1, section 8. That brings us to schedule 1, section 9—

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Did we not vote on it? Okay, I called it, then. So ready to vote? I’m going to call the vote: Shall schedule 1, section 8, carry? All in favour? Opposed? I declare that carried.

That bring us to schedule 1, section 9. I understand we have a motion 4.2 dealing with subsection 9(2). MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 9(2) of schedule 1 to the bill be amended by adding the following paragraph:

“10. Using deceptive contracting, software and user interface design practices to attempt or to actually steer, deceive, coerce or manipulate consumers into making choices.”



**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to your amendment?

**Mr. Tom Rakocevic:** I would. This is prohibiting the use of what's called dark pattern practices, designed to deceive Ontario's consumers. Digital consumer dark patterns have been widely researched and criticized as deceptive, unfair and undermining consumer confidence in online transactions. These are defined by the OECD as deceptive contracting, software and user interface design practices to attempt or actually steer, deceive, coerce or manipulate consumers into making choices. The OECD identifies over two dozen well-defined dark pattern techniques used in the digital marketplace. Widely experienced examples include prominent accept buttons and obscured reject buttons; coloured toggles that don't clearly denote acceptance or rejection; or obscuring cancel buttons several menus deep. Dark patterns are increasingly subject to consumer protection regulation, most extensively in the EU.

I think this is straightforward. The consumer environment is rapidly changing, especially online. We are all vulnerable, but especially younger Ontarians, the elderly—the list goes on. These are intentionally made to trick people into making a decision that they don't want.

I hope that the government will vote in support of this. This only strengthens the bill. I look forward to hearing your comments.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Byers.

**Mr. Rick Byers:** I thank the member for his comments. He's a distinguished member and Chair of the public accounts committee. I value his opinion.

However, in this case, I suggest voting against. This concern is already captured under paragraph 7 of subsection 2, which states that "subjecting a consumer to undue pressure to enter into, amend, continue, cancel or terminate a consumer contract" is an unconscionable act. Furthermore, subsection 9(2) is not an exhaustive or fully prescriptive list, as it does not limit the generality of what constitutes an unconscionable act in any way.

0930

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** First of all, I appreciate the kind words, and I feel very similarly about the member, so thank you so much for that. And then after that it was, "I'm not supporting."

We continue to hear that the consumer environment is changing. It's rapidly changing—the advent of AI, the fact that more and more transactions are moving online. You're not face-to-face making a purchase. You're making a purchase on a two-dimensional screen—maybe three dimensional one day, but for now, this is what's happening and we all have experienced it: You go on your phone, and an ad pops up and you can't even reach the X box. What are they doing? They're trying to trick you into clicking.

Think about people who are vulnerable users: the elderly, young people. But in fact, we are all vulnerable, because these are tactics that are being designed to mislead us, and in many cases, you won't even know about it. In the op-

position, we all believe that we really need to be defining, naming these things, and moving ourselves into a future to protect consumers in these increasingly insidious ways by businesses. This only strengthens the act.

I must say, if there's a concern that somehow supporting an opposition amendment will throw shade on the bill, this is a government bill that all members supported unanimously at second reading. We acknowledge that people have come to committee and for the most part, with one exception, said that there are improvements. Sure, they asked for this to go a little further, and I acknowledge that there are several amendments here by the government. The government themselves, the researchers, the ministry looked and said, "We did this. We put this out there, and, guess what, maybe there are some changes." But this only strengthens the legislation. It causes no harm.

So, I'm hoping that there is, I don't know, a moment of reflection, if we need a few moments more to just say, "Look, we want to take on these dark patterns and help consumers." I'm hoping for that moment.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth.

**Ms. Christine Hogarth:** I do appreciate the comments from MPP Rakocevic, but this amendment has not been consulted on and may have unintended consequences, so I will stand with my colleague MPP Byers.

**The Acting Chair (Mr. Brian Saunderson):** Thank you. Are the members ready to vote?

**Mr. Tom Rakocevic:** Recorded.

### Ayes

McMahon, Rakocevic, Wong-Tam.

### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I understand motion 4.3 is an NDP motion dealing with the same section. Who would like to put the motion on the floor?

**Mr. Tom Rakocevic:** I move that subsection 9(2) of schedule 1 to the bill be amended by adding the following paragraph:

"11. Failing to accommodate a consumer."

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to it?

**Mr. Tom Rakocevic:** This would ensure that failure to accommodate a consumer is an unconscionable act. This comes, again, from work from the Law Commission of Ontario:

"Section 9(2) para 1 makes it an unfair practice to 'take advantage' of a vulnerable consumer 'because of disability, ignorance, illiteracy, inability to understand the language of a consumer contract or similar factors.'

"Disability advocates strongly recommend that the CPA additionally reflect language of Ontario Human Rights

Code that would make it a violation of consumer rights to fail to accommodate consumers throughout the contracting process. It was emphasized the CPA could provide more immediate, practical and appropriate remedies for vulnerable consumers than litigating through Ontario's Human Rights Tribunal."

Again, this really puts the onus on businesses. One of the things that we had heard with regard to the legislation is that, though it does strengthen consumer laws, it continues to put the onus on people having to fight in a court or whatnot. Since this is really aimed at protecting the vulnerable, because accommodations are not being provided, we hope that the government members will see and understand this and support this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Brian Riddell:** This provision would make it an unconscionable act to fail to accommodate a consumer. Our rationale behind that: "Accommodate" or "accommodation" is not defined within the act. Furthermore, businesses are already legally required under various statutes, including the AODA, to provide accommodations where necessary. Having a new section within this act would muddy the waters and reduce clarity for businesses about what their statutory obligations are to consumers.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Tom Rakocevic:** I appreciate the comments. I don't see how—in this case, reminding businesses in as many ways as possible, I think, would actually increase clarity. So requiring them to look at other acts or other rules, but understanding that the government is putting forward consumer protection legislation, why not enshrine it here? I think it actually enhances clarity because, no matter where a business looks, they will understand that this is unconscionable.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Councillor—or MPP Riddell, and then MPP Hogarth.

**Mr. Brian Riddell:** I never wanted to be a councillor. I stand by my prior comment.

**The Acting Chair (Mr. Brian Saunderson):** Are the members ready to vote?

**Ms. Mary-Margaret McMahon:** Recorded.

**The Acting Chair (Mr. Brian Saunderson):** A recorded vote has been requested, so please keep your hands up until you're identified.

### Ayes

McMahon, Rakocevic, Wong-Tam.

### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I understand there is motion 4.4, and it's another NDP motion dealing with section 9. Who would like to speak to that? Motion 4.4.

**Mr. Tom Rakocevic:** Yes.

**The Acting Chair (Mr. Brian Saunderson):** Okay, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 9(2) of schedule 1 to the bill be amended by adding the following paragraph:

"12. Refusing to provide the consumer information in paper-based written correspondence."

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to your motion?

**Mr. Tom Rakocevic:** Yes, thank you, I would. It would ensure that one could not refuse to provide the consumer information in paper-based written correspondence. Similar to the arguments made that disclosure should be accessible and recognizing that many do not have access to digital platforms, this amendment would ensure that consumers have the right to request paper-based correspondence.

Surely, we have all heard these types of requests in our office. There are many members here in society. I've heard many members who are elderly, in particular, who are asking for that written communication—that option—to continue to exist, and we're hoping that government members will support this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Ms. Mary-Margaret McMahon:** I'm happy to support this. This makes complete sense. We all have residents who may not have access to a computer or just prefer the hard copy in their hot little hands. I know a lot of us—look at us today with paper in our hands. We send out householders. People do like it. I'm a tree hugger, so I'm worried—at least double-side your papers, but send them out. That's only fair. This makes it accessible and transparent for everyone.

Thanks again for your rock-solid support.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth.

**Ms. Christine Hogarth:** Thank you for bringing the amendment forward, but the amendment has not been consulted on, and it potentially could impact our businesses and especially our small businesses. We don't know what that impact will be, so I suggest that we oppose this motion because of the unintended consequences on small business, and we need to look after them.

This amendment also fails to consider the digital nature of many consumer transactions today.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, I'll call the vote, then. And a recorded vote has been requested, so please keep your hands up until you've been identified.

### Ayes

McMahon, Rakocevic, Wong-Tam.

### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

0940

That brings us to motion 4.5, an NDP motion. Who would like to speak to that? MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 9(2) of schedule 1 to the bill be amended by adding the following paragraph:

“13. Charging a consumer for any paper-based written correspondence, including bills.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to your motion?

**Mr. Tom Rakocevic:** Yes. It's straightforward. This would ensure that a consumer can't be charged for any paper-based correspondence. A consumer should not be charged for requesting paper-based correspondence. That includes bills and disclosures. It's self-explanatory. Again, there are many that require and request paper correspondence. We don't want to make this prohibitive, harmful to them, making them have to pay more. This should be built into the costs that businesses have anyway, but let's not punish individuals—especially our elderly, who are often the ones requesting this—by charging them more for paper correspondence.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** This amendment would make it an unconscionable act to charge any consumer for any information or correspondence provided within a written format. The rationale behind it: As subsection 9(2) does not limit the generality of which is an unconscionable act and because of the lack of consultation with businesses and the legal community on the impacts of such an amendment, it is recommended not to support this amendment. It might be looked at further down the line in consultations for regulatory development.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** I think that when it comes to those who are asking for written paper correspondence, we can all agree that it's mostly the vulnerable and especially seniors. I think that, as elected officials, we may have also heard from our constituents the request for written correspondence—that they may not have access to Internet that's stable and reliable. They don't necessarily have computer literacy in all the ways that one would expect of someone who was perhaps born of a different age. So we really are actually penalizing and further creating conditions that I believe are unduly punishing for the elderly. I know that members of this committee will probably have experienced it first-hand when they've had constituents who have asked them for paper-based communication. They've asked us to perhaps deliver particular documents to their homes. I know each and every single one of us has probably done that.

What we're doing is actually going to create a condition that allows those same bad actors that we've spoken about to apply undue charges, especially since there aren't any limitations and caps to what those charges could be for that paper-based communication, which I believe would be too vague in this case. By removing it altogether, it actually eliminates any bad-actor predatory behaviour, and it will alleviate the financial punishment for those who don't have access to computers or prefer to have their communications provided to them in paper-based styles.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** I stand by my prior comment.

**The Acting Chair (Mr. Brian Saunderson):** A recorded vote has been requested—

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Any more debate? Yes?

**Mr. Tom Rakocevic:** I'm really trying to help them, and so I just don't—all right. First off, I appreciate that there was some mention that this might be further considered in consultation, because we haven't heard that with any of the other amendments we've put forward, so I want to appreciate that I've heard that.

I just want to continue to build on the very strong words of my colleague here. This is by request. Please imagine for a moment individuals in your constituency, some of them facing barriers—whatever it is, elderly, possibly a disability—asking for a paper record. Maybe they're uncomfortable to work on a computer. All they're doing is asking for a correspondence from a given business sending paperwork to them. They have their own files. They're just trying to keep the flow, paying the bills. And in turn, the business is looking at, very often, a senior and saying, “Well you're going to have to pay more for this.” A senior on a fixed income, struggling to pay the bills, is being told that you're going to now add more costs and pay more, especially now.

I really, really hope that this government will take this recommendation very seriously. We believe that this is strong consumer protection. This is protecting our most vulnerable. Please—you've said that you will consider it. Please do so.

I just want to give one example of where I'm concerned around that. When we were dealing with home warranty reform in the last session—and some members may remember this; some may not, might not have been here. There were requests, for instance—and we heard this in committee, actually—where a home was being built and the heating units are being used during construction, or the actual HVAC units are being used, and they end up with debris, and that ultimately can affect or damage these systems in the long run. At the time, I spoke with ministry staff and others, and they had gone so far as to say that we would consider this in regulations. They had seemed to be wanting to take this issue very seriously. We're now years out, and here we are dealing with a consumer protection bill, and we're hearing that this hasn't been resolved yet.

I'm asking—I think the entire opposition is asking—please take this seriously. We should be doing more for our elderly and protecting the most vulnerable. I acknowledge that you mention it will be considered, possibly, in the consultation. Please do so. This will only increase consumer protection and protect people.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Hogarth.

**Ms. Christine Hogarth:** I do appreciate your comments, but actually, your comments made me change my mind even more so. I'm someone who likes paper documents because it reminds me to pay my bills. I don't mind paying extra for that piece of paper, but we also want to encourage people to use less paper, right? We are in a digital age. Throughout COVID, everybody got online and learned how to use their computers. I think we are moving in an age that if you want a paper document, I don't see a problem—because at the end of the day, consumers are paying for everything, right? The cost is going to be borne by consumers. If it's a small group of people that are paying, or if it's a user-pay, not everyone is bearing that burden of paying—because it adds up, all these bills going out. The consumer will have to pay on their own.

I'm actually okay with how it stands, so I agree with MPP Riddell.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** There are people in this room right now that are digital immigrants. When I started, I was using a slide rule. Today, I would rather have a computerized copy of something that I can look at on a spreadsheet or something like that, rather than a piece of paper that can be lost. And I agree with MPP Hogarth on her thoughts on saving paper and saving trees and the environment.

**The Acting Chair (Mr. Brian Saunderson):** MPP Rakocevic.

**Mr. Tom Rakocevic:** Again, I want to state that this is by request. You could probably imagine that the majority of requests are going to come from individuals that need this accommodation. All costs are borne by consumers. Look, if a company decides, I don't know, to do black-and-white printing on the box that they're shipping out—it would be cheaper than if they did it in colour—they make these choices.

If I asked you, you might say that the number of users who are requesting this paper accommodation might be trending downward. Maybe more and more people, as we might expect, are becoming used to computers and whatnot, but there are individuals among us that we should be accommodating who are asking for this.

Despite what I've just heard, I'm hoping that you will continue to consult. I'm not expecting that this will be a very large number. We're just saying don't punish them for requesting this. And we all agree we should be saving the trees, of course—I'm sure, in this committee as well. But this is a small number of users.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** I appreciate your position, but I still stand by our position.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** I note, as all of us who have entered this standing committee room, particularly to deal with the matter today, that each and every single one of us has on our desks quite a bit of paper. I suspect that that paper is there largely because we're dealing with such a large volume of motions, every single one of them needing citations, and there is a lot of flipping back and forth. For some individuals, it's just easier. For the members who are exclusively working on their desk only digitally, perhaps they're able to work on multiple screens—good for you—but many of us are working with paper today. That's just a great example—I think a very astute example—of why there are times where we do need to have access to paper.

**0950**

And when it comes to the disclosures and agreements, especially as it pertains to the motion, these are legal terms. These are legally binding terms if it's consumers who are asking for their disclosure documents in writing. These are legal documents. These are documents that bind someone through their rights and obligations and duties, and I see absolutely no reason why we would not afford that opportunity to someone who is making that request. If I was to hire a lawyer who says, "I'm only going to communicate with you digitally. I'm not going to ever send any pieces of paper to you," and it's my responsibility to keep everything electronically on file—I would be very challenged to find a single lawyer in Ontario that only operates like that. At the request of their client, they may be asking for something different.

That's just an extreme example, but I think we have an obligation here to set up conditions that will do the very best we can to protect the vulnerable populations, and in this case it will be people who are living in the north, it will be people who are living without stable WiFi and Internet and maybe people who are most likely elderly, so that's who we're most likely protecting.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** Thank you for pointing out that everybody is literally working off paper in this room.

We are financially punishing our elderly people on fixed incomes. We're allowing businesses to do that. This is a small number. Please consider this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, this will be a recorded vote.

**Ayes**

McMahon, Rakocevic, Wong-Tam.

**Nays**

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I'm going to call the vote, then, on schedule 1, section 9. Shall schedule 1, section 9 carry? All in favour? Opposed? I declare section 9 carried.

There are no amendments to sections 10 through 13 of schedule 1. Does the committee agree to bundle them together? Then I will call the vote on sections 10 through 13 of schedule 1. All in favour? And opposed? I declare that carried.

That brings us then to schedule 14, motion 5, an NDP motion. MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that clause 14(1)(b) of schedule 1 to the bill be amended by striking out “under the Class Proceedings Act, 1992” at the end.

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** This bill put in new language that no contract can include parameters that would limit a person from joining a class action. Our motion would maintain that right but strike the reference to the Ontario Class Proceedings Act. Stakeholders have noted this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, I will call the vote—it is a recorded vote.

#### Ayes

Bailey, Byers, Cuzzetto, Dixon, Hogarth, McMahon, Rakocevic, Riddell, Wong-Tam.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion carried.

I will call the vote on section 14, then. Shall schedule 1, section 14, as amended, carry? All in favour? Any opposed? That is carried.

That brings us to schedule 1, section 15. Is there any debate on that schedule? Seeing none, shall schedule 1, section 15 carry? All in favour? Opposed? I declare that carried.

That brings us, then, to schedule 1, section 16, motion 6. It's an NDP motion. MPP Rakocevic.

**Mr. Tom Rakocevic:** First off, miracles do happen, I see.

**Ms. Mary-Margaret McMahon:** There is a Santa Claus.

**Mr. Tom Rakocevic:** Yes, so thank you.

I move that subsection 16(1) of schedule 1 to the bill be amended by adding the following paragraphs:

“4. A consumer contract that is entered into when the consumer and supplier are not present together, including a contract entered into online when the consumer and supplier are not present together.

“5. Prescribed consumer contracts.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the motion?

**Mr. Tom Rakocevic:** Yes, I would. It expands the definition of what contracts are included in the bill by including a catch-all “prescribed consumer contracts” and expanding the right to online contracts.

Further, online consumer contracts are the most significant new form of contracting for Ontario's consumers since the CPA was passed more than 20 years ago. The legislation needs to establish a modern and flexible legal framework to ensure Ontario's consumers can be protected from new risks and business practices. This framework will benefit Ontario's online businesses as well. The proposed amendment would ensure online contracts have the same legislative and legal footing as other forms of consumer contracts.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, I will call the vote. A recorded vote has been requested.

#### Ayes

McMahon, Rakocevic, Wong-Tam.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

Motion number 7, schedule 1, subsection 16(1): Who would like to put that motion on the floor? MPP Hogarth, go ahead, please.

**Ms. Christine Hogarth:** Let me just find it here.

I move that paragraph 1 of subsection 16(1) of schedule 1 to the bill be amended by striking out “enter the contract” at the end and substituting “enter into the contract”.

This is just a technical change.

**The Acting Chair (Mr. Brian Saunderson):** All right. Thank you. Further debate? Seeing none, then I will call the vote. All in favour? And there were none opposed, so I declare the motion carried.

Motion 7.1 for schedule 1, subsection 16(1): Who would like to speak to that on the NDP side? MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 16(1) of schedule 1 to the bill be amended by adding the following paragraph:

“4. Prescribed consumer contracts.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the motion?

**Mr. Tom Rakocevic:** Yes, I would. It's the same as the other one, but just for the “prescribed consumer contracts” catch-all term. Online consumer contracts are the most significant new form of contracting for Ontario consumers since, again, the CPA was passed more than 20 years ago. The legislation needs to establish a modern and flexible legal framework to ensure Ontario's consumers can be protected from new risks and business practices. This framework will benefit Ontario's online businesses as well. The proposed amendment would ensure online contracts have the same legislative and legal footing as other forms of consumer contracts.

I'd like to further say, in case the government just decided they're not going to comment on anything anymore, I think we all understand that more and more consumer contracts, purchases are happening online. We are just trying to see

that reality, and we are just trying to protect consumers in this new world of online purchasing which continues to grow and grow and grow. We're hoping the government will support.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Ms. Mary-Margaret McMahon:** Of course, our first go-to is shopping locally and supporting our mom-and-pop businesses. We do know that people do shop online, but we're hoping they're going local first. In this case, we just want to add that extra protection, which is what your bill is all about. We want to be supportive of it, but there are certain amendments just to tweak it, and so hoping for your support in advance like you just did recently, supporting an amendment—shock.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Rick Byers:** I'm pleased that the opposition acknowledged our important support of motion 5. However, in this case, we recommend against. Currently, the way the legislation is designed, all consumer contracts, except those exempted in regulation, are subject to the rules under part 3. Therefore, this change represents a reversal of policy course and a reversal of consumer protections, as contracts would have to be prescribed to be captured under the rules under the new CPA, as opposed to the current drafting, where contracts have to be exempted. So we recommend voting against.

1000

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been requested.

#### Ayes

McMahon, Rakocevic, Wong-Tam.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to motion number 8 to subsection 16(2), another NDP motion. Go ahead, please, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 16(2) of schedule 1 to the bill be amended by adding the following paragraph:

“5. A new home purchase contract.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to that?

**Mr. Tom Rakocevic:** I would, thank you.

This expands the legislation to include regulation on new home purchase contracts. By amending the section, all the bill provisions would explicitly apply to new home purchases. This has been a request from Canadians for Properly Built Homes and others who came and spoke to the committee in hearings.

Look, a home is often the largest purchase of a person's life. The Consumer Protection Act should apply to this purchase, as well. I'm hoping that the government recognizes this. We still continue to see challenges; new home purchasers continue to face challenges in this. We're just trying to protect and strengthen that. Especially in light of the government's aims to continue to build more homes, let's ensure that when people are purchasing a home, their rights are protected and they're getting the best home possible. We're just trying to protect consumers.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Brian Riddell:** I recommend opposing this. The reason behind it is this is a major policy change that implicates provisions of another piece of legislation. We would have to have legal investigate and do further work, and consultation would be required to move forward with this amendment.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been requested.

#### Ayes

McMahon, Rakocevic, Wong-Tam.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to motion 9, which is a government motion. Who would like to speak to that? MPP Hogarth.

**Ms. Christine Hogarth:** Sure.

I move that subsections 16(2) and (3) of schedule 1 to the bill be struck out and the following substituted:

“Examples of subs. (1) contracts

“(2) The following are examples of consumer contracts described in subsection (1):

“1. A lease, other than a lease described in subsection 38(1).

“2. A purchase-cost-plus lease.

“3. A personal development services contract.

“4. A consumer contract for loan brokering, credit repair or contract breaking.

“5. A timeshare contract.”

Exemptions

“(3) This part does not apply in respect of the following consumer contracts:

“1. A credit agreement.

“2. A lease described in subsection 38(1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.

“3. A prepaid—

**The Acting Chair (Mr. Brian Saunderson):** I'm just going to intervene there for a second. When you read the heading, I think you said “exemptions,” not “exceptions.” Just so we have it correctly for the record—

**Ms. Christine Hogarth:** Oh, there you go. “Exceptions.”

**The Acting Chair (Mr. Brian Saunderson):** Okay.

**Ms. Christine Hogarth:** Thank you. Thank you—for my blurry eyesight. Where did I leave off? Number 3, I believe?

**The Acting Chair (Mr. Brian Saunderson):** Yes.

**Ms. Christine Hogarth:** “3. A prepaid purchase card contract.

“4. Any part of a consumer contract that relates to the provision of rewards points.

“5. A consumer contract for work to be done on or repairs to be made to a motor vehicle as defined in subsection 1(1) of the Highway Traffic Act.

“6. Such other consumer contracts as may be prescribed.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the amendment?

**Ms. Christine Hogarth:** Sure. We recommend voting for this motion because this amendment maintains consumer protection by ensuring protections are in place for leases that are not under part 4—principally, leases that are shorter than four months. The amendment ensures consistency with how leases are treated under the Consumer Protection Act, 2002, and ensures those protections are carried forward. Without the amendment, there would be a gap in protections for consumer leasing products on a short-term basis. When we reread the act, this was missing, so we wanted to make sure it was added.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, then I will call the vote. All in favour? That looks to be unanimous. Any opposed? No, so I declare the motion carried.

That brings us then to motion number 10, which is a government motion to amend subsection 16(4). Who would like to speak to that? MPP Dixon.

**Ms. Jess Dixon:** I move that subsection 16(4) of schedule 1 to the bill be amended by striking out “paragraph 4” and substituting “paragraph 1”.

**The Acting Chair (Mr. Brian Saunderson):** Okay. Do you want to speak to the motion?

**Ms. Jess Dixon:** This is just a technical amendment based on motion 9 being carried, which reorders the sections appropriately.

**The Acting Chair (Mr. Brian Saunderson):** Very good. Thank you.

Further debate? Seeing none, all in favour? And that looks to be unanimous. I declare the motion carried.

That brings us to NDP motion 10.1. Who would like to put that on the floor? MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 16(5) of schedule 1 to the bill be struck out.

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the motion?

**Mr. Tom Rakocevic:** Yes, thank you very much. Again, this comes from the Law Commission of Ontario and it seeks to remove monetary thresholds for the CPA to apply:

“LCO consultations broadly supported elimination of CPA minimum monetary thresholds. British Columbia and other jurisdictions do not have a monetary threshold, ensuring all digital consumers are protected. This is an important reform because:

“—Many of the largest platforms and most common services used by Ontarians are provided on a low- or no-

cost basis. These are some of the biggest services used by consumers and should not be exempt from consumer protections.

“—Ontarians may be required to use online products for work, school, or to access government services with no option to accept or reject the terms of service.

“—Many Ontarians also rely on online products in which small ‘microtransactions’ fall short of minimum monetary thresholds but have significant value over time.

“Experience in jurisdictions with no minimum threshold—such as British Columbia and elsewhere—demonstrates the risks to businesses of this change are minimal and that trivial complaints go through ministry complaints process or courts, both of which dissuade vexatious complaints.

“For clarity and certainty, the LCO recommends that the CPA 2023 specify there is no minimum transaction threshold unless the threshold is otherwise exempt by regulation.”

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Hogarth.

**Ms. Christine Hogarth:** I just want to thank the member for bringing this forward. The problem is, we cannot support this motion. It represents a major policy shift which has not been consulted on, and we consulted on this bill for three years. We’ve consulted on it. It has not been consulted on with our businesses, our consumers or the legal community, so I suggest opposing this motion.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** The selling and the purchasing in the consumer environment is rapidly changing, as I’ve mentioned, and I think we all understand, as more and more purchases move online, the game is changing. We know about these microtransactions. It could be a child in a video game, buying little things that cost much less than \$50. It could be a dollar. It could be 50 cents, but it continues to add up.

I really hope—I know that in another amendment, there was a mention by a government member that they would consider this, moving forward. Obviously, at some point, the Consumer Protection Act is going to be changed in the future. Since there is still some consultation that’s continuing, I really urge the government to consider this.

We are going to continue to move online. Sellers, especially bad actors, considering dark patterns and all other forms of ways that they’re selling to us, especially our children, our grandchildren and others—we need to think about protecting them better, and I think we need to expand the legislation. We’ve heard it from others.

The law commission has obviously—looking at other jurisdictions and in light of the fact that other jurisdictions are moving in this direction, I urge government members to take this back to the ministry and consider this as part of their own consultative process.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth.

**Ms. Christine Hogarth:** We will.

**The Acting Chair (Mr. Brian Saunderson):** Sorry. Pardon me?

**Ms. Christine Hogarth:** We will enter the consultation process, and that's to come, but we're still going to oppose it today.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? All right. MPP Wong-Tam.

**MPP Kristyn Wong-Tam:** I'm encouraged to know that this will be going under further review, study and consideration. I think that's actually a very smart move. Recognizing that jurisdictions such as British Columbia and all other jurisdictions actually do not have a minimum monetary threshold should be something that we are paying attention to, largely because those jurisdictions have consumer protection acts as well as watchdogs that have been in place for much longer than ours. The fact that we're actually running behind, trying to catch up, is not necessarily the worst thing, but recognizing where we are I think is important.

I wanted to also note that when it comes to monetary value, with respect to transactions involving children and youth, we know that the online gaming world is very large. We recognize that, oftentimes, monetary credits are not necessarily issued in the way that you and I would expect in terms of dollars and cents. Many of those benefits, especially enticements to children, actually involve credits. They involve points that can be accumulated to then trade and transact for other things, and that is something I believe should be further reviewed and studied—as the government has noted that they are going to take this motion into consideration in another forum—simply because it's not just money that's being transacted anymore. It's oftentimes points. Then, it's a gateway to what I believe are going to be much more challenging circumstances, which include setting up conditions to enable further online gaming as adults.

So, the gateway for children is early and young. We are seeing this in numerous studies across the sector, and there have been all sorts of children protection services that have flagged it as an issue.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been requested—oh, MPP Rakocevic.

**Mr. Tom Rakocevic:** I just want to thank and acknowledge the member for committing to consultation on this. Of course, it is my hope that the government will vote in support, but I recognize that, and I appreciate that being said.

**The Acting Chair (Mr. Brian Saunderson):** All right. Thank you. A recorded vote has been requested.

#### Ayes

McMahon, Rakocevic, Wong-Tam.

#### Nays

Bailey, Byers, Cuzzetto, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** All right. I declare the motion lost.

That brings us, then, to the vote on schedule 1, section 16, as amended. Shall it carry? All in favour? And opposed? I declare schedule 1, section 16 carried as amended.

It being 10:15, we will recess and we will reconvene at 1 p.m. today. Thank you very much.

*The committee recessed from 1014 to 1301.*

**The Acting Chair (Mr. Brian Saunderson):** I'm going to call the committee to order. We've got a busy afternoon ahead of us, so I'm going to get us started here.

We broke this morning after we finished with section 16, so we're now at motion 11. It's an NDP motion dealing with schedule 1, subsection 17(1), and I'll look to MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 17(1) of schedule 1 to the bill be struck out and the following substituted:

“Required disclosure before entering into consumer contract

“(1) Before a consumer enters into a consumer contract, the supplier shall disclose such key information in a prominent disclosure box and other information as may be prescribed in respect of the contract and shall do so in accordance with such requirements as may be prescribed.”

**The Acting Chair (Mr. Brian Saunderson):** Do you want to speak to your amendment?

**Mr. Tom Rakocevic:** I would. Thank you, Chair.

Again, this comes from the Law Commission of Ontario, and it would create a prominent disclosure box and key information sections. These measures have been proven to be very effective in consumer protection.

As stated by the LCO, they recommend “two important strategies to improve notice to consumers and online contracts: (1) specifying ‘key information’ that must be disclosed in online contracts and (2) requiring a ‘prominent disclosure box.’

“‘Key information’ would relay the practical risks and consequences of an online contract to consumers in plain language and do so prominently. This is the original bargain at the heart of standard form contracts. It puts risks and consequences to consumers upfront in a simple bullet list, rather than buried in the confusing language of contract drafting.

“‘Key information’ disclosure is also crucial for other consumers: youth, the elderly, and other vulnerable groups need to understand what they are agreeing to. Key information is particularly supportive of parents, relatives, or friends to better assist vulnerable consumers.

“‘Key information’ will help ameliorate the use of buried, implied, and vague terms typical in most online consumer contracts. It will also encourage a marketplace where suppliers compete on terms and to the benefit of consumers.

“Consistent with” subsections “17(1) and (2), ‘key information’ would be made available before entering a consumer contract and with the express option to decline it. These rights should be precedent to any consumer disclosure of personal details, contact information, credit card information, and the like.



“Key information and prominent disclosure boxes have proven to be a very effective consumer protection” again. Consumer “examples include banking disclosure requirements mandated in Canada, and the ‘Schumer Box’ that summarizes credit card terms in the United States. In consultations” the Law Commission of Ontario “heard from several businesses who use prominent disclosure boxes voluntarily and find them effective for both parties.”

Government members talked about comprehensible versus plain language. Again, it refers to plain language here, but putting things in a box like that, putting it in bullets, making it simple doesn’t just benefit the elderly and youth as described here; I think it benefits all of us. We are all facing, sometimes, walls of text in a contract, whatever it is, where some would argue they don’t even know what they’re signing anymore. This really seeks to put the onus on the businesses to make what they’re doing in plain language, to make their contracts in plain language. I think this is very supportable and I think it will improve the legislation. I’m hoping members will support it.

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much. Just before I move on, I’ll just confirm your request for recorded votes on each of your amendments.

**Mr. Tom Rakocevic:** Yes. Thank you very much, Chair. I’m requesting a recorded vote on all amendments of mine.

**The Acting Chair (Mr. Brian Saunderson):** All right. Thank you.

Further debate? MPP Hogarth.

**Ms. Christine Hogarth:** I want to thank MPP Rakocevic for his research on this act. It is important to get this done right.

But I just want to remind the member that we are still going to be consulting. We’ve consulted three years on this act, and we will continue to consult. We’re just concerned about this motion because we think it might be a little premature at this stage to introduce detailed rules of the act regarding disclosures to consumer contracts. It doesn’t say we can’t look at it in the future, but right now our lawyers feel that it’s just premature at this time. So we’re going to vote against this motion.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** A lot of the act will be determined in regulations, and if I understand correctly, a lot of the act is being moved to regulations and there will be quite a lot of work on that end. Is this something that might be considered at that point, not just in consultation but at least within the possibility of the regs themselves?

**Ms. Christine Hogarth:** We will continue to consult with our stakeholders. That would be on contract disclosure, and any information—I can’t give you an answer on that right now.

**Mr. Tom Rakocevic:** Okay. I hope that you’ll take that back to them, and I appreciate that.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate on this item? Seeing none, a recorded vote has been

requested, so please keep your hand up until your name has been called.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

Then, I will call the vote: Shall schedule 1, section 17 carry? All in favour? Opposed? That is carried.

That brings us to schedule 1, section 18. I see no amendments. Any debate on this item? Seeing none, then I will call the vote. All in favour? And opposed? That shall carry.

Schedule 1, section 19: There is a motion for an amendment. It is an NDP motion, so I’ll ask MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that section 19 of schedule 1 to the bill be amended by adding the following subsection: “Exception

“(4) Despite subsection (2) and (3), a supplier may amend or continue or purport to amend or continue a consumer contract if the modification is proposed in good faith and it does not have the effect of undermining any term, affirmation or promise made by the supplier in the original consumer contract and is made in accordance with the regulations.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the amendment?

**Mr. Tom Rakocevic:** Yes, I would. Thank you, Chair.

Again, this comes from the Law Commission of Ontario, and it would establish a good faith requirement and unilateral contract changes to balance consumer interests with routine business practices. Further to that, section 19 should establish a duty of good faith in relation to unilateral contract changes to balance consumer interests with routine business practices within reasonable standards of fair dealing.

The Law Commission of Ontario recommends the approach endorsed by the American Law Institute in the fifth restatement on consumer contracts, 2022, chapter 3. The ALI sets out four requirements allowing unilateral changes to a consumer contract:

- (1) the notice of the unilateral changes;
- (2) a chance for the consumer to exit the contract;
- (3) a requirement for affirmative consent to the modified services and product; and
- (4) minor amendments can be made in good faith.

This amendment improves consumer protection while allowing suppliers to make minor amendments that would otherwise spam consumers with inconsequential routine changes.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP McMahon.

**Ms. Mary-Margaret McMahon:** I’m happy to support my colleague’s amendment, brought forward from the

Law Commission of Ontario's suggestion. It just seems pretty benign in addition to what's already there, but it's valuable to add for stronger protection. So there's really no reason not to support it.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Dixon.

**Ms. Jess Dixon:** Our recommendation will be to oppose, not because the issues raised are not important, but because—similar to what MPP Hogarth commented—we believe this is something that can be further explored in regulation, with consultation with Ontario businesses. Also, to further delve into the proposed meaning of “good faith” in this context, again, is something that we believe is for the regulatory phase of this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** I also just want to take the time to thank the ministry staff. I know that many are here in the room, and I know that they've worked diligently on all of this. Certainly the amendments the government put forward, they've had some hand in. I know they've probably had to review what we in the opposition have put forward and I know it's probably been a lot of work to do so, so I just want to say I appreciate that.

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I'm just hoping that the government will support more of these amendments. Again, I thank you for the comments and about the willingness to potentially consider this in adherence and certainly in consultation, but again, all of these will strengthen regulations and strengthen the act overall.

**The Acting Chair (Mr. Brian Saunderson):** I appreciate your comments and certainly I know that many of the government staffers were here late last night doing this, and coffee has been going quickly in here, so thank you to all for your help and to all the information that's gone into this important process.

Is there any further debate before I call the vote? Seeing none, a recorded vote has been called, so please keep your hand up.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

Unless there's any further debate, we will vote then on—shall schedule 1, section 19 carry? All in favour, please? And opposed? I declare that carried.

That brings us, then, to schedule 1, section 20. I see no motions dealing with that. Is there any debate? Seeing none, then I'll put the question. Shall schedule 1, section 20 carry? All in favour, please? Opposed? I declare that carried.

That brings us to a new schedule, section 20.1, and I will look to NDP MPP Rakocevic. Go ahead, please. This is 12.1.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following section to part III of the Consumer Protection Act, 2023:

“Capacity

“20.1(1) Any consumer contract entered into with a consumer who is mentally incapable at the time the contract is entered into is voidable by the consumer or their substitute decision-maker.

“Same

“(2) A consumer or substitute decision-maker may exercise their power to void a contract under subsection (1) at any time.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to that?

**Mr. Tom Rakocevic:** Yes, please.

Any consumer contract entered into with a consumer who is mentally incapable at the time the contract is made should be presumptively void and voidable at the sole prerogative of the consumer and/or their substitute decision-maker without any time limits. This is an attempt to stop predatory sales on our most vulnerable.

From ACE: “Any consumer contract entered into with a consumer who is mentally incapable at the time the contract is made should be presumptively void, and voidable at the sole prerogative of the consumer and/or their substitute decision-maker without any time limitations, by operation of statute.

“In view of the rampant financial abuse of low-income, cognitively impaired community-dwelling older adults, these amendments would further reflect the nature of the marketplace and are immediately necessary to ensure the fair administration of justice and the enforcement of consumer rights.”

I think we can all agree that our most vulnerable continue to be preyed on in many different ways by unscrupulous salespeople and bad actors. Again, the opposition is trying to strengthen the legislation to provide those protections.

It's beyond unconscionable for a bad seller to approach someone facing serious cognitive impairment and to take advantage of them. And knowing that this is the case, this would essentially void any contract being made with an individual facing those challenges.

I'm hoping that the government will support this to help our most vulnerable. This will only strengthen the regulation and protect the vulnerable and make it much, much harder for predatory bad actors to conduct their bad business.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Dixon.

**Ms. Jess Dixon:** Again, I appreciate the thought that the member is bringing to this. However, we'll be voting to oppose this. This is essentially adding a new subsection that would provide for the ability to void contracts because of mental incapacity, and we take the perspective that mental incapacity has not been consulted on sufficiently for that to be entered into.

And we already have the provisions in the act about an unconscionable act being “taking advantage of a consumer”

due to their “disability, ignorance, illiteracy, inability to understand the language of a consumer contract or similar factors.” We take the position that this is, in some ways, already covered, but also we’re not in a position to expand that mental incapacity at this point without further consultation.

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, MPP.

**Mr. Tom Rakocevic:** I just, again, hope that as the ministry moves forward with the regs, the further consultation you’re doing, anything we can do to strengthen language and ensure that is expanded to protect the most vulnerable would be appreciated by consumers, and it is the right thing to do. So thank you.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Seeing none, this is a request for a recorded vote, so please keep your hands up until identified.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

That brings us, then, to schedule 1, section 21. There is an NDP motion 12.2. Go ahead, please, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that section 21 of schedule 1 to the bill be amended by adding the following subsection:

“Costs separated

“(4) The cost of individual goods and services must be clearly separated in a purchase-cost-plus lease.”

**The Acting Chair (Mr. Brian Saunderson):** If you wish to speak to it, go ahead.

**Mr. Tom Rakocevic:** The costs of goods and services would have to be clearly separated in a purchase-cost-plus lease. The introduction of a regulated buyout schedule is a positive addition to the act. We recommend mandating that suppliers separate the costs of goods and services and that the buyout figure for the goods factor in depreciation and the amounts already paid, excluding the costs of services that would never be provided after termination.

Requirements around a buyout schedule are important, as this is a favoured tactic by bad actors to pressure consumers into paying unreasonably large sums to terminate their leases, and in many cases to discharge the associated NOSI on title. It is often the case that consumers are unaware that a NOSI has been placed on their property until they are in the midst of selling or refinancing, and therefore under external pressure to quickly resolve the issue.

The details of the buyout regime are not included in the act and will instead come through future regulations, so we’re not able to comment on the particulars of the buyout schedule at this time. We do want to note that these future regulations should factor in the common situation where the costs of goods and services are blended together, making

it impossible for the consumer to know what the actual price of the goods is aside from the services. The costs attributed to services can often far exceed the value or payments of the goods itself, yet the consumer is unaware of the situation.

When considering a buyout, it is not fair for a consumer to pay for the price of the services that they will never receive in the event of a buyout. To this end, we recommend mandating that suppliers must separate the cost of goods and services and that the buyout figure for the goods factor in depreciation and the amounts already paid and exclude costs of services that would never be provided after termination. This really provides more information to the purchaser, to the consumer.

I know the government is aware of the issues with NOSIs. I know that they’re undertaking parallel consultation with regard to that. But making these sellers show, “This is the cost of goods and this is the cost of services,” would be very, very informative for consumers. It makes it far more challenging for the people that are registering these NOSIs or doing the work to justify, sometimes, the costs of what they’re doing and would be really, really helpful to consumers. I hope that government members will support this.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** We respect your thoughts, obviously, but we will not be supporting this. The amendment has not been consulted on and may have unintended consequences. There is sufficient authority to make regulations governing the disclosures of this type of lease, which would be subject to further consultation with businesses and consumers.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** I understand, but can anyone envision an unintended consequence when you’re—imagine an elderly person being approached by a contractor at their home and agreeing to a contract. We’re simply having them itemize, “This is what it’s costing for the install. This is the cost of the materials.” Because at the end of the day, they might come after the same purchaser later asking, with regard to NOSIs, far more than what they had ever bargained for.

### 1320

This is just about consumer information so, again, please consider this as you move forward. Consider it in the regs. Consider it in the consultation. I think we can all agree that transparency is really important for consumers—we would all agree—in the purchases and in the choices we make. For our loved ones and for all Ontarians, please, please consider this as you move forward.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** The member across is correct: We are working on that with the notices of security interest, and it will be taken care of in that legislation.

**The Acting Chair (Mr. Brian Saunderson):** There being no further debate, a recorded vote has been called.

**Ayes**

McMahon, Rakocevic.

**Nays**

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

I will put the main question then, unless there's any further debate? Shall schedule 1, section 21 carry? All in favour? Opposed? I declare the motion carried.

There are no amendments to sections 22 through 25 of schedule 1. Does the committee agree to bundling those items? All right, then I will call the question. Shall schedule 1, sections 22 through 25, carry? In favour? Opposed? I declare the motion carried.

That brings us, then, to schedule 1, section 25(1) and (2). There is a proposal. I will pass the floor to MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following sections to part III of the Consumer Protection Act, 2023:

“Initiation fees

“25.1 No supplier of personal development services shall,

“(a) charge a consumer more than one initiation fee; or

“(b) charge an initiation fee that is greater than twice the annual membership fee.

“Instalment plans

“25.2(1) Every supplier of personal development services shall make available to consumers at least one plan for instalment payments of membership fees and initiation fees, if applicable, that allow consumers to make equal monthly payments over the term of the personal development services agreement.

“Same

“(2) No supplier shall provide an instalment payment plan through which the total amount paid by instalments exceeds the membership or initiation fee, if applicable, by more than 25 per cent.”

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much, MPP. Before I get you to speak to your amendment: The proposed amendment seeks to add multiple amendments to the bill. Members should have the opportunity to comment on and vote on the validity of each new section being added, so I'm going to ask that we sever the two and address each new section of the bill one at a time.

I'm going to ask MPP Rakocevic to just address each paragraph one at a time.

**Mr. Tom Rakocevic:** Thank God for our Clerks.

**The Acting Chair (Mr. Brian Saunderson):** Yes, exactly.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following sections to part III of the Consumer Protection Act, 2023:

“Initiation fees

“25.1 No supplier of personal development services shall,

“(a) charge a consumer more than one initiation fee; or

“(b) charge an initiation fee that is greater than twice the annual membership fee.”

Again, this and the preceding come from the Ontario Bar Association, who took part in the process, and we thank them for that. The current bill removes important regulations on personal development services. This amendment would restore those provisions, placing limits on initiation fee instalment plans.

“The act does not include two key provisions related to personal development services from the old act that are beneficial to consumers and strengthen consumer protections. Specifically, we recommend including section 33 (limits on initiation fees) and section 34 (instalment plan availability and limits) from the old act in the proposed act. Suggested amendment(s) are contained in the appendix to this submission.”

This is part of the appendix that they provided, and, again, this is the rationale.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? I will start with MPP Dixon, and then MPP Riddell.

**Ms. Jess Dixon:** I believe, similar to the member opposite, that my comments will apply to all sections, but we take the position that this is, as you said, recreating acts from the previous bill. While these are important, we will be opposing it. We take the position that it's more appropriate to move this into regulations, because we want this act to remain flexible, versus enshrined in the act itself.

I certainly also read those submissions, and they did excellent consultation. We'll need to do more, but that will be addressed in the regulation phase. Obviously, we'll consider continued consultation with that organization and the great work that they did.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell, anything else?

**Mr. Brian Riddell:** No, that was all.

**The Acting Chair (Mr. Brian Saunderson):** Okay.

Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** I did this in the House, and I do want to acknowledge in committee that prior to the second reading, we were granted a technical briefing by the ministry. We appreciate that. Obviously it was a short briefing, and there is quite a lot that's in the bill, but it's definitely appreciated. One of the comments we made at the time is that it becomes difficult sometimes to critique when sections of a protection act are taken out altogether and then moved into regulations.

I understand the comments that are being made about fluidity and being able to make modifications if necessary. It's just that when we debate and we set out what the changes will be, leaving it to government to ultimately make regulations sometimes doesn't allow us to know fully where those are going to go.

That being said, I appreciate that that will be something that is considered within the regulatory part and the drafting of this bill—I'm sure in consultations, as well—and appreciate that answer.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate on this section? Seeing none, a recorded vote has been called.

**Ayes**

McMahon, Rakocevic.

**Nays**

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare it lost.

That brings us, then, to the new proposed section 25.2.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following sections to part III of the Consumer Protection Act, 2023:

“Instalment plans

“25.2(1) Every supplier of personal development services shall make available to consumers at least one plan for instalment payments of membership fees and initiation fees, if applicable, that allow consumers to make equal monthly payments over the term of the personal development services agreement.

“Same

“(2) No supplier shall provide an instalment payment plan through which the total amount paid by instalments exceeds the membership or initiation fee, if applicable, by more than 25 per cent.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to that?

**Mr. Tom Rakocevic:** I provided the rationale with 25.1. There was debate on it, and I’m seeking a vote.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We will be opposing this. We feel that additional consultation with the public and business needs to be assessed if changes are needed to existing rules. These were established over 20 years ago, so we need more time to look at this.

**The Acting Chair (Mr. Brian Saunderson):** Okay, very good. Thank you. If there is no further debate, I’m going to call a vote. A recorded vote has been requested.

**Ayes**

McMahon, Rakocevic.

**Nays**

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

Moving forward, then: There are no amendments to sections 26 through 49 of schedule 1. Does the committee agree to bundle those provisions together? All right, then. I will call the vote. All in favour of schedule 1, sections 26 through 49? All in favour? And opposed? I declare those sections carried.

That brings us into schedule 1, section 50. There are two proposed amendments. I will look to MPP Rakocevic for motion 13, please.

**Mr. Tom Rakocevic:** I move that subsection 50(1) of schedule 1 to the bill be amended by adding the following paragraph:

“5.1 A contract for freehold new home purchases.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the amendment?

**Mr. Tom Rakocevic:** I do, thank you.

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This would allow for contracts for freehold new home purchases to access the cooling-off period provisions in the bill. This right is already extended to condo owners. The condo act does provide for a cooling-off period; however, there is no legislation that provides a cooling-off for consumers of freehold new homes. This is already available to some new home purchasers—again, namely those who purchase condos. We’re asking to extend that here.

This continues to be what is asked by those who are advocating for stronger protection for new home warranties and better new homes and protections for consumers. We hope the government will support this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Brian Riddell:** I recommend voting against this motion because, currently, the Consumer Protection Act, 2002, includes a provision confirming it does not apply to the purchase, sale or lease of realty property except for time-share agreements. The intent is to carry forward the new property exemption under regulations to be developed under the new Consumer Protection Act, 2023. New home purchases would continue to be governed by other consumer protection legislation, namely the New Home Construction Licensing Act, 2017, and the Ontario New Home Warranties Plan Act.

Earlier this year, the government had meetings regarding the proposed cooling-off period for buyers of new freehold homes. The government is reviewing the feedback received from this consultation at this time. The proposed cooling-off period for freehold home purchases, if approved, would be placed under the appropriate legislation governing contracts for new homes not currently under the Consumer Protection Act, 2023.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** I’m glad to hear that you did get feedback on that. Again, when you’re a new home purchaser, if you’re purchasing a condo, you already have that protection in place under the condo act, and I think it would be prudent that the government consider providing and extending that cooling-off period in the purchases of new homes. They’re both new home purchasers; it’s just that one is within a condominium and one is not.

I look forward to hearing the results of that consultation, and I urge the government to consider, in some way, shape or form, that enhanced protection for new home purchasers of freehold homes as well.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** I stand by my comment.

**The Acting Chair (Mr. Brian Saunderson):** Very good. A recorded vote has been requested.

#### Ayes

McMahon, Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us to NDP motion 13.1. Go ahead, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 50(1) of schedule 1 to the bill be amended by striking out “10 days” in the portion before paragraph 1 and substituting “30 days”.

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, please.

**Mr. Tom Rakocevic:** It’s straightforward. It would expand the cooling-off period from 10 days to 30 days. This would allow consumers to consult with family members and perhaps seek legal assistance when entering into an agreement.

I really do think, and as you’ll find with the NOSI consultation and others, that it seems like predatory sales practices are on the rise. I know that governments of the past and many have put their heads towards trying to find ways to protect consumers in many different ways, but we continue to see many consumers taken advantage of, especially the most vulnerable. By extending this cooling-off period, as stated, it would allow, especially our most vulnerable, to be able to seek help from others.

I hope that you would consider extending the cooling-off period.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We will be opposing this. Currently, the amendment would represent a significant policy change and has not been consulted on, so we’d like to, obviously, have that period of consulting on that. There would likely be unintended consequences across all business and, in turn, the economy of Ontario. Subsection 50(1), as currently drafted, already includes a regulation-making authority that could provide a different time frame for particular contracts that could be exercised, depending on future consultations.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP, go ahead.

**Mr. Tom Rakocevic:** I don’t expect members to know definitively in the committee that are in the room, but as part of the consultation process, did you hear of any interest in extending the cooling-down period? It’s good that we have a cooling-down period, but of course, the more time you give for consumers in the case of if they have been taken advantage of or there’s a problem with

what they have, it gives them more opportunities to change the choice.

Do we know if there has been any interest within their own external consultations to extend this in any way, shape or form, in any amount of time? Does anyone know?

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** I cannot answer that at this time.

**Mr. Tom Rakocevic:** Okay.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth.

**Ms. Christine Hogarth:** Could we call our legal up?

**The Acting Chair (Mr. Brian Saunderson):** Certainly. If legal is prepared to answer the question, that would be helpful.

**Ms. Kelly Houston-Routley:** How would you like me to do this?

**The Acting Chair (Mr. Brian Saunderson):** Just come to the chair, please, and give us your name, identify yourself, and then the information would be much appreciated.

**Ms. Kelly Houston-Routley:** Good afternoon, everyone. I’m Kelly Houston-Routley. I’m the director of the consumer policy and liaison branch at the Ministry of Public and Business Service Delivery.

I can confirm we have had feedback from a variety of stakeholders on the cooling-off period and polarized views on both sides. We’ve heard from consumer organizations that feel it should be longer. We’ve heard from business communities that believe it should be shorter. So, there is a lot of feedback that we need to consider, and that is one of the reasons why we created that regulation-making authority, for if there is consumer harm for specific contracts. Where there would be further consultation on the possibility of having a longer-than-10-day period for particular contracts, there is flexibility in the bill to implement that.

**The Acting Chair (Mr. Brian Saunderson):** Any further questions? MPP Rakocevic.

**Mr. Tom Rakocevic:** I just want to thank you. Thank you for your work on this bill. Thank you for coming to the mike and answering that. I hope, as you develop the regulations and you consider, that you do look at extending.

**The Acting Chair (Mr. Brian Saunderson):** A recorded vote has been requested, so I will put the question. Shall the amendment carry?

#### Ayes

McMahon, Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

I shall put the question, then: Shall schedule 1, section 50 carry? All in favour? And opposed? I declare it carried.

Committee, there are no amendments to sections 51 through 53. Does the committee agree to bundle those sections together? Thank you. Is there any debate? Seeing none, I will put the question. Shall schedule 1, sections 51 through 53, carry? In favour? Opposed? I declare the sections carried.

That brings us, then, to schedule 1, section 54, and government motion 14. Who would like to table that, please? MPP Hogarth.

**Ms. Christine Hogarth:** I move that subsection 54(2) of schedule 1 to the bill be struck out and the following substituted:

“Exception

“(2) Subsection (1) does not apply to,

“(a) a credit agreement, other than a supplier credit agreement; or

“(b) a lease described in subsection 38(1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.”

**The Acting Chair (Mr. Brian Saunderson):** And would you like to speak to the motion?

**Ms. Christine Hogarth:** Certainly I can. Right now, we are talking about an amendment that would change the scope of the exceptions established in subsection 54(2). It’s a Part IV lease—is a direct contract. I had to look that up because I wasn’t sure, so I’ve done a little homework there. It’s a lease of greater than four months, so it is a Part IV lease, and the lease was made in a consumer’s home—that’s an example that they’ve given us—then the cancellation right for the prohibited term or acknowledgement under subsections 54(1) would apply to those leases.

The proposed motion ensures consistency in the cancellation rights offered for direct contracts, whether they are leases or other types of consumer contracts. It’s just trying to be consistent with what we’re doing. Without this change, there would be a gap in consumer protections related to the contracts typically formed as a result of door-to-door sales; for example, leases that are also direct contracts, in addition to purchase-cost-plus leases.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate?

1340

This is a regular vote, so I shall put the question, then. Shall the amendment carry? All in favour? That is unanimous. Thank you very much.

That takes us to our main motion. Shall schedule 1, section 54, as amended, carry? All in favour? Opposed? I declare the section carried.

That brings us to section 55 and government motion number 15. Who would like to table that? MPP Dixon, go ahead.

**Ms. Jess Dixon:** I move that subsection 55(1) of schedule 1 to the bill be amended by striking out “enter the contract” and substituting “enter into the contract”.

**The Acting Chair (Mr. Brian Saunderson):** Do you want to speak to the motion?

**Ms. Jess Dixon:** This is just a technical amendment.

**The Acting Chair (Mr. Brian Saunderson):** Very good. Any further debate? Seeing none, I’ll put the question.

Shall the amendment carry? All in favour? Again, that is unanimous. Thank you very much.

That brings us, then, to government motion 16. Who would like to table that? MPP Babikian, please.

**Mr. Aris Babikian:** I move that subsection 55(2) of schedule 1 to the bill be struck out and the following substituted:

“Exception

“(2) Despite subsection (1), this section does not apply to,

“(a) a credit agreement, other than a supplier credit agreement; or

“(b) a lease described in subsection 38(1), unless the lease is a purchase-cost-plus lease or the lease is a direct contract.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the motion, MPP?

**Mr. Aris Babikian:** Yes. The amendment would change the scope of the expectations established for the purpose of subsection 55(1): if a Part IV lease is a direct contract—for example, it was leased for greater than four months, so it is a Part IV lease—and the lease was made in a consumer’s home.

When cancellation rights for late delivery or performance under subsection 55(1) would be available to those leases under subsection 55(2), as currently drafted in schedule 1 of Bill 142, Part IV leases that are direct contract would not be eligible for cancellation rights under subsection 55(1).

Direct contracts that are leases are often the subject of consumer complaints related to door-to-door sales and, thus, there may be a gap in protection offered for these kinds of direct contracts. The proposed motion ensures consistency in the treatment of direct contracts, whether they are leases or any type of consumer contract with respect to cancellation rights for late delivery or performance.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth, go ahead.

**Ms. Christine Hogarth:** I want to just add that it’s similar to the last amendment. It’s just really a protection. Without this, there would be a gap in consumer protection, so we just want to make sure it’s succinct.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Then I will call the question: Shall the motion carry? All in favour? Opposed? I declare the motion carried.

I’ll put the main question, then. Shall schedule 1, section 55, as amended, carry? All in favour? Opposed? I declare the section carried.

That brings us to section 56 and NDP motion 16.1. Go ahead, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 56(3) of schedule 1 to the bill be amended by striking out “25-year anniversary” in the portion before clause (a) and substituting “10-year anniversary”.

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to that justification?

**Mr. Tom Rakocevic:** I would. Thank you.

It amends the time a consumer can terminate a time-share contract from 25 years to 10 years. For some, entering into a time-share during the later portion of a person's life can become a life sentence, and that comes directly from what a respondent to the hearings had said. They painted multiple scenarios whereby individuals, elderly or others, enter into a time-share at a later point of their life and are locked in for quite some time.

The fact that the government is moving ahead on this is certainly an improvement. The 25 years is an improvement over what's existing, but at the urging of those who have responded to the hearings and others—especially those representing the elderly and elderly groups—who have stated that this would be an even further improvement, I'm hoping that the members will look favourably upon this request that we heard during hearings and that we in the opposition support.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell, then MPP Dixon and MPP McMahon.

**Mr. Brian Riddell:** We will be opposing this. The amendment would create significant uncertainty for the time-share sector, the business side of it, and the existing time-share owners who do not want to exit their contracts. The 25-year timeline was informed by feedback received during the ministry's prior consultation on this issue. We did speak to people, and this was the feedback we got.

**The Acting Chair (Mr. Brian Saunderson):** MPP Dixon?

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Okay. MPP McMahon?

**Ms. Mary-Margaret McMahon:** I feel this is a reasonable request. Maybe you did consult—well, obviously you did consult with people, but I wonder how large that net was of people you spoke to. I think 25 years is a long time and 10 is more reasonable, so I'll be supporting my colleague.

**The Acting Chair (Mr. Brian Saunderson):** MPP Rakocevic?

**Mr. Tom Rakocevic:** I just want to state that the scenarios that were painted for us within the hearings whereby a member who has just recently purchased a time-share has a spouse who begins, unfortunately, entering a portion of their life where they're experiencing cognitive health issues or whatnot, or the sudden passing of a loved one—what was painted for us concerns me. I really hope that for those who are part of the businesses in time-share, that's not part of the model or part of the mathematics that they're doing when they're looking at finding if this is a viable business at all, because the last thing I would like to see is our elderly, at a time of their life when they're looking to relax and enjoy the fruits of their labour throughout their entire life, entering into a contract that, because of a devastating health issue affecting them or a family member, leaves them in a bad position.

I'm happy to hear that you consulted on it. I'm not sure if the consultation involved a simple question of "Do you want a change of 25 years?" or if it was more of a fluid ask: "What should be the amount or length of a contract?"

Since I'm not party to what was discussed, I hope that there would be further consideration as you move forward.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Riddell.

**Mr. Brian Riddell:** I appreciate your thoughts, but we did go out and talk to the public, and that's what came back. There are people who are still interested in keeping their contracts, so I stand by my prior comment.

**The Acting Chair (Mr. Brian Saunderson):** A recorded vote has been requested, so please keep your hand up until you hear your name. I shall put the question. Shall the motion carry?

**Ayes**

McMahon, Rakocevic.

**Nays**

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That takes us, then, to the main question. Shall schedule 1, section 56 carry? All in favour? And opposed? That carries.

There are no amendments to sections 57 through 59. Does the committee agree to bundling those provisions? All right. Is there any debate? Seeing none, I shall put the question. Shall schedule 1, sections 57 through 59, carry? All in favour? And opposed? I declare those sections carried.

That brings us to section 60 and NDP motion 16.2. MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that section 60 of schedule 1 to the bill be amended by striking out "or terminates a purchase-cost-plus lease, the supplier must do the following" in the portion before clause 1 and substituting "or terminates a purchase-cost-plus-lease, or if the contract has been performed or forgiven, the supplier must do the following".

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**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** Yes, I would. It adds language that a purchase-cost-plus-lease can be discharged if the contract has been performed or forgiven. This comes from the Ontario Bar Association, which "strongly supports the addition of the statutory requirement for suppliers to discharge NOSIs on cancelled contracts. Lingering NOSIs was a problem in the old act that could only be dealt with through the Superior Court of Justice. This section could potentially be expanded to include all cancelled, terminated, or otherwise concluded contracts. This is a problem for many contracts (including, for example, high-interest loans) and should have broad application."

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Hogarth.



**Ms. Christine Hogarth:** I just want to thank MPP Rakocevic for his amendment. The concern with this amendment is it goes beyond the scope of the act. We heard this from one person who spoke at committee, but we have consulted for three years on this and we will continue to consult. This does go beyond the scope and it doesn't deal with steps after the contract has been completed or fulfilled, so we're going to vote against this motion.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell?

**Mr. Brian Riddell:** Just to add to what MPP Hogarth said: The amendment is unclear and would likely have unintended consequences, as it is adding new terms, such as "performed" and "forgiven," that are not defined. This would cause a lot of confusion both to businesses and consumers.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** I hear you, but from the perspective of the bar association, again, I'm going to repeat: They strongly support "the addition of the statutory requirement for suppliers to discharge NOSIs on cancelled contracts."

As it stands now, there are many people among us who have NOSIs added to their properties and they don't even know about it. In the instance of a cancelled contract, shouldn't it be that the NOSI is just discharged? Why do we continue to put the onus on consumers, who have to now chase around businesses, perhaps hire lawyers and even fight them in court to discharge?

We're talking about a cancelled contract. Does it go beyond the scope of the legislation? You are doing a consultation. Again, I acknowledge that this is running parallel to legislation, but I don't really understand in this instance why this is—it's not really a massive change. In this case, we're dealing with consumers who should not have a NOSI at this point on their property, so I'm not sure why we would oppose, based on that rationale.

**The Acting Chair (Mr. Brian Saunderson):** This is a recorded vote, so please keep your hands up. Shall the motion carry?

#### Ayes

McMahon, Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

Before I put the next motion on the table, I do want to acknowledge that the minister was here. Minister McCarthy was in the room for part of the discussions there. Thank you for your attendance.

This brings us to NDP motion 16.3. MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that paragraph 2 of section 60 of schedule 1 to the bill be amended by striking out "notice or instrument that has been registered" and substi-

tuting "notice or instrument, including a PPSA financing statement, that has been registered".

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the justification?

**Mr. Tom Rakocevic:** I do. Essentially, what we are seeking is a requirement to discharge any PPSA financing requirements and to notify credit reporting agencies, similar to the NOSI changes in the legislation.

Again, this is an Ontario Bar Association request: "We recommend further strengthening this section by also requiring the discharge of any PPSA financing statement that is registered for the subject contract." That comes from the OBA.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We will be opposing this. We feel this amendment is unnecessary because paragraph 2 of section 60, as currently drafted, already authorizes regulations to specific prescribed registrations, notices or instruments, which could include a financial statement under the Personal Property Security Act. Therefore, it's unnecessary to reference including a PPSA financial statement in paragraph 2 of section 60.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, this is a recorded vote and I will call the question.

#### Ayes

McMahon, Rakocevic.

#### Nays

Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to NDP motion 16.4. Go ahead, please, MPP.

**Mr. Tom Rakocevic:** I move that section 60 of schedule 1 to the bill be amended by adding the following paragraph:

"3. Notify credit reporting agencies about the satisfaction, cancellation or termination of the subject consumer debt to clean the consumer's credit report."

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, please.

**Mr. Tom Rakocevic:** It's the same as the 16.3 motion. It's notifying credit reporting agencies about the termination. Again, this comes from the Ontario Bar Association, who are stating that they "also recommend the addition of the requirement for a supplier to notify relevant credit reporting agencies about the subject consumer debt and security being terminated or satisfied, so that the consumer's credit reports are cleaned."

I think it's pretty self-explanatory in this instance. Again, this would help consumers have a clean credit score and clean credit record. These are instances where, in fact, they

should, with regard to what has happened or what they're dealing with. So we hope that you'll support that.

**The Acting Chair (Mr. Brian Saunderson):** MPP Hogarth.

**Ms. Christine Hogarth:** We're going to continue to consult on this bill, and I thank you for bringing this forward, but this amendment would require consultation with businesses and other consumer reporting agencies, so we are going to vote it down today. But, as I said, we are going to be consulting further.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been requested.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That will take us back to the main question, then. Shall schedule 1, section 60 carry? All in favour? And opposed? I declare that carried.

There are no amendments to sections 61 through 68. Does the committee agree to bundling those provisions together? All right, then I will call the question. Shall schedule 1, sections 61 through 68, carry? All in favour? And opposed? I declare those sections carried.

That brings us now to section 69 and NDP motion number 17. Go ahead, please, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 69(3) of schedule 1 to the bill be struck out and the following substituted:

"Same

"(3) In addition to an order under subsection (2), the court may order exemplary or punitive damages, disgorgement damages or such other relief as the court considers appropriate."

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, please.

**Mr. Tom Rakocevic:** This one has a substantial explanation, so bear with me.

**The Acting Chair (Mr. Brian Saunderson):** You're busy.

**Mr. Tom Rakocevic:** Definitely.

It would expand consumer remedies under the act to allow a court to also order damages for disgorgement. "Disgorgement is a type of damages based on ill-gotten gains rather than causing a measurable harm. Claimants can seek damages not just for how much"—anyway, let me move on to the next part, all right? This gives a little bit more detail:

"CPA 2023" subsection "69(2-3) specifies that a consumer who successfully brings an action under the act may seek: court order to recover 'full payment' to which they are entitled; 'three times the amount of a refund;' and/or

'the court may order exemplary or punitive damages or such other relief as the court considers proper.'

"The LCO heard that damages available to consumers are generally for low amounts while punitive damages set a high legal and evidentiary bar for consumers to meet (such as having to show clear intent and gross negligence) and are only available by court order. Consumers consequently have little incentive to act on their rights in most transactions. In fact, for many consumers and transactions, it would be a disproportionate personal expense to enforce their rights. In addition, these types of damages may not address practices in online contracting that impact consumer interests but which do not cause direct losses.

"Disgorgement is a type of damages based on ill-gotten gains rather than causing a measurable harm. Claimants can seek damages not just for how much they've been harmed, but also in some proportion to how much the offending party gained or profited from the infringement.

"US states that have disgorgement damages see it as an effective way to" systematically "discourage unfair practices that may not result in loss or costs to an individual consumer. In the digital marketplace, for instance, a disgorgement remedy might be available where a platform profits from deceptive software or contract design practices resulting in unwanted purchases. Another example might be a platform that uses a consumer's likeness and advertisements targeted at their friends. A legislative amendment would help clarify competing case law.

"To be clear, damages for disgorgement would be court ordered."

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**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We will be opposing this. We feel this amendment would enable the government to prescribe a new category of statutory damages for breaches of the act and would be a significant change in consumer protection law that is not the subject of consultation with the business or legal community.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** I won't reread it, but in addition to the damage that a consumer receives, there are all sorts of benefits by which the bad actor who has harmed a consumer is benefiting from. So this sort of seeks to capture more.

Again, this has happened in states in the United States, our neighbours to the south, in my many different ways. I hope that, with the future of this act and with the future of the ministry, they would consider the expansion and further consultation, or just consideration internally, because I do think that this would help consumers and would discourage bad actors.

**The Acting Chair (Mr. Brian Saunderson):** Seeing no further debate, a recorded vote has been requested.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** The motion is defeated.

That brings us to the main question. Shall schedule 1, section 69 carry? All in favour? And opposed? I declare the section carried.

That brings us, then, to NDP motion 17.0.1, which is a new section 69.1. I will pass it over to MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following section to Part V of the Consumer Protection Act, 2023:

“Statutory damages

“69.1 A consumer may elect, at any time before final judgment is rendered, to recover, instead of damages referred to section 69, an award of statutory damages for which any supplier is liable under this act, in such amounts as may be prescribed.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** I would. I thank the Law Commission of Ontario again. This would allow for stronger consumer remedies, mainly statutory damages.

“Statutory damages would allow a consumer to opt for damages defined in legislation/regulation as an alternative to court ordered damages. This makes enforcement faster and”—I will continue on.

From the LCO, “consultations demonstrate support for adopting a model of statutory damages into CPA 2023.

“Statutory damages would allow a consumer to opt for damages defined in legislation/regulation as an alternative to court ordered damages. This makes enforcement faster and more predictable and clarifies non-compliance risks to businesses. The LCO also heard that existing damages for consumers—including exemplary and punitive—set a high legal and evidentiary bar and are often of such a low amount that the consumer has little incentive to act on their rights. A scheme for statutory damages could also mirror regulations governing fines and penalties issued by the minister (as prescribed under s. 108) and better ensure the ability of consumers to pursue rights where the minister may not have the capacity or desire to investigate and issue orders.

“The best-known statutory damages scheme in Canada is the Copyright Act, s. 38.1, which has been in operation for over two decades.

“The LCO’s recommendation proposes to establish a statutory right to damages in legislation while leaving prescribed amounts to regulation.”

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Babikian.

**Mr. Aris Babikian:** We will oppose this amendment because the amendment to enable the government to prescribe a new category of “statutory damages” for breaches of the act would be a significant change in consumer protection law that was not the subject of consultation with the business or legal communities.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** I hear the opposition loud and clear to this amendment, but again, all we’re trying to do is find different ways to protect consumers. Bad actors continue to innovate in a very bad way, in a negative way, to harm consumers, especially those most vulnerable. We’re just seeking ways to make it easier for consumers to be protected.

One of the main challenges, I think—and I’ve said that there are definitely many improvements within this act to consumers and to consumer rights in the province, but it continues to put the burden on consumers to go to the courts and fight. I’ve stated this many times before: It’s the age-old battle of David versus Goliath, in many cases.

The government is certainly not being very punitive or going after generally bad actors; it’s really left up to them. Finding new ways to help them—and this bill does; it arms them in many different ways through laws. But I think this would be a positive step, a strong step for the government to take moving forward to protect consumers. It would definitely deter bad actors, because a lot of those bad actors know that whom they’re taking advantage of, especially the most vulnerable, those facing many barriers, especially financial ones, may not have the option of going to court. And so, this could, in many cases, discourage that. This is coming from the Law Commission of Ontario.

Again, that being said, I’m hoping for a last-minute, miraculous change of vote. That being said, I await the vote.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Seeing none, then I will call the question. Shall the motion carry?

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Recorded vote? Yes, please.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to section 70. There are no amendments proposed, so I will put the question. Shall schedule 1, section 70 carry? All in favour? Any opposed? I declare that carried.

That brings us, then, to section 71 and government motion 17.1. Who would like to table that? MPP Hogarth, please.

**Ms. Christine Hogarth:** I move that clause 71(1)(b) of schedule 1 to the bill be amended by striking out “under the Class Proceedings Act, 1992”.

**The Acting Chair (Mr. Brian Saunderson):** And what’s the justification?

**Ms. Christine Hogarth:** The justification is that this amendment is related to motion 5’s amendment to clause

14(1)(b) of the act. The amendment would ensure businesses and consumers can consensually resolve disputes without consumer contracts even if this means making an agreement or a settlement that includes terms that would prohibit class proceedings in any jurisdiction.

The last point would be: Without this amendment, businesses and consumers may have less flexibility in resolving their disputes about customer contracts. So, this is just helpful and was something that was missed.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Rakocevic.

**Mr. Tom Rakocevic:** It's similar to one of our amendments, and I will be supporting it.

**The Acting Chair (Mr. Brian Saunderson):** Seeing no further debate, I will call the question. Shall the motion carry? All in favour? That is unanimous. Thank you very much.

That takes us, then, to the main motion, which is: Shall schedule 1, section 71, as amended, carry? All in favour? Opposed? I declare the motion carried.

That brings us to section 72. Shall schedule 1, section 72 carry? All in favour? Opposed? I declare that carried.

That brings us to section 72.1, and that's NDP motion 17.2. MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that schedule 1 to the bill be amended by adding the following part to the Consumer Protection Act, 2023:

“Part V.1

“Consumer Watchdog Organization

“Consumer watchdog organization

“72.1(1) The minister shall develop and implement a plan to establish a consumer watchdog organization that is,

“(a) independent of government;

“(b) responsible for overseeing consumer protection matters in Ontario; and

“(c) established in consultation with relevant stakeholders and the public.

“Content of plan

“(2) The plan to establish the consumer watchdog organization referred to in subsection (1) shall include the following:

“1. The steps the minister intends to take in order to establish the consumer watchdog organization.

“2. The powers and duties of the consumer watchdog organization, including:

“i. Investigating businesses or other entities to determine compliance with consumer protection laws or practices.

“ii. Investigating and reporting on the unfair activities or practices of sectors or groups of businesses or other entities.

“iii. Investigating consumer complaints against businesses or other entities submitted to the organization.

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“iv. Administering penalties to businesses or other entities, determining remedies for consumers or otherwise addressing the failure of businesses or other entities to comply with consumer protection laws or practices.

“v. Publishing the number of consumer complaints against businesses or other entities submitted to the organ-

ization, the number of consumer complaints investigated by the organization and the results of the organization's investigations.

“vi. Publishing public reports on consumer protection matters.

“vii. Determining whether existing legislation is no longer serving consumers as a result of the legislation being outdated or poorly enforced.

“viii. Reporting to the Legislative Assembly, relevant committees and ministries regarding matters that directly affect consumers.

“ix. Educating the public on consumer protection and on how consumers can best exercise their rights and responsibilities.

“x. Any powers or duties under any other acts that should be assumed under the organization.

“3. The role of the consumer watchdog organization in relation to other regulatory bodies, including a plan to allow decisions of the organization to prevail over decisions of other regulatory bodies in specified sectors or with respect to specified groups of business or other entities.

4. Such other matters as the minister considers advisable.

“Publication of plan

“(3) The minister shall publish the plan on a government of Ontario website.

“Progress report

“(4) Within six months after the plan to establish a consumer watchdog organization is developed, the minister shall prepare a progress report on the plan and table the progress report in the Legislative Assembly.

“Same

“(5) The progress report shall include the minister's progress in establishing the consumer watchdog organization.”

**The Acting Chair (Mr. Brian Saunderson):** That was a big one. Do you want to speak to the justification?

**Mr. Tom Rakocevic:** I would. This essentially implements Bill 122 that's there. I moved this in the last session of the Legislature, before the last election, and at that time, the government voted it down. It's back on the order paper.

Many people who came to the hearings asked for such an organization to exist. The Consumer Council of Canada called it, I believe, a consumer advocate. I call it a watchdog, because the watchdog obviously has teeth.

As I've stated many times with regard to this legislation, it is an improvement to the act. The ministry has worked tirelessly. We've heard how they've consulted over years, and we know that the environment for consumers continues to change rapidly with the advent of more online purchases, sales and advertising. The world around us is changing. In the case of predatory sales, those bad actors are getting smarter, more dangerous, more clever in the worst senses.

In the system we have in Ontario, the burden is placed on consumers. That's our parents, our grandparents, those facing disabilities, our youth, our children. The most vulnerable are forced to have to go to court, spend money and face down, often, an entity or a business that is much more powerful than them, and sometimes insidious. As you

consult on NOSIs, you will find despicable business practices that are happening, people being taken advantage of in droves.

Around the world, we have places like the European Union that are considered the gold standard for consumer protection. In places like that, they have an entity like a watchdog, perhaps named in different ways but an organization standing away, aside, not as part of government but beside the government, protecting consumers. When businesses are behaving properly, as we all expect them to do, they're great, they're happy that the watchdog is there, that the advocate is there. But for bad actors, they're not going to want to see those teeth.

We need this in Ontario. Consumers need this in Ontario—and not just the most vulnerable; all of us. This amendment seeks and gives the minister the latitude to develop a plan to make this a reality. It exists in other parts of the world. Consumers here in Ontario need it. This is a game-changer. It runs parallel to the legislation that we are debating and modifying today with amendments. This will strengthen Ontario. This will bring Ontario to the gold standard of consumer protection in the world.

I am urging members to vote for this amendment that will enable the minister to develop that plan—a plan that will be a legacy for this government and for all of us, a plan that Ontarians will be proud of, a plan that will bring Ontario consumers and all of us to the gold standard of protections. Please support this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Hogarth.

**Ms. Christine Hogarth:** Thank you to the member. I know this is going to bother you, but we are not going to support this motion because this amendment would duplicate the ministry's roles and responsibilities as a regulator. The amendment would also create an independent organization without appropriate governance and oversight provisions.

Because I know you are very passionate and this is very near and dear to your heart, I would like to call up Kelly from the staff, with your approval, Chair, to go into a little bit more detail, because I want you to know why.

**The Acting Chair (Mr. Brian Saunderson):** If you could again state your name for the record, please. Go ahead.

**Ms. Kelly Houston-Routley:** Good afternoon. Kelly Houston-Routley, director of consumer policy and liaison branch at the Ministry of Public and Business Service Delivery.

As the amendment is drafted, many of the duties that are identified are already functions that happen within government, within our consumer services operations division, so there is a duplication in this amendment. It also, as MPP Hogarth mentioned, creates an independent organization and there are not appropriate governance provisions. Folks will be familiar with our delegated administrative authority model, of which those are independent organizations that have substantial oversight, governance and accountability provisions built in. So, the amendment, as drafted, is problematic from our perspective.

**The Acting Chair (Mr. Brian Saunderson):** Question? Yes, go ahead, MPP.

**Mr. Tom Rakocevic:** I really appreciate the member calling a very senior member of the ministry—not in age, of course, but in power and abilities—to the chair. I'm certainly not going to punish that very honourable move to do so. I appreciate what you've said. I will direct it to the member, because I'm not expecting you to answer on this—and simply to everybody that's here.

This does sit on the order paper. Whether the government does not choose to support it here, I believe—and don't take it just from me. Look at many of the people who came to the hearings and said that this should exist. This would not just strengthen consumers; this would help the ministry. You would have out there a powerful body that's able to stand up for consumers, and this exists in other places where consumer protection advocates around the world tout as being the gold standard. This would be of help to the ministry. This would be of help not just to this government—because I hope that everything we endeavour to do is a legacy for which, one day when we look upon the work that we're doing, the decisions that we made here are helping all Ontarians: our loved ones, our descendants, our children, our grandchildren. But not just ours—everyone. This would change consumer protection. This would be of great help to all governments of today and the future, to the ministries of today and the future.

Again, I appreciate the member from the ministry coming to the chair and to the microphone and speaking, and I again thank the member for inviting her to be able to give her rationale. That being said, I still hope that this will be supported, and I truly hope that government members will take this back to their caucus, that the ministry hears this and looks at the idea, because, again, in the way in which this has been drafted, it gives them the latitude to develop the plan themselves. It gives the minister the power to be able to do this. It's just asking them to do it and to do the right thing for all consumers. So thank you very much for that.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate?

Thank you very much, Kelly, for that helpful information.

Seeing no further debate, then, I'm going to call the vote on the new proposed section. This is a recorded vote.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

Committee, there are no amendments to sections 73 through 80 of schedule 1. Does the committee agree to bundle those provisions together? Okay, then I'll put the

question. Shall schedule 1, sections 73 through 80, carry? All in favour? And opposed? That's carried.

That brings us, then, to section 81 of schedule 1 and government motion 18R. Who would like to put that on the floor? MPP Dixon, go ahead, please.

**Ms. Jess Dixon:** I move that subsection 81(2) of schedule 1 to the bill be struck out and the following substituted:

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"Powers under warrant

"(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator to,

"(a) enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;

"(b) make reasonable inquiries of any person, orally or in writing, with respect to anything relevant to the investigation;

"(c) require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant;

"(d) use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form; and

"(e) use any investigative technique or procedure or do anything described in the warrant."

**The Acting Chair (Mr. Brian Saunderson):** Did you wish to speak to the motion?

**Ms. Jess Dixon:** Yes. All of those words are just to put two up at the front and remove it from everything else for easier drafting.

**The Acting Chair (Mr. Brian Saunderson):** Very concise—thank you for that. Further debate? Seeing none, then I will call the question. Shall the motion carry? All in favour? The matter is unanimous.

That takes us, then, to the main question, which is: Shall schedule 1, section 81, as amended, carry? All in favour? And opposed? That is carried.

Committee, there are no amendments to sections 82 through 87 of schedule 1. Does the committee agree to bundle those provisions? All in favour? Thank you. Then I'll put the question. Shall schedule 1, sections 82 through 87, carry? All in favour? And opposed? I declare those sections carried.

That brings us, then, to section 81 and government motion 19. Who would like to table that? MPP Dixon, go ahead, please.

**Ms. Jess Dixon:** I move that subsection 88(1) of schedule 1 to the bill be struck out and the following substituted:

"Undertaking of voluntary compliance

"88. (1) At any time before all rights of appeal are exhausted or the time for appeals has expired without an appeal being commenced, any person against whom the director has made or is considering making an order under section 89 or 90 may enter into a written undertaking of voluntary compliance to,

"(a) not engage in the specified act after the date of the undertaking;

"(b) provide a refund or other payment to a consumer;

"(c) discharge or remove a notice of security interest or other prescribed registration, notice or instrument that has been registered in respect of goods provided under a consumer contract or any related agreement that has been rescinded, cancelled or terminated;

"(d) publicize the undertaking or the actions being undertaken as a result of the undertaking;

"(e) pay any cost incurred in investigating the person's activities, any legal costs incurred in relation to the person's activities and any cost associated with the undertakings; and

"(f) take any such action as the director considers appropriate in the circumstances."

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to it?

**Ms. Jess Dixon:** Yes. This is basically just broadening the type of voluntary compliance that can be undertaken. Currently, with schedule 1 of the bill, as drafted, the refund to the consumer can only be tied to a consumer that has cancelled a consumer contract, which is perceived as being overly narrow pursuant to our consultation. This improves the director's ability to facilitate voluntary compliance by ensuring that they have the sufficient breadth of authority in order to provide refunds and other relief.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Go ahead, MPP.

**Mr. Tom Rakocvic:** We support expansion and the expansion of this act to provide more protection.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Seeing none, then I'll call the question. Shall the motion carry? All in favour? And that is unanimous.

That takes us, then, to our main question. Shall schedule 1, section 88, as amended, carry? All in favour? And opposed? That is carried.

That brings us to section 89 and government motion 20. Who would like to table that? Go ahead, MPP Coe.

**Mr. Lorne Coe:** I move that subsections 89(2) and (3) of schedule 1 to the bill be struck out and the following substituted:

"Same re persons facilitating

"(2) If the director proposes to make an order against a person under subsection (1) and the director believes on reasonable grounds that another person is facilitating the person's contravention of a requirement under this act, the director may propose to make an order directing the person who is facilitating the contravention to cease doing so.

"Order for refund or other payment

"(3) For greater certainty, if the director proposes to make an order under subsection (1) directing a person to comply with a requirement to provide a refund or other payment to a consumer, the proposed order may specify the amount of the required refund or payment and may include a direction to the person to pay that amount."

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the amendment?

**Mr. Lorne Coe:** Yes, briefly, Chair. The proposed amendments would improve consumer protection and the government's ability to enforce the act.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, I will call the question. Shall the motion carry? All in favour? That is unanimous. Thank you very much.

That takes us, then, to the main question. Shall schedule 1, section 89, as amended, carry? All in favour? And opposed? That carries.

That brings us, then, to schedule 90 and government motion number 21. Who would like to table that? MPP Babikian, please go ahead.

**Mr. Aris Babikian:** I move that subsection 90(2) of schedule 1 to the bill be struck out and the following substituted:

“Same re facilitator

“(2) Despite subsection 89(2), if the director makes an order against a person under subsection (1) of this section in respect of non-compliance with a requirement under this act, the director may make an order directing a person who is facilitating the non-compliance to immediately cease doing so if, in the director's opinion, it is in the public interest to do so.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Aris Babikian:** Yes. The amendment is related to amendments proposed under motion 20 to simplify language related to director's orders to persons facilitating non-compliance with the act.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Seeing none, I will call the question. Shall the motion carry? All in favour? And opposed? That is carried.

Government motion 22: Who would like to table that? MPP Hogarth.

**Ms. Christine Hogarth:** I move that subsection 90(4) of schedule 1 to the bill be struck out and the following substituted:

“Order for refund or other payment

“(4) For greater certainty, if the director makes an order under subsection (1) for immediate compliance requiring that a person comply with a requirement to provide a refund or other payment to a consumer, the order may specify the amount of the required refund or payment and may include a direction to the person to pay that amount.”

**The Acting Chair (Mr. Brian Saunderson):** Would you like to speak to the justification?

**Ms. Christine Hogarth:** It's similar to the last. The amendment would ensure the director has broader authority to issue immediate compliance orders for any refunds or other payments that consumers may be entitled to under the act.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate on this? Seeing none, I'll call the question. Shall the motion carry? All in favour? Any opposed? That carries.

Committee, there are no—

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Oh, sorry. It's a tongue twister all the time.

I'll put the main question then. Shall schedule 1, section 90, as amended, carry? All in favour? Any opposed? That is carried.

Committee, there are no amendments to sections 91 through 101 of schedule 1. Does the committee agree to bundle those provisions together? Thank you. I'll put the question then. Shall schedule 1, sections 91 through 101, carry? All in favour? Any opposed? I declare the motion carried.

That brings us, then, to section 102 and government motion 23. Who would like to table that? MPP Dixon, go ahead.

**Ms. Jess Dixon:** I move that section 102 of schedule 1 to the bill be struck out and the following substituted:

“Offences

“102. (1) A person is guilty of an offence if the person, “(a) fails to comply with any order, direction or other requirement under this act; or

“(b) contravenes or fails to comply with any provision of this act or the regulations.

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“Attempt

“(2) Any person who attempts to commit any offence mentioned in subsection (1) is guilty of an offence.

“Liability of officers and directors

“(3) If a corporation commits an offence mentioned in subsection (1) or (2), an officer or director of the corporation, or any individual acting or claiming to act in that capacity, is party to and guilty of the offence unless the individual proves, on the balance of probabilities, that they took all reasonable care to prevent the commission of the offence.

“Same

“(4) Subsection (3) applies whether or not the corporation has been prosecuted or convicted of the offence.

“Penalties

“(5) An individual who is convicted of an offence mentioned in subsection (1), (2) or (3) is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than two years less a day, or both.

“Same, corporation

“(6) A corporation that is convicted of an offence mentioned in subsection (1) or (2) is liable to a fine of not more than \$500,000.

“Limitation

“(7) No proceeding under this section shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the director.

“Presiding judge

“(8) The crown may, by notice to the Clerk of the Ontario Court of Justice, require that a provincial judge preside over a proceeding in respect of an offence under this section.

“Protection of information

“(9) In a prosecution for an offence under this section or where documents or materials are filed with a court in relation to an investigation into an offence under this act,

the court may, at any time, take precautions to avoid the disclosure by the court or any person of any person of any personal information about an individual, including, where appropriate,

“(a) receiving representations without notice;

“(b) conducting hearings or parts of hearings in private; or

“(c) sealing all or part of the court files.”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the justification on that?

**Ms. Jess Dixon:** Yes, thank you, Chair.

I hope that the member will appreciate some of this. Part of the reason for this amendment is to improve the government’s ability under the act to actually hold bad actors accountable by—similar to what’s happening with the Veterinarians Act, it means that the director or officer of a corporation is liable for any offence committed by the corporation, unless they can prove on a balance of probabilities that they took all reasonable care to prevent the commission of the offence. So this, as I said, increases the ability to hold bad actors accountable but also provides those directors with an avenue to their defence as well.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** It’s good to see people working their vocal boxes here, reading out bills.

I appreciate the explanation. I have to say that I don’t believe we covered this particular part as part of the briefing, but when I had read it, I was concerned that there was a bit of a weakening of the language in some way, shape or form because there were some changes. And the concern would have been, if that were the case, that obviously it allows bad actors additional defences. If the language gets weakened, then it’s more difficult to pursue them and to go after them, but you’re saying that that is in fact not the case, but actually the opposite?

**The Acting Chair (Mr. Brian Saunderson):** MPP Dixon.

**Ms. Jess Dixon:** Yes. This is, as I said, expanding the ability to actually hold them accountable, but in expanding that ability, you do also, fairly, have to provide an opportunity to present a defence to that type of accountability as well, which is why we have the balance of probabilities, which is similar to that in a provincial offences court—basically, a due diligence defence. By opening up and expanding accountability, we also have to open up the ability to provide justification and defend yourself from that type of accountability.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Go ahead.

**Mr. Tom Rakocevic:** Understood. If I may ask—and, again, this is a large repeal and replacement of legislation, and there’s a lot in here. What—and I don’t know if this is a better question for the ministry, but what would have happened had this amendment not come to the floor? And again, this might be an unfair question to ask of a member on the government side to answer that, but what would have happened had this not been included? Let’s say the government hadn’t have included this amendment and it

just went onto third reading and whatever its future held. What would have happened in this regard? You’re saying that bad actors would have no defence whatsoever? I don’t—or, I mean—anyway, I see your hand is up.

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to reply, MPP Dixon?

**Ms. Jess Dixon:** I’ll reply, and then if I haven’t covered it, we can have staff cover it as well. This is also switching the onus as well. Previously, the onus was on the ministry to prove that the corporation had not taken appropriate care. Now it puts the burden back on the director of the corporation itself, which is where that should appropriately be, and, as I said, expanding that. But we can call up staff to provide a more fulsome answer.

**The Acting Chair (Mr. Brian Saunderson):** My understanding is we have someone from the legal department online. Are we able to patch him through?

**Mr. Kevin Dorgan:** Yes, hi there. My name is Kevin Dorgan. I’m counsel from the MPBSD legal services branch.

To answer the question: Yes, it would be more difficult for the ministry to prosecute a director or officer under the language of Bill 142 as currently drafted. With the amendment, it would make it easier to prosecute one of these individuals. Both under the current act and under Bill 142, as currently drafted, the ministry would have to establish beyond a reasonable doubt that a director or officer failed to take reasonable care to prevent the corporation from committing an offence.

In a provincial offences proceeding, a director or officer is not required to take the stand. They have the right to remain silent, and so the ministry is left only with possibly a consumer and a ministry investigator to lead evidence about a director’s or officer’s reasonable care in preventing a corporation from committing an offence.

The ministry often would not have access to meeting minutes from, let’s say, board meetings, as an example, or any other internal communications. Therefore, with the amendments, it should be easier to prosecute a director or officer successfully, because they will be deemed liable to have committed the offence unless they establish, on a balance of probabilities, that they did take reasonable care to prevent the corporation from committing the offence.

That defence is to ensure fairness, and it would allow for an innocent officer or director to bring their own evidence. It would basically give them an incentive to take the stand and to explain how it is that they took reasonable care to prevent their corporation from committing an offence.

I’m happy to answer any other questions about this one.

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much.

Any further questions? MPP Rakocevic.

**Mr. Tom Rakocevic:** I just want to acknowledge and thank the member for asking the ministry to explain. I want to thank Mr. Dorgan—it appears, if that’s in fact his computer. As I’ve said many times, we are moving into a new world of online, but I want to thank him for answering the question. Thank you all.



**The Acting Chair (Mr. Brian Saunderson):** Any further debate? Seeing none, I will call the question. Shall the motion carry? All in favour? Opposed? I declare the motion carried.

That takes us to the main question. Shall schedule, 1 section 102, as amended, carry? All in favour? Opposed? I declare the motion carried.

Committee, there are no amendments to sections 103 through 106 of schedule 1. Does the committee agree to bundle those together? Thank you. I will put the question. Shall schedule 1, sections 103 to 106, carry? All in favour? Opposed? I declare the motion carried.

That brings us, then, to a very busy section, section 107. We'll start with NDP motion 23.1. Go ahead, please, MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“4.1 prescribing and governing different types of deceptive contracting, software and user interface design practices for the purposes of paragraph 10 of subsection 9(2);”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** Yes. We've discussed dark patterns before—and I want to thank the LCO again—but dark patterns are increasingly subject to consumer protection regulation, most extensively in the EU. The US FTC has also issued a comprehensive report and guidance against dark pattern practices. The FTC guidance is comprehensive and provides helpful distinctions between allowable and deceptive marketing practices.

Just to end on that: Again, this is a rapidly changing environment, as I've stated many times, for the market itself, for buyers, for sellers, for everyone. This is an increasingly insidious practice that's occurring, and I'm just hoping to see it more enshrined within this legislation with an understanding that more and more of this is going to continue to happen as more and more things happen online. So, I hope the government will support it.

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**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We will not be supporting this. We feel this motion is out of order. The motion relies on the passage of another motion that was lost. The amendment relates to motion 4.2, which did not pass. Motion 4.2 proposed a new paragraph 10 of subsection 9(2). Motion 23.1 also refers to paragraph 10 of subsection 9(2). Since the motion did not pass, there is no paragraph 10 of subsection 9(2) under the act.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been requested, so please keep your hand up until you've been identified.

Ayes

McMahon, Rakocevic.

Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

That brings us, then, to NDP motion 23.2. Go ahead, MPP.

**Mr. Tom Rakocevic:** I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“4.2 prescribing and governing accommodation practices for the purposes of paragraph 11 of subsection 9(2);”

Failure to accommodate is an unconscionable act, and so, if I go further—again, this comes from the LCO as well: Section 9(2), paragraph 1, makes “it an unfair practice to ‘take advantage’ of a vulnerable consumer ‘because of disability, ignorance, illiteracy, inability to understand the language of a consumer contract or similar factors.’

“Disability advocates”—

**The Acting Chair (Mr. Brian Saunderson):** Excuse me, MPP. I'm going to interrupt, and I'm going to make a ruling as the Chair.

Committee members, the proposed amendment is out of order. As Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, a motion is out of order if it is dependent on an amendment which has been already negated. In this situation, the amendment is contingent on an amendment that has not passed. Okay? So we're not going to pursue this amendment.

And that brings us, then, MPP Rakocevic, to NDP motion 23.3. Go ahead, please.

**Mr. Tom Rakocevic:** Okay, thank you.

I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“4.3 defining, for the purposes of paragraph 2 of subsection 16(1), ‘a contract entered into online’, and governing any related matters, including,

“i. prescribing the disclosure of information,

“ii. prescribing the form and content of such contracts,

“iii. prescribing the making, amending or continuation of such contracts,

“iv. prescribing exemptions or one or more amounts for the purposes of subsection 16(5), and

“v. prescribing unfair practices for the purposes of part II;”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the motion?

**Mr. Tom Rakocevic:** I would. Regulatory reflection of previous amendments that would allow for “more explicit recognition of online contracting and establish an explicit authority to prescribe regulations governing online consumer contracts”—again, thanks to the Law Commission of Ontario.

A regulatory reflection of previous amendments: “Online consumer contracts are the most significant new form of contracting for Ontario's consumers since the CPA was passed more than 20 years ago. The legislation needs to

establish a modern and flexible legal framework to ensure Ontario's consumers can be protected from new risks and business practices. This framework will benefit Ontario's online businesses as well.

"The proposed amendment would ensure 'online contracts' have the same legislative and legal footing as other forms of consumer contract."

Again, as I've said many times, I think we all understand that more and more purchases are going to come online. Even the consultation that began three years ago—new practices continue to emerge. I really hope that the government will consider moving in this direction to capture more protections to help people from making online purchases.

**The Acting Chair (Mr. Brian Saunderson):** MPP Riddell.

**Mr. Brian Riddell:** We will not be supporting this. We feel this amendment is unnecessary because there is already authority under the act to make a regulation defining any word or expression that is used in the act but not defined in this act—see paragraph 3 of subsection 107(1). This could include making a regulation defining what is meant by a contract entered into online if that is deemed necessary.

The amendment is also unnecessary because the act also contains regulation-making authority regarding other matters referred to in this amendment, including authority to make regulations regarding disclosures for consumer contracts, section 18 of the act; contract amendments and continuation, section 19 of the act; and exemptions, subsection 107(1) in paragraph 2.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? This is a recorded vote, so I will call the question.

#### Ayes

McMahon, Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion defeated.

That brings us, then, to NDP motion number 25. Before we deal with that, I just want to read a note to the committee: that because of an administrative error while producing the amendment package, which, as you can see, was fairly extensive, amendment 24 was erroneously ordered before amendment 25. However, to deal with the amendments in sequential order of the bill, we will deal with amendment 25 before going on to amendment 24.

That takes us, then, to amendment 25. Go ahead, please, MPP.

**Mr. Tom Rakocevic:** I move that paragraph 5 of subsection 107(1) of schedule 1 to the bill be struck out and the following substituted:

"5. exempting or prescribing one or more amounts for the purposes of subsection 16(5) or 55(1), including providing that exemptions or different amounts apply in respect of different classes of consumer contracts;"

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the justification?

**Mr. Tom Rakocevic:** I would. This removes monetary thresholds for the CPA to apply, again.

Again: The Law Commission of Ontario "consultations broadly supported elimination of CPA minimum monetary thresholds. British Columbia and other jurisdictions do not have a monetary threshold, ensuring all digital consumers are protected. This is an important reform because:

"—Many of the largest platforms and most common services used by Ontarians are provided on a low- or no-cost basis. These are some of the biggest services used by consumers and should not be exempt from consumer protections.

"—Ontarians may be required to use online products for work, school, or to access government services with no option to accept or reject the terms of service.

"—Many Ontarians also rely on online products in which small 'microtransactions' fall short of minimum monetary thresholds but have significant value over time.

"Experience in jurisdictions with no minimum threshold—such as British Columbia and elsewhere—demonstrates the risks to businesses of this change are minimal and that trivial complaints go through ministry complaints process or courts, both of which dissuade vexatious complaints.

"For clarity and certainty, the LCO recommends that the CPA 2023 specify there is no minimum transaction threshold unless the threshold is otherwise exempt by regulation."

Again, I want to take the time to thank the LCO, the OBA and so many others who have added to the legislation. This is happening already in British Columbia. Again, I repeat: More and more transactions are online—microtransactions, you name it. We want to ensure that all transactions are captured. You are strengthening the legislation. You are strengthening the act. Let's not exclude people from certain purchases. Those purchases can add up. I know, as part of the consultation—I hope that you would have heard about this as well, and really hope that you will expand the act to encompass this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Seeing none, a recorded vote has been called.

#### Ayes

McMahon, Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to motion 24, as noted before. I will pass it over to MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“5.1 prescribing and governing matters relating to section 17, including,

“i. prescribing key information, and

“ii. prescribing the form and content of a prominent disclosure box for disclosing key information;”

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**The Acting Chair (Mr. Brian Saunderson):** Go ahead.

**Mr. Tom Rakocevic:** Again, this expands regulation-making powers, including prescribing the form and content of a prominent disclosure and key information box.

I will further state the regulatory reflection of previous amendments. Again, I will state that “‘key information’ would relay the practical risks and consequences of an online contract to consumers in plain language and do so prominently. This is the original bargain at the heart of standard form contracts. It puts risks and consequences to consumers upfront in a simple bullet list, rather than buried in the confusing language of contract drafting.

“‘Key information’ disclosure is also crucial for other consumers: youth, the elderly, and other vulnerable groups need to understand what they are agreeing to. Key information is particularly supportive of parents, relatives, or friends to better assist vulnerable consumers.

“‘Key information’ will help ameliorate the use of buried, implied, and vague terms typical in most online consumer contracts. It will also encourage a marketplace where suppliers compete on terms and to the benefit of consumers.

“Consistent with” section “17(1) and (2), ‘key information’ would be made available before entering a consumer contract and with the express option to decline it. These rights should be precedent to any consumer disclosure of personal details, contact information, credit card information and the like.

“Key information and prominent disclosure boxes have been proven to be a very effective consumer protection. Current examples include banking disclosure requirements mandated in Canada, and the ‘Schumer Box’ that summarizes credit card terms in the United States. In consultations the LCO heard from several businesses who use prominent disclosure boxes voluntarily and find them effective for both parties.”

The last thing I want to say—and again I thank you for the patience of hearing this explanation once more, but I do think it’s important to be heard. Earlier on, when we were debating, there was something that was ruled that “plain language” and “comprehensible” are basically the same thing. I took the time to look up the definition of both and, when you look at it, what is comprehensible is something that is able to be understood and intelligible—not unintelligible, but intelligible. But plain language is, I think, a better definition, and I think what the ministry and

what perhaps the minister and what everyone here should be looking for.

This is what I found from the Plain Language Association International. Their own definition was that, “A communication is in plain language if its wording, structure, and design are so clear that the intended audience can easily find what they need, understand what they find, and use that information.”

What is comprehensible may not be comprehensible to everybody. At least, in my opinion, when something is in plain language, I think it really, really is putting the burden and the onus on businesses to create something in such a way that anyone who is purchasing it would be able to understand. And if they are not able to understand, then that would trigger some of the unconscionable parts of the bill that would be triggered. But something that is comprehensible to your surgeon may not be comprehensible to the patient, right? I think anything we can do to make contracts more simple and more in plain language—boxes with hyphens and bullets, as opposed to walls and walls of tiny little font. You don’t even know; your soul could have been sold in that whole endeavour of what you purchased and you wouldn’t even realize it.

And so, the spirit of what we’re trying to do here in the opposition is to enshrine plain language and to put the onus on businesses to make it crystal clear to everyone what they’re purchasing. I really believe we should be moving in this direction. I believe it is in the spirit of this act in expanding consumer protection. Please support this.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We are not going to be supporting this. We just find it’s too ambiguous.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

**Mr. Tom Rakocevic:** Sorry, that’s rather ironic.

**The Acting Chair (Mr. Brian Saunderson):** All right.

It is a recorded vote, so please keep your hand up until you’ve been acknowledged. I will call the question, then.

### Ayes

McMahon, Rakocevic.

### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us to NDP motion 25.1. MPP Rakocevic.

**Mr. Tom Rakocevic:** I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“5.1 governing the making, amending or continuation of contracts for the purposes of section 19, and governing any related matters, including,

“i. prescribing the disclosure of information,

“ii. prescribing the form and content of such disclosure,

“iii. prescribing the disclosure, form and content of key information related to the amendment or continuation,

“iv. prescribing any requirement for affirmative consent to the modified services or product,

“v. prescribing the ability of consumers to exit the contract, and

“vi. prescribing the reasonable standards of fair dealing for amendments made in good faith;”

**The Acting Chair (Mr. Brian Saunderson):** Do you want to speak to the justification?

**Mr. Tom Rakocevic:** This would improve consumer protections against unilateral contract changes and ensure they remain in good faith.

I want to thank the Law Commission of Ontario again, who say, “Sections 41/42 of O. Reg. 17/05 allow ‘Internet agreements’ to be changed under prescribed conditions and where there is affirmative notice and consent provided. CPA 2023 s. 107(1) should insert a new paragraph that legislatively enshrines and encourages regulatory authority along the same lines.”

**The Acting Chair (Mr. Brian Saunderson):** Further debate? MPP Riddell.

**Mr. Brian Riddell:** We feel this amendment is unnecessary because there’s already a broad authority under section 19 of the act to make regulations governing contract amendments and continuations. The details of these regulations will only be determined during regulatory development, and these regulations would be the subject of consultation, so we will not be supporting it.

**The Acting Chair (Mr. Brian Saunderson):** Further debate?

I will call the question. It’s a recorded vote.

#### Ayes

Rakocevic.

#### Nays

Babikian, Bailey, Coe, Dixon, Hogarth, Riddell.

**The Acting Chair (Mr. Brian Saunderson):** I declare the motion lost.

That brings us, then, to government motion 26R. MPP Babikian, go ahead, please.

**Mr. Aris Babikian:** I move that subsection 107(1) of schedule 1 to the bill is amended by adding the following paragraph:

“46.1 establishing and governing rights to commence an action regarding any matter under this act;”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the justification for it?

**Mr. Aris Babikian:** The amendment would provide flexibility to the government by providing authority to allow for a right of action in additional circumstances not currently attempted in the new Consumer Protection Act, 2023. Furthermore, the amendment would allow the government to be more responsive to emerging issues.

**The Acting Chair (Mr. Brian Saunderson):** Further debate? Then I will call the question. All in favour of the motion? Opposed? I declare the motion carried.

That brings us, then, to NDP motion 26.1. Go ahead, please.

**Mr. Tom Rakocevic:** I move that subsection 107(1) of schedule 1 to the bill be amended by adding the following paragraph:

“46.1 prescribing and governing matters related to section 69.1;”

**The Acting Chair (Mr. Brian Saunderson):** I’m going to make a ruling. Committee members, the proposed amendment I am ruling to be out of order. As Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, a motion is out of order “if it is ... dependent on amendments which have already been negated.” Since this amendment was contingent on amendment 17.0.1 having passed, I am ruling this motion to be out of order.

That brings us, then, to the main motion, which is: Shall schedule 1, section 107, as amended, carry? All in favour? Opposed? I declare that carried.

That brings us to section 108. There are no amendments, so I’ll put the question. Shall schedule 1, section 108 carry? All in favour? Any opposed? That is carried.

That brings us to section 109 and government motion number 27. MPP Coe, go ahead, please.

**Mr. Lorne Coe:** I move that subsection 109(2) of schedule 1 to the bill be amended by striking out “Expropriation Act” and substituting “Expropriations Act”.

Chair, through you: This is a technical amendment.

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**The Acting Chair (Mr. Brian Saunderson):** Any further debate on that? Seeing none, I’ll call the question. All in favour of the amendment? Opposed? I declare the motion carried.

That takes us to the main motion: Shall schedule 1, section 109, as amended, carry? All in favour? Any opposed? That is carried.

Committee, there are no amendments to sections 110 through to 121 of schedule 1. Does the committee agree to bundling those provisions? Thank you very much. I’ll call the question. Shall schedule 1, sections 110 through 121, carry? All in favour? Any opposed? That is carried.

That brings us, then, to the final questions. The schedule 1 preamble: There are no proposed amendments. Shall the preamble of schedule 1 carry? All in favour? Any opposed? That has carried.

That takes us through schedule 1 then, and so I will call the question. Shall schedule 1, as amended, carry? All in favour? Any opposed? That carries.

That brings us, then, to schedule 2. There are no amendments proposed to sections 1 through 4 of schedule 2. Does the committee agree to bundling those provisions? Thank you. I’ll call the question. Shall schedule 2, sections 1 through 4, carry? All in favour? Any opposed? Seeing none, that carries.

That brings us, then, to section 5 of schedule 2 and government motion number 28. Who would like to table that? MPP Babikian, please go ahead.

**Mr. Aris Babikian:** I move that section 5 of schedule 2 to the bill be amended by adding the following subsection:

“(1.1) Subsection 12.4(6) of the act is amended by striking out ‘on or before the prescribed deadline’ in the portion before clause (a).”

**The Acting Chair (Mr. Brian Saunderson):** Do you wish to speak to the rationale?

**Mr. Aris Babikian:** Yes. This change aligns with the subsequent motion, motion 29, to repeal subsection 12.4(7) of the Consumer Reporting Act. The intention is that security freezes cannot expire based on prescribed deadlines and can only be terminated upon the consumer’s request.

**The Acting Chair (Mr. Brian Saunderson):** Any debate? Seeing none, I’ll call the question. Shall the motion carry? All in favour? That is unanimous.

That takes us, then, to government motion number 29. Who would like to table that? Go ahead, MPP Babikian.

**Mr. Aris Babikian:** I move that section 5 of schedule 2 to the bill be amended by adding the following subsection:

“(1.2) Subsections 12.4(7) and (8) of the act are repealed.”

**The Acting Chair (Mr. Brian Saunderson):** I think you’ve maybe already spoken to the justification. Do you have any further to add?

**Mr. Aris Babikian:** Nothing.

**The Acting Chair (Mr. Brian Saunderson):** All right, then. Any other debate? Seeing none, I’m going to call the question. All in favour of the motion? Any opposed? I declare the motion carried.

The main motion is: Shall schedule 2, section 5, as amended, carry? All in favour? Any opposed? I declare the motion carried.

That brings us to section 5.1. Who would like to table that? It’s government motion 30. Go ahead, MPP Babikian.

**Mr. Aris Babikian:** I move that schedule 2 to the bill be amended by adding the following section:

“5.1 Paragraph 5 of section 12.5 of the act is repealed.”

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much for that. I’m going to make a ruling. Committee members, I am ruling that the proposed amendment is out of order because it seeks to amend a section of the Consumer Reporting Act that is not before this committee. For those reasons, I’m disallowing that motion.

That brings us to section 6 of schedule 2 and government motion number 31. Who would like to table that? Go ahead, MPP Coe.

**Mr. Lorne Coe:** I move that section 6 of schedule 2 to the bill be amended by striking out subsection 12.6(6) of the Consumer Reporting Act and substituting the following:

“Removal of explanatory statements

“(6) If no request has been made under subsection (4) to remove an explanatory statement from a consumer’s file, the consumer reporting agency shall remove the statement from the consumer’s file,

“(a) on the day that is six years after the day on which the statement was included in the consumer’s file; or

“(b) if a request has been made under subsection (4) to amend the statement, on the day that is six years after the day on which the statement was last amended.”

**The Acting Chair (Mr. Brian Saunderson):** Do you want to speak to the justification?

**Mr. Lorne Coe:** Yes, briefly. This change would establish an appropriate period for an explanatory statement to remain on a consumer file. Further, the six-year retention period requirement aligns with the retention period of credit alerts.

**The Acting Chair (Mr. Brian Saunderson):** Any debate? Go ahead, MPP.

**Mr. Tom Rakocevic:** As this is the last amendment that we’ll be debating today, I just wanted to take an opportunity to thank all members of the committee. It is an honour to participate in the clause-by-clause process.

I acknowledge that this bill is an entire repeal and retable of the Consumer Protection Act. I want to thank and congratulate the minister and the ministry. I also want to thank government members for inviting members of the ministry to come to the table and provide clarification at times. I’d like to thank the ministry for providing a short technical briefing—we had lots of questions, but thank you for doing that.

I know that our amendments must have left some scrambling and probably gives them a better understanding of what the official opposition might feel like when a government tables a large bill. We have to respond in such a timely fashion as well, and no doubt there are members sitting at this table who know what that experience feels like very intimately.

It is, of course, disappointing that pretty much all but one official opposition amendment that was tabled were refused. Again, I just want to state that we are seeking to improve this act. We heard from members in hearings and those who appeared in the committee stating that there are improvements, with the exception of one person. All we want to do is improve consumer protection in Ontario. We want to bring us to the gold standard, and that’s what the amendments sought to do.

Again, I want to thank all members of the committee for their work here and all their work on amendments. Thank you for allowing me to participate in this very, very important process.

**The Acting Chair (Mr. Brian Saunderson):** Any further debate? MPP Dixon.

**Ms. Jess Dixon:** I just want to turn the praise back around. You obviously put a huge amount of work into this. This was a lot of homework and to carry this all yourself is extremely impressive. I can tell how closely you were paying attention during submissions and how carefully you tracked that. It’s been very impressive to watch. Thank you so much for your dedication and your diligence and the amount of work that you obviously put into this, into making this committee more fulsome.

**Interjection:** Well done.

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much. On that group hug I’ve kind of lost my place.

I'm going to call the vote, then, on government motion 31. All in favour? Any opposed? I declare that carried.

**Ms. Christine Hogarth:** Chair, point of order.

**The Acting Chair (Mr. Brian Saunderson):** Yes, go ahead.

**Ms. Christine Hogarth:** I wonder if we can go back to motion number 30—asking for unanimous consent to look at that motion.

**The Acting Chair (Mr. Brian Saunderson):** All right. If I can get unanimous consent to go back to proposed government amendment 30, to reopen that, then we can discuss that further. Is there unanimous consent of the members to go back to that? All right.

Seeing that I have unanimous consent, I'm going to look to the Clerk, then: Where do we go now?

*Interjection.*

**Ms. Christine Hogarth:** Is it through me?

**The Acting Chair (Mr. Brian Saunderson):** If it's through you—you've raised the request, so now that we have unanimous consent, I'll pass it to you.

**Ms. Christine Hogarth:** We've already read it, have we not?

**The Acting Chair (Mr. Brian Saunderson):** We've read it in, and I made a ruling that it was out of order because it was dealing with an act that's not before the committee.

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**Ms. Christine Hogarth:** That's correct. Why we'd like to see this is, the repeal of section 12.5, paragraph 5, would eliminate the requirement for consumer reporting agencies—

**The Acting Chair (Mr. Brian Saunderson):** I'm just going to interrupt. Can I get you to put on the record again your initial request, now that we've got unanimous consent?

**Ms. Christine Hogarth:** Certainly. I request unanimous support from the committee to reopen motion number 30.

**The Acting Chair (Mr. Brian Saunderson):** And we've got that consent. If you could read the substance of the motion itself, please.

**Ms. Christine Hogarth:** Certainly. I move that schedule 2 to the bill be amended by adding the following section:

“5.1 Paragraph 5 of section 12.5 of the act is repealed.”

**The Acting Chair (Mr. Brian Saunderson):** Okay. Now that we have unanimous consent to consider the scope of the motion after the ruling, I'm prepared to hear debate on it. Go ahead, please.

**Ms. Christine Hogarth:** Public information requirements for consumer reporting agencies should be consistent with consumer rights under the act. Repealing this provision will ensure that agencies are not required to publish information that misrepresents consumers' rights under the act.

**The Acting Chair (Mr. Brian Saunderson):** Is there further debate on this? Go ahead, MPP.

**Mr. Tom Rakocevic:** Sorry, I'm trying to understand this one. Does this actually deny disclosure by granting this?

**The Acting Chair (Mr. Brian Saunderson):** I'm going to look to see if there is senior staff that could be prepared to answer these questions.

*Interjection.*

**The Acting Chair (Mr. Brian Saunderson):** Legal is on the line? Okay.

Christopher, can you hear us?

**Mr. Chris Plecash:** Yes, I can. Can you hear me?

**The Acting Chair (Mr. Brian Saunderson):** Did you hear the question?

**Mr. Chris Plecash:** Yes, I did.

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, please.

**Mr. Chris Plecash:** Hi, I'm Chris Plecash. I'm counsel with the Ministry of Public and Business Service Delivery as well. The question was, does paragraph 5 of unproclaimed section 12.5 of the Consumer Reporting Act—if the repeal would prevent disclosure.

What was originally proposed was that security freezes would work in a way that it would be a blanket freeze and disclosure would only happen to prescribed entities. That's been changed. Now the way a security freeze would work would be that it would only apply to the types of inquiries that are now listed under section 12.4(2), I believe.

There's no longer a right for—and it was never the intention that consumers have a right of tailoring the security freeze so that they could specify certain creditors or certain entities who would be allowed access in spite of there being a security freeze on the consumer's file. By removing this paragraph, that takes away the implication that that is a consumer right under the act, when in fact that is not the intention.

**The Acting Chair (Mr. Brian Saunderson):** Any follow-up? Go ahead, MPP.

**Mr. Tom Rakocevic:** Can I ask—

**The Acting Chair (Mr. Brian Saunderson):** Yes, go ahead.

**Mr. Tom Rakocevic:** In this case I would like to ask, why not grant that right? Are they literally not entitled to that right? Why not grant that right to the consumer?

**Mr. Chris Plecash:** First off, 12.4 was changed so that, as I said before, there are specific types of inquiries for which the security freeze would apply to. Any information would not be disclosed. That could be the extension of new credit, for example. A consumer cannot say, “Well, I'm putting a security freeze on my account, but if there is an inquiry for the extension of new credit from this particular creditor, in that case you can disclose the information to them.”

Part of the reason why this was removed was that we heard from industry that this would be very difficult to administer. You would basically be allowing each individual consumer to individually tailor the extent of the security freeze, which could be quite onerous on consumer reporting agencies.

**Mr. Tom Rakocevic:** Then, in essence, this would be a weakening of consumer protection. The industry asked for this, they said it's onerous on them, and now this means that the disclosure will not occur. So, this is a change that actually weakens what the act does in terms of consumer protection and getting information for consumers.

**The Acting Chair (Mr. Brian Saunderson):** Go ahead, please.

**Mr. Chris Plecash:** I would disagree with that characterization. It's consistent with how 12.4 has been revised. Before, the intention was that there would be a blanket freeze, and no one would be able to access the consumer's information. In that case, it made more sense for the potential of giving a consumer the opportunity to tailor their security freeze so that the information could be released to specified persons. Now, the way this is being changed is that the security freeze only applies to specific types of disclosures, the main being the extension of new credit. If the agencies were to try to operationalize what is in paragraph 5, you would have individual consumers each trying to set up exceptions to their security freeze, which is just not really workable and not really consistent with how section 12.4 has been amended.

**The Acting Chair (Mr. Brian Saunderson):** Any follow up, MPP?

**Mr. Brian Riddell:** A point of order: I'd like to have Kelly come up and just provide some points of clarification.

**The Acting Chair (Mr. Brian Saunderson):** All right. Welcome back. Please state your full name again, though, for the record.

**Ms. Kelly Houston-Routley:** Kelly Houston-Routley, director of the consumer policy and liaison branch in the Ministry of Public and Business Service Delivery.

I'll just clarify again that the scope of what a security freeze can apply to has been modified by a different section of the bill. This was a legacy piece that spoke to the types of information that consumer reporting entities need to disclose to consumers on their website with respect to how security freezes work.

As Chris has identified, in changing the structure so that we're clearly identifying these situations where a security freeze can be applied—and let's recall that we're in situations where consumers are interested in this type of tool because they're concerned about identity theft. Somebody may have their information, and it's really important that it's an on-or-off provision because that is how to protect consumers most significantly. So, if a security freeze is on, that means particularly—obviously, for one of the new permissible purposes, no one can access your credit information. It's tricky for a consumer to then decide, "Well, I want the bank to be allowed to access my credit."

We do know, and we learned from the implementation, of similar provisions in the province of Quebec. We've spoken extensively to the two key consumer reporting agencies on how they've operationalized this, and to Chris's point, we do not believe that removing this disclosure—because, keep in mind, this particular provision in 12.5 is related to the disclosure, the disclosure that suggests today in the act that a consumer could pick and choose exactly who could have access to their credit even though they have a broad security freeze in place. We think that's problematic. We don't think that's in the best interest of consumers, and we don't think that this is infor-

mation that consumer reporting agencies should have to put out there, because it's not reflective of how the security freeze provision will be implemented.

**The Acting Chair (Mr. Brian Saunderson):** Any follow-up? Any MPPs? Go ahead.

**Mr. Tom Rakocevic:** Thank you for the clarification by the members of the ministry. Thank you for that.

**The Acting Chair (Mr. Brian Saunderson):** Thank you very much to both of you for that information.

We now have government amendment 30 before us by unanimous consent, and that clarification has been very instructive. Is there any further debate before I call the vote? Seeing none, I will call the vote, then. All in favour? Any opposed? Seeing none, that is carried.

All right. We're now going to tidy up section 6. Government motion 31 passed, but we have not dealt with section 6 as a whole. Shall schedule 2, section 6, as amended, carry? All in favour? Any opposed? All right, then, that carries.

Committee, there are no proposed amendments to sections 7 through 12 of schedule 2. Do you agree to bundling those provisions? Thank you. I'll call the vote, then. Shall schedule 2, sections 7 through 12, carry? All in favour? Any opposed? I declare the motion carried.

Then that brings us to the final motion on schedule 2. Shall schedule 2, as amended, carry? All in favour? Any opposed? I declare the motion carried.

Thank you very much. We've gone through quite a bit of heavy lifting and now we're going back to our main motions. So, shall section 1, as amended, carry? All in favour?

*Interjections.*

**The Acting Chair (Mr. Brian Saunderson):** I'm just dealing with section 1 of the bill, then. Shall it carry? Any opposed? No. I declare section 1 carried.

Shall section 2 of the bill carry? All in favour? Any opposed? I declare the motion carried.

And shall section 3, the short title, carry? All in favour? And opposed? That is carried.

Now I'm going to go to the last page—first and last page—and we're dealing, then, with the title. Shall the title of the bill carry? All in favour? Any opposed? The motion carries.

Shall Bill 142, as amended, carry? All in favour? Any opposed? No. That carries.

Shall the Chair report the bill, as amended, to the House? All in favour? Any opposed? I declare the motion carried.

Before I bang the gavel, I just want to echo the thoughts of both sides of the committee table today. A lot of work has gone into this. It was very intensive hearings. I want to thank MPP Rakocevic for joining us and the committee for all the hard work, as well as other opposition members and independents.

I want to thank staff as well. There was a number of last-minute amendments that came through that were fairly extensive. We appreciate you burning the midnight oil to bring us the best information you could, so that we could address this bill to strengthen consumer protection in Ontario and make sure that we're building defined

fences around the topics of both the consumers and the suppliers, and that service providers know the rules of engagement.

This has been a significant overhaul of long-standing legislation that has not been touched in many years. I want

to appreciate everyone for bringing their hard work and scrutiny to the task at hand, and we look forward to bringing it before the House.

Thank you very much, everyone. We're adjourned.

*The committee adjourned at 1524.*









## **STANDING COMMITTEE ON JUSTICE POLICY**

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Ms. Christine Hogarth (Etobicoke–Lakeshore PC)

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Mr. Rick Byers (Bruce–Grey–Owen Sound PC)

Mr. Rudy Cuzzetto (Mississauga–Lakeshore PC)

Ms. Mary-Margaret McMahon (Beaches–East York L)

Mr. Tom Rakocevic (Humber River–Black Creek ND)

Mr. Brian Riddell (Cambridge PC)

### **Also taking part / Autres participants et participantes**

Mr. Kevin Dorgan, counsel, Legal Services Branch,

Ministry of Public and Business Service Delivery

Ms. Kelly Houston-Routley, director, Consumer Policy and Liaison Branch,

Ministry of Public and Business Service Delivery

Mr. Christopher Plecash, counsel, Legal Services Branch

Ministry of Public and Business Service Delivery

### **Clerk / Greffière**

Ms. Thushitha Kobikrishna

### **Staff / Personnel**

Ms. Kristi Cairns, legislative counsel