

OUTLINE OF TESTIMONY REGARDING S.234
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On Behalf of Connecticut Attorneys Title Insurance Corp.
Senate Committee on Natural Resources & Energy
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1. CATIC is a title insurer that insures the marketability of title to real estate based on an attorney's examination of municipal land records and subsequent issuance of an opinion on the question of whether there is marketable title to the subject real estate.
2. Mortgage lenders typically require their borrowers to purchase title insurance to protect the lender's title interest in the borrower's real estate and borrowers/landowners can also purchase coverage for their own title interest. Title insurance is purchased via a one-time premium paid for at a real estate closing.
3. In the mid 1990s the Vermont Supreme Court ruled that in opining on the marketability of title an attorney must address the question of whether the subject property is in compliance with land use regulations such as local zoning, Act 250 and the state's water supply and wastewater regulations. *See Hunter Broadcasting, Inc. v. City of Burlington*, 164 Vt. 391 (1995); *Bianchi v. Lorenz*, 166 Vt. 555 (1997).
4. S.234's proposed "road rule" (amendment to definition of "development," see bill section 12 beginning on page 17) provides that an Act 250 permit is required if a road greater than 2,000 feet in length is built on a tract of land subsequent to the enactment of the bill.
5. If the "road rule" provision is enacted it will be difficult for attorneys to determine whether a parcel of real estate is in compliance with Act 250. This is due to the fact that a pre-existing, undeveloped parcel of land could, after the enactment of S.234, be developed with a commercial, industrial or residential structure that is served by a road or driveway more than 2,000 feet long and there would not be any instrument filed in the land records reflecting the length of the road/driveway.
6. Most roads built on a tract of land are done so in connection with a development project that will require a Waste Water and Water Supply (WW/WS) permit from the Department of Environmental Conservation. See attached excerpt from the Waste Water and Water Supply Rules.
7. **Proposal:** Require the Department of Environmental Conservation to amend its Waste Water and Water Supply Rules to: (a) require that the site plan submitted with an application for a WW/WS permit show any new road/driveway associated with the development activity for which a WW/WS permit is needed, and its length, and (b) that the WW/WS permit indicate whether a new road/driveway is part of the development activity and, if so, the length of the new road/driveway.

8. As WW/WS permits are recorded in the land records an attorney searching title will see the permit and its indication of the length of a road, if any, on the subject property and thus be able to tell whether there is a road on the property and, if so, the length of the road. In that way the attorney can determine whether the property is in compliance with Act 250 relative to the "road rule."