Legislative History for Connecticut Act

SB 1144 PA 520 1983

House 7848-7861 (14)

Senate 2867-2874, 3035-3037, 4622, 4664-4665 (14)

Judiciary 2039-2040, 2116, 2121-2127, 2129-2145 (27)

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1983

VOL. 26
PART 22
7721-7916

The House of Representatives is now voting by roll call. Will members please return to the Chamber immediately.

Have all the members voted? Have all the members voted, and is your vote properly cast? If so, the machine will be locked and the Clerk will please take a tally.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 116, as amended by Senate Amendment "C", "I", "K", "L", and "O".

Total number voting	146
Necessary for passage	74
Those voting yea	146
Those voting nay	0
Those absent and not voting	5

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

CLERK:

Please turn to page 11, Calendar 753, Substitute for Senate Bill No. 1144, AN ACT CONCERNING STATUTES RELATED TO TRUSTS AND PROBATE MATTERS, as amended by Senate Amendment Schedule "A". Favorable Report of the Committee on Judiciary.

REP. COLEMAN: (1st)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Eric Coleman.

REP. COLEMAN: (1st)

I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance and passage of this bill in concurrence with the Senate. Will you remark, sir?

REP. COLEMAN: (1st)

Thank you, Mr. Speaker. This is an omnibus probate bill addressing various technical aspects of the probate law. The purpose of the bill is to increase the efficiency of the probate court and to reduce unnecessary paperwork required by the probate court.

Mr. Speaker, the Clerk has an amendment LCO No. 6483. May the Clerk please call the amendment, and may I be allowed to summarize.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO 6483, previously designated Senate Amendment Schedule "A". Would the Clerk please

call the amendment only.

CLERK:

LCO 6483, previously designated Senate "A", offered by Sen. Owens of the 22nd.

DEPUTY SPEAKER FRANKEL:

Is there objection to summarization? Hearing none, you may proceed, Rep. Coleman.

REP. COLEMAN: (1st)

Thank you, Mr. Speaker. The amendment is technical in nature, and it would accomplish three things. First of all, it would permit the expenses of administration of property which passes other than by will or intestate succession to be deducted from a decedant's gross estate.

Secondly, it would permit the value of a remainder interest which is contingent or dependent on a license being to be determined by an interest rate of 6% rather than 4%, and thirdly it would permit the tax commissioner to utilize the assistance of the insurance commissioner, the actuarial assistance of the insurance commissioner, in instances relating to the passing of property for a limited number of years.

I urge the adoption of the amendment, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of Senate "A". Will you remark on its adoption? Will you remark on the adoption of Senate Amendment Schedule "A"?

If not, all those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER FRANKEL:

The ayes have it. Senate "A" is adopted and is ruled technical.

Will you remark further on this bill as amended?

REP. COLEMAN: (1st)

Mr. Speaker, the bill as amended accomplishes various things. Among those things it would limit the powers of an individual to alter certain types of trusts in accordance with Federal law. It expands the power of an individual to file a statement, the executor to file a statement in lieu of an estate accounting where a fiduciary is a beneficiary.

It expands the powers of fiduciaries that may be incorporated into a will or a trust, and it increases the exemptions to appraisals of inventories for non-resident decedants.

Mr. Speaker, I move the passage of the bill.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended?

REP. JAEKLE: (122nd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Robert Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment that is LCO 7222. Would the Clerk please call and read the amendment.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO No. 7222, which will be designated as House Amendment Schedule "A". Would the Clerk please call and read the amendment.

CLERK:

LCO 7222, designated House "A", offered by Rep. Jaekle of the 122nd.

Delete Section 6 in its entirety.

DEPUTY SPEAKER FRANKEL:

The amendment is in your possession, Rep. Jaekle. What is your pleasure, sir?

REP. JAEKLE: (122nd)

I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of House "A". Will you remark?

REP. JAEKLE: (122nd)

Mr. Speaker, in reviewing this file, if you will check on section 6, if anybody is still reviewing the files at this point, section 6 of the bill adds a provision that would allow investments in any residential real property or apartment as our existing law.

And it added something very interesting to me. It said you could also invest in a townhouse. Well, I made inquiries of several people, and I haven't been in receipt of any information as to why a townhouse has to be given sort of special investment treatment under our laws any more so than a ranch house or a Cape Cod, or a colonial.

Our laws presently allow investment in any real property or apartment, and there is a difference, being ownership of real estate versus rental. And it also

covers other different forms of ownership of real estate, namely condominium and cooperative. But nobody has told me what a townhouse is as some sort of legal form of ownership, and so I'm offering the amendment to delete that section so that there could not be any confusion that other particular types of housing by implication are being excluded because we're getting so specific with townhouse.

I urge adoption of the amendment.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

Some questions through you to the proponent of the amendment.

DEPUTY SPEAKER FRANKEL:

Please state your question, sir.

REP. TULISANO: (29th)

I'm not quite sure what would happen if we passed this amendment. Through you, Mr. Speaker, while in fact I understand the desire of the proponent to take out the word townhouse, would this delete the whole section from our statutes, period, your amendment, and

therefore make it impossible to invest in any other real property as you thought the statute might say?

REP. JAEKLE: (122nd)

Through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you. Through you, Mr. Speaker, the answer is no. The amendment deletes section 6 of the file copy. Section 6 of the file copy, the preamble is a repeal of subsection 9 of 45-100(f). By deleting section 6 from the file, our existing 45-100(f) which is generally called fiduciary powers would stay intact as it is today, and not be changed.

So the effect of the amendment is really to delete townhouse from the file. Through you.

DEPUTY SPEAKER FRANKEL:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, one other question.

DEPUTY SPEAKER FRANKEL:

Please state your question.

REP. TULISANO: (29th)

I think I know the answer, but so there's no

question in the future, this would allow investment, however, in forms of real property such as condominiums, which some communities call townhouses?

DEPUTY SPEAKER FRANKEL:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Through you, Mr. Speaker. It would indeed allow investments in real property, including ordinary, cooperative or condominium apartments, which if a townhouse in a style of one of those forms of ownership, yes, through you, it would still allow investment in that.

REP. TULISANO: (29th)

Through you, Mr. Speaker, thank you.

REP. JAEKLE: (122nd)

Mr. Speaker, through you, you're welcome.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "A"?

REP. SCHLESINGER: (114th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Schlesinger.

REP. SCHLESINGER: (114th)

Thank you, Mr. Speaker. Through you, a question to Rep. Jaekle.

DEPUTY SPEAKER FRANKEL:

Please state your question.

REP. SCHLESINGER: (114th)

Thank you. Rep. Jaekle, I am a little concerned because I imagine that this was originally put into the bill to include a different form of ownership. Perhaps, I know in some states, townhouses are a separate entity within themselves. They are slightly different from a condominium.

For example, in the State of Pennsylvania, I believe they do have that type of a stipulation, and I'm wondering if perhaps there are now in the State of Connecticut, some entities that are called townhouses that do not fall under condominiums, and the probate court has suggested that this be inclusive, just to make sure that in case there was any question in previous litigation.

And I'm wondering if that question will arise in the future and then without this change in the statutes, there will be no answer.

DEPUTY SPEAKER FRANKEL:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Through you, I have been unable to find any definition of townhouse in our statutes, so merely by adding townhouse in this section of our statutes, I don't feel resolves an issue one way or the other.

In Connecticut, if a townhouse is a form of ownership, to me it is either fee simple, if you will, or a cooperative, or a condominium arrangement, or else that form of ownership is not recognized in our statutes. Through you.

DEPUTY SPEAKER FRANKEL:

You have the floor, Rep. Schlesinger.

REP. SCHLESINGER: (114th)

Thank you, Mr. Speaker. I see Rep. Jaekle's point totally, but since I didn't have the chance or opportunity to talk to the probate court administration office or to Sen. Owens, I would think that perhaps it is worth supporting, and therefore I would oppose the amendment on the grounds that this may have been a problem in the past and this would perhaps rectify that problem.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "A"?

REP. COLEMAN: (1st)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Coleman.

REP. COLEMAN: (1st)

Mr. Speaker, I think the amendment doesn't cause any harm to the purpose and intent of the bill. I would have no objection to the amendment.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "A"? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER FRANKEL:

House "A" is adopted.

Will you remark further on this bill as amended by Senate "A" and House "A"?

REP. COLEMAN: (1st)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Coleman.

REP. COLEMAN: (1st)

This bill has the support of the probate court administrator, Judge Glenn E. Kanierman, and the representative of the probate section of the Connecticut Bar Association, as well as the support of the Judiciary Committee.

I think it's a good bill, and I urge its passage.

DEPUTY SPEAKER FRANKEL:

Will you remark further? If not, would the staff and guests please come to the well of the House. Members please take your seats. The machine will be opened.

The House of Representatives is now voting by roll call. Will members please return to the Chamber immediately. The House of Representatives is now voting by roll call. Will members please return to the Chamber immediately.

Have all the members voted? Have all the members voted, and is your vote properly cast? If so, the machine will be locked, and the Clerk will please take a tally.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 1144, as amended by Senate "A" and House "A".

Total number voting	145
Necessary for passage	73
Those voting yea	145
Those voting nay	0
Those absent and not voting	6

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

At this time, it is the pleasure of the Chair to call to the rostrum for the purposes of presiding the distinguished gentleman from the 29th District, Chairman of the Judiciary, Rep. Richard Tulisano. (Applause.)

ACTING SPEAKER TULISANO:

I don't know how to do this and not argue about anything.

CLERK:

Please turn to page 6, Calendar 499, Substitute for House Bill 5543, AN ACT CONCERNING RECONSTRUCTION OF THE KENYON ROAD BRIDGE IN HAMPTON. Favorable Report of the Committee on Finance, Revenue and Bonding.

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technical changes to correct erroneous or obsolete references, grammatical and computer errors and to revise certain statutes for consistency and clarity.

I would ask, if there is no objection, that this bill, as amended by Senate Amendment A, be placed on the Consent Calendar.

THE PRESIDENT:

Without objection, so ordered.

THE CLERK:

Page 5, Cal. 546. File 759. Substitute for Senate Bill No. 1144. AN ACT CONCERNING STATUTES RELATING TO TRUSTS AND PROBATE MATTERS. Favorable report of the Committee on Judiciary. The Clerk has amendments.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS: (22nd)

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE PRESIDENT:

The Clerk please call the amendment.

THE CLERK:

Senate Amendment Schedule A. LCO No. 6483.

THE PRESIDENT:

Senator Owens.

SENATOR OWENS:

I move adoption of the amendment and waive its reading, Mr. President.

THE PRESIDENT:

Without objection, you may proceed.

SENATOR OWENS:

It would amend the succession tax statutes. The first change, under this amendment would allow the same deductions against property included in the decedent's gross estate for tax purposes only. The Tax Department joined with the Probate Section to make this a more effective piece of legislation, and these changes are incorporated in the amendment.

The second part of the amendment would change the mortality table now used in evaluating interest for succession tax purposes and it would mandate a six percent interest fee, a table, in place of the antiquated four percent table now in effect.

The third part of the amendment would enable the tax commissioner to use the assistance of the insurance commissioner for actuary assistance in certain instances relating to the passing of property for a limited number of years. That's basically a technical clarification.

I move adoption of the amendment.

THE PRESIDENT:

Do you wish to remark further on the amendment. If not, all those in favor signify by saying Aye. Those opposed Nay. The Ayes have it. THE AMENDMENT IS ADOPTED.

THE CLERK:

The Clerk has Senate Amendment Schedule B. LCO No. 6495.

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER: (22nd)

I move adoption of the amendment, waive the reading and explain it.

THE PRESIDENT:

Without objection, you may proceed.

SENATOR GUNTHER:

What this amendment would do, it would require the Probate Courts to set up a system for the filing of wills and for that they would get a fee of five dollars. Again, I think that we need this depository for the wills. Previously, they had one depository in New Haven and that was very inconvenient for anybody in the state of Connecticut to go up there and file this. We have some, I think, one hundred thirty-seven Probate Courts in the State of Connecticut. Again, they are called the people's courts, and I think it is about time they served the people's courts in a broad base and this is an area where

THE PRESIDENT:

Senator Owens.

SENATOR OWENS:

I have a point of order on this. Senator Gunther is known for his persistence and this is something that we have taken here two or three times.

THE PRESIDENT:

The issue has been previously adjudicated and your point of order is well-taken.

SENATOR OWENS:

Thank you very much.

SENATOR GUNTHER:

Mr. President, I would like to argue the point.

THE PRESIDENT:

Senator Gunther, you may proceed.

SENATOR GUNTHER:

The issue itself might have been debated and I believe that this amendment would have the test of being germane, and also that this amendment has not been argued here before.

SENATOR OWENS:

Point of order, Mr. President. In fact, this amendment was argued here before this circle and had been rejected by a roll call vote by a substantial margin. So I would move that the amendment be stricken at this time.

THE PRESIDENT:

Senator Gunther.

SENATOR GUNTHER:

Knowing your great ability for fairness, Mr.

President, I say this has not been debated here. This is not an identical amendment that has been submitted. I made sure that it was not identical and I believe

THE PRESIDENT:

Did you distinguish why it isn't identical because my memory takes me back, just a moment please. If I remember correctly, you had a vehicle which provided for a depository in the Probate Court somewhere with a payment of a fee. Would you distinguish that previous action with the amendment that you have before us?

SENATOR GUNTHER:

This is a major departure because I didn't want to put a fee on it at all. Originally, it was ten dollars and it is now a five dollar fee. So I believe that is a major change, Mr. President.

THE PRESIDENT:

My previous judgment that it had been previously adjudicated stands, Senator. Therefore, the point of order is well-taken.

SENATOR GUNTHER:

A well-taken point of order. I don't want to pursue it any further because I will bow to your great wisdom, Mr. President. I think that you are so fair all of the time that I will secede now.

THE PRESIDENT:

Thank you very much for your faith in me and I hope that I will always decide it in the tradition of Solomon. Thank you. Senator Owens.

SENATOR OWENS:

ON THE bill itself, the bill would make several adjustments in the Probate laws including limiting powers to alter certain types of trusts in accordance with federal law, expanding powers of fiduciaries that may be incorporated into a will or trust by reference, expanding the power to file a statement in lieu of an estate accounting or a fiduciary as a beneficiary and increasing the exemptions to appraisals and inventories for non-residential, ah, nonresidence decedents.

I move that this bill, as amended by Senate Amendment A, be placed on the Consent Calendar.

THE PRESIDENT:

Without objection, so ordered.

THE CLERK:

Cal. 563. File Nos. 521 and 790. Substitute for House Bill No. 7158. AN ACT CONCERNING THE CERTIFICATE OF TITLE FOR TOTALLED MOTOR VEHICLES, as amended by House Amendment Schedule A. Favorable report of the Committee on Transportation.

THE PRESIDENT:

Senator DiBella.

SENATOR DIBELLA: (1st)

Thank you, Mr. President. I move the acceptance of the Joint Committee's favorable report and passage of the bill. I move for adoption of House A.

THE PRESIDENT:

Without objection, you may proceed.

SENATOR DIBELLA:

Yes, Mr. President. The amendment establishes the different stamping procedure whereby vehicles owned ah, vehicle owners who are not self-insured have a title

If there are no objections, Mr. President, I ask that it be placed on the Consent Calendar.

THE PRESIDENT:

Is there any objection to placing this item on Consent? Hearing none the matter will go on the Consent Calendar.

The Clerk informs me that that is the Calendar so we will proceed to have a roll call vote on the Consent Calendar, which is quite lengthy. I will ask the Clerk to make the announcement for a roll call, and then proceed to list the items on the Consent Calendar and we would appreciate your giving your attention to the Clerk.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call has been called for in the Senate. Will all senators please be seated.

Page 2 - Cal. 326. Page 3 - Cals. 487, 497, 505, 507. Page 4 - Cals. 526, 544. Page 5 - Cals. 546, 563 and 565. Page 6 - Cal. 569. Page 7 - Cals. 574, 575, 576 and 581.

SB944. HB6511. HB7029, SB989. SB223. SB737. SB1146. SB1144. HB7158. HB7014. HB7155. HB6199, HB6744. HB7225

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SB912, SB1155, SB844, SB237, HB7110, SB324, HB5192, HB5663, HB5588, HB6097, HB7020, HB6324, HB5345, HB5562, HB6444, HB7110, HB7222, HB7235, HB6462, HB6826, HB6845, SB1055, SB243, SB513, SB664, HB6183, SB378, SB382, HB6179, HB6925, SB399, HB6927

Page 9 - Cals. 592, 594, 595, 596 and 597. Back to Page 8 - Cal. 591 on the bottom of the page. Page 10 - Cals. 598, 600, 601 and 603. Page 11 - Cals. 605 and 608. Page 12 - Cals. 613 and 614. Page 13 - Cals. 616, 617, 618 and 620. Page 14 - Cals. 623, and 624. Page 22 - Cals. 116 and 218. Page 23 - Cals. 219, 281, 309 and 349. Page 26 - Cal. 150. Page 27 - Cal. 208. Page 28 - Cals. 334, 335, 412 and 431.

THE PRESIDENT:

Is there any questions or omissions? Senator Serrani.

SENATOR SERRANI: (27th)

Yes, Mr. President, I would like to have on Page 7, Cal. 581, House Bill 6151, File 563, taken off so I can vote on the bill, and oppose it.

THE PRESIDENT:

We will take it off the Consent Calendar and we will vote on it immediately after we do the Consent Calendar. Are there any other questions or any other requests in reference to the Consent Calendar?

If not, the machine is open. A reminder that

we are going to vote again as soon as the Consent Calendar is voted on. Have all senators voted? The machine is closed.

THE VOTE IS 36 to 0. THE CONSENT CALENDAR IS ADOPTED unanimously.

The Clerk willcall the item that Senator Serrani requested to be remvoved from the Consent Calendar.

THE CLERK:

Page 7, Cal. 581. File 563. House Bill 6151. AN ACT CONCERNING THE ARTS CENTER PARKING GARAGE IN THE CITY OF NEW HAVEN. Favorable report of the Committee on Transportation.

THE PRESIDENT:

The bill has already been moved and discussed. Do you care to remark? If not, the Clerk will make the announcement for a roll call, to make sure all are here.

THE CLERK:

An immediate roll call has been called for in the Senate. Will all senators please take their seats. An immediate roll call in the Senate.

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THE CLERK:

Calendar 505, File 666, Substitute for Senate Bill No. 989. An Act Authorizing The Conveyance Of State Land In The Town Of Windsor And Granting Easements To The Connecticut Light And Power Company And The Connecticut Natural Gas Corporation. (As amen-ed by Senate Amendment Schedule "A" and House Amendment Schedule "A").

Favorable Report of the Committee on Government Administration and Elections.

THE CHAIR:

Senator Daniels.

SENATOR DANIELS:

Mr. President, I move acceptance of the committee's favorable report and passage of Senate Amendment "A" and House Amendment "A".

THE CHAIR:

Will you remark on the bill, Senator, in concurrence with the House?

SENATOR DANIELS:

Yes. Mr. President, the bill as amended by Senate "A" and House "A" will convey and grant an easement of a certain parcel of land, of State land. The bill authorizes the Board of Trustees of the Regional Community College to the Town of Windsor to convey State land to the Connecticut Light and Power Company. It would be given a utility easement to make improvements of a high voltage distributed system at the regional market. If there's no objection, Mr. President, I move this be placed on

Well, you're going to get another crack at it because the Clerk indicates to me that the machine didn't record it. They must have known you were on the run, Senator. Clerk make the announcement. We're going to have to take the vote over again.

THE CLERK:

Immediate roll call has been called for in the Senate. Will all Senators please be seated. Immediate roll call has been called for in the Senate. Will all Senators please take their seats.

THE CHAIR:

The issue is Calendar No. 656 upon which we just voted. The machine is open. If all the Senators would stay in the Chamber the next item of business is the consent calendar. Senator Schneller. Have all Senators voted? Machine is closed and locked. Total voting is 36, voting yes, 24. The measure is adopted. I believe everybody's in the Chamber. Clerk will proceed with the consent calendar. Would you give your attention to the Clerk because the consent calendar again this evening is rather long.

THE CLERK:

On page 7, calendar 719. Page 9, calendar 854, 855, 856, 857, 858. Page 10, calendar 859, 860, 884. Page 11, calendar 886, 889, 890, 891. Page 12, calendar 892, 893, 894, 895. Page 13, calendar 898, 900 and 901. Page 14, calendars 902, 903, 904, 905, 906. Page 15, calendars 908, 909 and 911. Page 16, calendars 912, 913, 914, 915 and 916. Page 17, calendars 918, 919, 920, 921. Page 20, calendars 265 and 459. Page

HB5250, HB6327 HB5493 HB5697 HB6902 HB6955 HB7041. HB5322 HB5634 HB6562 HB6946 HB6953, HB6989 HB7000 HB7009, HB7183, HB5196, HB5292, HB5543, HB5905 HB6092, HB6466, HB6069, HB6363, HB6960,

HB6975, HB7047, HB7060, HB7091, HB7236, HB7263, HB7268, HB5843, HB7189, HB6227, HB6321, HB6713, SB972

21, calendar 461, 487, 505. Page 22, calendar 538, 546, 594, 596, 667. Page 23, calendar 673, 454. Page 24, calendar 531 and 846 and on page 25, calendar 836.

SB 565. HB6511. SB989. SB1036, SB1144. SB1155 SB237. SB355. SB928, SB438, SB832, SB1165. SR30

THE CHAIR:

Are there any corrections or omissions on the consent calendar? Senator Skowronski?

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I would move that on page 7, item 719 be removed from the consent calendar and have a separate roll call after the consent calendar. I wish to vote against that bill and make some very brief remarks.

THE CHAIR:

Is there any other notation on the consent calendar? If not, the machine is open. Senator Morano. The machine'll be closed and locked. Total voting is 36, voting yes is 36. The consent calendar is adopted. The Clerk will recall calendar 719.

THE CLERK:

Calendar No. 719, File Nos. 821, 967 and 1129, Substitute for House Bill No. 7218. An Act Protecting The First Amendment Rights Of Employees.

Favorable Report of the Committee on Labor and Public Employees.

THE CHAIR:

The bill was previously moved for adoption, Senator. Remarks were given by the Chairman of the committee. You care to speak in opposi-

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MR. CRONAN: (Continued)
under a racketeering activity. There is no real problem, it just seems to be superfluous.

SEN. OWENS: Any questions, Mr. Cronan? Thank you. Judge Joy to be followed by Judge Flynn. You're not here, I don't see you on the list. I'm sorry. You are. My apologies. Judge Knierim.

JUDGE GLENN KNIERIM: Thank you, Sen. Owens, Rep. Tulisano, Members of the Judiciary Committee, I would like to comment on Senate Bill 1144, An Act Concerning Statutes Relating to Trusts and Probate Matters. As you know, that's an omnibus bill with many different subjects in it and my testimony is rather long, but to say you from that, I've reduced it to writing and will just summarize.

In Section 1 on Line 22 and 24 there is some words added, with the will annexed, and it's really redundant because the statute already has CTA in it, which means with the will annexed. I understand from the draftsman, who is Attorney Frank Berall, that he wanted that added parenthetically, and--

REP. TULISANO: Aren't there other bills from Frank Berall?

JUDGE KNIERIM: Yes, sir. This is actually sponsored by the States and Probates Section of the Connecticut Bar, but that--Mr. Berall called me today, and is unable to be here. He has some other technical changes which I will not go into, but if you do report this bill out favorably, I would like to have the opportunity to discuss them with you. But the most important parts that I'd like to address are Section 8, which eliminates the requirement that intangible personal property be included in inventories in decedent's estates for nonresident persons who have estates being processed in Connecticut.

We now have, in the last couple of years, because the legislature gave us some new jurisdiction, the ability to take original jurisdiction for nonresidents and if you pass Section 8 in its present form, you will have estates that are not required to report intangible personal property anywhere. And so I have in my testimony suggested some substitute language, which would carry out the same thing.

JUDGE KNIERIM: (Continued)

In Section 9, I support Section 9 which further reduces paperwork in the accountings in decedent's estates and also the Connecticut Probate Assembly supports Section 9 of this bill. But there is one additional change that we would ask that you do to clarify something in the section, and I have that in my written testimony.

And the last section I would comment on is Section 11. This section deals with the ability of conservators to make gifts and you will recall that we had such a bill before you also, House Bill 6983, which is before the House now because you gave it a joint favorable report. It passed, thank you.

The substance of Section 11 of the bill before you tonight, is the same as 6983, and if 6983 passed, Section 11 will not be needed, because we have gotten together with the Bar Association and given you a substitute bill. Do you have any questions on 1144?

I just would comment, very briefly, on one other bill, and that is the House Bill 6594, An Act Concerning Limited Conservatorships. I think this is--this bill contains a very good idea. We do this administratively in our courts very frequently. It probably should have more specific language in it, as to what authority we should give conservators of the person and what authority we should not give. The same as we did last year for guardians of mentally retarded persons, where we do have that concept because you passed it last year. Maybe the language ought to be developed a little bit better, but I think this is a very good idea to develop for our conservatorship proceedings. Thank you very much.

SEN. OWENS: Thank you, Judge. Any questions? Judge Lyddy.

JUDGE RAYMOND LYDDY: Sen. Owens, Rep. Tulisano, and Members of the Judiciary Committee, I'm Judge Raymond Lyddy, Probate Judge of the City of Bridgeport and I'm here as Chairman of the Legislative Committee of the Probate Assembly on Committee Bill 1142, having to do with pensions for the employees and judges of the probate court. I have given to your staff a one-page comment that I will just read briefly. I hope that you will have time to read the comment

MS. MC CARTY: (continued)
two Bills. The first Bill is Bill 1144, An Act Concerning Statutes Relating to Trusts in Probate Matters. This Bill has evidentally been put in by the bar association. We have absolutely no problem with it. We think it's a good Bill and it should pass. However, there are two things I would like to call to your attention which I think another speaker will do.

On page 7, line 218, the first word in that line should be pension rather than person and on page 10, starting with A1, under section 8 of this Bill, this incorporates a Bill which your Committee has already passed and it has passed the House and the Senate and it is on the way to the Governor to be signed. We would suggest that this section of the Bill incorporate the language in file 115, as it has been passed by the legislature this year so the Bills will be coincided.

I have a copy of 115 if you want me to leave it. I'll put it in writing and bring it over tomorrow. And one other comment, I would just like to comment on Bill 5966, An Act Concerning Deposit of Funds Held by Court Clerks and Sheriffs. I would like to go on record agreeing with Mr. Flynn who spoke about this Bill a little bit earlier.

He believes the Bill has problems. I thought the sheriffs had put it in. They haven't. We don't know where it came from. We also believe it's fraught with problems. We don't know what type of account these people would use. When it says the interest shall be paid to the state, does that mean the banks are going to have to pay out the interest and keep track of it? This Bill has a lot of problems with how it's set up and we would not recommend its passage at this time. Thank you very much.

SEN. OWENS: Larry Tryon and Marianne Santo Domingo. For those of you who are waiting to speak on that food Bill again, we like it, but don't overkill.

MR. LARRY TRYON: I'm Larry Tryon and I'm Chairman of the Codes and Standards Committee of the State of Connecticut, representing the Connecticut Building Congress which is a group of people, architects, engineers, builders, suppliers, construction industry, speaking in opposition to Bill 7279

MR. BECK: (continued)
Thank you.

REP. SHAYS: ARe you suggesting any changes to the Bill?

MR. BECK: As I mentioned, I can see what the point of the Bill is and I think that--I'm not a lawyer, somebody has to come up with the mechanism for allowing more public information in the cases of where investigations are going on, where the people need to know information about the cause of death. I don't think--what I'm saying is I looked at this Bill and I couldn't see any way that you could adjust it the way it is written now, and protect the issues I was concerned about.

SEN. OWENS: Other questions? Thank you very much.

MR. BECK: You're welcome.

SEN. OWENS: Charles Mokriski, followed by Mrs. James Hughes, William Farley and the last one is Sidney Lovett.

MR. CHARLES MOKRISKI: Senators, members of the Committee, my name is Charles Mokriski. I'm a partner of the law firm of Day, Berry and Howard in Hartford. I'd like to speak very briefly on two Bills before you. One is the one just spoken on, 7273, An Act Concerning Autopsy Records.

On behalf of the Connecticut Daily Newspaper Association, I'd like to register our opposition to this Bill, probably for a set of reasons, pretty much different from the previous speaker, but it's a Bill that attempts to close off public access to autopsy records which at times, may, in fact, be in the public interest to disclose and the existing state of the law, although it's not the most lucidly written statute in the world, it certainly is preferable to the Bill before you and I urge your defeat of this Bill.

The second Bill I'd like to speak on, 1144, An Act Concerning STatutes Relating to Trust in Probate Matters, I'm speaking now on behalf of the Connecticut Bar Association, Probate Section. This is probably one of the most boring Bills to come before you in some time. I won't give you a close textual analysis of it. It is a

MR. MOKRISKI: (continued)
bill, however, the passage of which will enable many dozens of probate lawyers to sleep better in the evening

REP. TULISANO: (speaker inaudible)

MR. MOKRISKI: I have provided a marked up copy of the bill to your legislative commissioner's office, Representative, because there were some typos in it.

SEN. OWENS: Rep. Onorato says he has a provocative question for you.

MR. MOKRISKI: Does it relate to the bill? Because I'm taking the fifth amendment on other provacative questions.

REP. ONORATO: You mean you are going to withhold information? In relation to the first bill. Can you

MR. MOKRISKI: I was trying to blow that one by you Representative while you weren't paying attention.

REP. ONORATO: Yes I know. Can you give us an example of when an autopsy report would be in the public interest?

MR. MOKRISKI: Well were there are allocations of organized crime involvement.

REP. ONORATO: Wait a minute we are talking about an autopsy report.

MR. MOKRISKI: Well no if there is a questionable cause for a death and there are ramnifications that may go to the cause of the death -- and involve some issue of public importance, it seems to me the public has got a right to have access to them.

REP. ONORATO: Well let me ask you this question. Let's say there is a death under strange and unusual circumstances, this information is made available by the police department. They may or may not speculate on the cause of death, why in the world do you need an autopsy report to put in the newspaper, if you choose to put it in the newspaper, why in the world do you need a report?

MR. MOKRISKI: Well because the causes of the death, speculator problem by the police department ought to be further illuminated or further discussed in the public --

REP. ONORATO: In the press? Perhaps they will be at a trial, if there is a trial or something along those lines. But I don't see why this information is required by the press.

MR. MOKRISKI: It is not necessarily the press, Rep., I guess there is a misconception that the freedom of information laws are written for the benefit of the press. In fact 70% of the requests for --

REP. ONORATO: Why does anybody -- why does anybody need this information?

MR. MOKRISKI: I would defer to your senate chairman for one particular anecdote involving the need for information in a private litigation --

REP. ONORATO: I'm familiar with Senator Owens' anecdote, and I would ask that the Honorable Chairman, if he raises that story, I would ask him the same question, why, even under those circumstances would he need a copy of the autopsy report at the point in time that he was seeking the report? If he wants to tell me later that's okay.

MR. MOKRISKI: Rep., the existing law does not allow one to have carte blanche access to autopsy reports. There is already provision for providing them under certain conditions in accordance with regulations.

REP. ONORATO: I understand.

REP. TULISANO: Mr. Mokriski, by the same token you are allowed to know the cause of death but not the report of the autopsy (speaker inaudible).

MR. MOKRISKI: The cause of death as determined or recorded wherein.

REP. TULISANO: Well we'll make sure it says it the right way.

REP. ONORATO: A man was shot. What else do you need to know? Why do you need an autopsy report? A man was shot in the back of the head.

MR. MOKRISKI: It is not always possible before the fact to describe why information might be useful or necessary to the public.

To close it off rather categorically what this bill would do is a drastic step and in fact a departure from our present practice. I don't know of any abuses that have been cited under the existing law that require such a drastic step to make these records the pure personal preserve of the medical examiners office.

REP. ONORATO: Well Mr. Mokriski, I mean, it says any person authorized by court order to receive the information and I suppose if a newspaper or other interested person were to petition the court and give a legitimate reason why they needed that information, I suppose the court could give them a court order to get it.

MR. MOKRISKI: Perhaps it would, but perhaps as an attorney investigating a case for a client, you may need some information and may need it very quickly to decide which way to move on a particular case. And why should you be forced to resort to --

REP. ONORATO: The autopsy report is going to help you?

MR. MOKRISKI: It might very well.

REP. ONORATO: Thank you.

REP. TULISANO: Let's talk about the other (speaker inaudible)

MR. MOKRISKI: Don't be redundant Rep. First of all I understand from Glenn , that the last section is now moot because the bill has been reported out on empowering fiduciaries --

REP. TULISANO: If you have studied this Mr. Mokriski, how come you don't know what (speaker inaudible)?

MR. MOKRISKI: I'm sorry.

REP. TULISANO: How come you don't know of your own accord? Not as a result of Mr. , testimony?

MR. MOKRISKI: Because I missed Mr. testimony. I understand that he testified earlier on this bill.

REP. TULISANO: Correct, but how come you don't know of your own accord?

MR. MOKRISKI: That Mr. testified?

REP. TULISANO: No that the bill had been changed today? On the floor of the House?

MR. MOKRISKI: No I was not here for the entire debate of that. The last section, however, I understand is moot because the bill drafted in accordance with the probate court administrators' suggestions does empower fiduciaries to make donations to charity.

The remaining sections primarily are involved in making sure that recent federal tax changes are taken into account in the probate laws to allow Connecticut estates the full benefit of resent provisions. The Fiduciary Powers Act which was enacted in 1967 to incorporate the various powers for fiduciaries without the necessity of reciting every one of them in every instrument, undergoes in this bill, several technical changes. None of which, as I understand, are at all controversial or even interesting.

The bill broadens existing provisions excusing an executor who is the sole beneficiary of an estate from accounting so long as he files a statement to the probate court that all taxes and other charges have been paid. And moreover excuses a fiduciary from accounting where one or more of the fiduciaries are the sole residuaries and specific requests have already been paid.

In other words it is just an act to simplify and make more economical the probate procedure.

REP. TULISANO: Do you have to have an affidavit of closing statement or something like that?

MR. MOKRISKI: But not with respect to where the sole fiduciary has got other specific requests involved in the instrument.

MR. MOKRISKI: (continued)
Finally, there is a proposed amendment to the disclaimer act that you passed two years ago to clarify the most recent changes in the act are applicable to disclaimers made after the October 1, 1981 effective date.

SEN. OWENS: Are there any questions of Mr. Mokriski? Were you through?

MR. MOKRISKI: More or less, yes.

: speaker inaudible

MR. MOKRISKI: No I have some written testimony on the bill here. I have the inter -- version of it here which I have marked up and I have provided a copy to Ms. Bray for use in legislative commissioner's office should the Committee, in its wisdom, see fit to report this bill out and to allow the probate lawyers of Connecticut to sleep through the evening.

SEN. OWENS: We always appreciate your appearance here. Any questions of Mr. Mokriski? Hearing none, Mr. Beck will you come back please.

MR. BECK: Sorry, I'm sort of a novice at reading these bills. I read it wrong. I didn't realize that the -- I got confused -- I guess the bracketed part. The bracketed part is deleted, which is what I was trying to --

REP. SHAYS: You opposed the bracketed part?

MR. BECK: I was opposed to the bracketed part. What I didn't realize was that that meant I was in favor of that piece of paper. Which is what I meant to say.

REP.SHAYS: You are in favor of the bill, you want the bracketed part taken out of our statutes?

MR. BECK: Correct. That was what I was in favor of.

REP. SHAYS: No sweat.

MR. BECK: Okay, thank you.

MS. JAMES F. HUGHES: I am Mrs. James F. Hughes of Wethersfield and one of Mr.-- Rep. Tulisano's constituents. I am here tonight to testify on the raised committee bill. 7273.

I have had a ten year career as a registered nurse, a graduate of St. Francis Hospital, and about 27½ years experience in my present career in the public sector for the Department of Public Safety. During that time, ladies and gentlemen, I have dealt with numerous families who were subjected to the tragedy of the loss of a loved one through unnatural means. I would like to testify for the amendment of 7273. That will limit disclosure of autopsy records to next of kin and insurance companies and persons authorized to receive such information pursuant to a court order.

It seems to me that somewhere between our concern in Connecticut for freedom of information to which I personally am a strong subscriber, and the absolute right to privacy for very personal matters, that we -- somewhere Connecticut should have the compassion to protect the families, the bereaved, the devistated people who survive victims of homocide, suicide, any kind of such death.

It has been my experience in my career in nursing and law enforcement that Connecticut always has had this kind of compassion. Any person, agency or institution needing further information besides the cause of death and manner of death, in presenting a legitimate reason and an argument to one of our courts or who would say that the public's good would be served by total disclosure of a complete autopsy report, will certainly be protected by our courts to secure any further data. It is late and I don't want to keep you any later, and I really do urge you to consider this amendment favorably, thank you.

SEN. OWENS: Thank you, we appreciate your comments. I see no one here to speak. The public hearing is closed. (speaker inaudible)

TO: Committee on the Judiciary

FROM: J. Charles Mokriski, Lobbyist for Probate Section of the Connecticut Bar Association

Explanation Of Omnibus Probate Bill, Raised Committee Bill No. 1144 Submitted by Estates and Probate Section of the Connecticut Bar Association

This bill contains all four legislative changes, not involving tax or revenue matters, which have been recommended by the above Section for enactment in 1983.

1. Certain technical and typographical corrections are made to the Fiduciary Powers Act.

   (a) The latter was enacted initially in 1967 so that draftsmen of wills and trusts could incorporate executors' and trustees' powers in these instruments, thus saving typing lengthy lists of powers. The Act has been updated from time to time by the Legislature, in light of tax changes and other needs for improvements.

   (b) The proposed changes in this bill are necessary to update the Act in light of recent changes in the federal tax laws, as well as correct certain typographical errors in the existing law. Their overall objective is to continue the usefulness of the Fiduciary Powers Act by preventing problems that might otherwise arise as a result of tax changes in instruments incorporating the Act in the future. Other proposed changes have been made based on needs shown by experience with the Act.

2. The bill broadens existing provisions excusing an executor who is a sole beneficiary from accounting, so long as he files a statement in the probate court that all taxes and other charges have been paid. Fiduciaries will be excused from an accounting where one or more of them are the sole residuary legatees, even if there are beneficiaries of specific bequests, so long as the latter have been distributed.

3. There is a proposed amendment to the Connecticut disclaimer law to clarify that the most recent restructuring of the law applies to disclaimers made after its October 1, 1981, effective date.

4. Authority is granted to probate courts to direct conservators to make gifts of income and principal to and among the natural objects of their ward's bounty and to qualified charities, in accordance with any prior pattern of giving. This enables the conservator of an incapable person to use surplus funds for gifts to family and charities, reducing the size of that person's taxable estate.

State of Connecticut
Probate Administration

JUDGE GLENN E. KNIERIM
PROBATE COURT ADMINISTRATOR
ATTORNEY LINDA A. DOW
ASSISTANT TO THE ADMINISTRATOR
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April 13, 1983

TO: COMMITTEE ON JUDICIARY

FROM: Judge Glenn E. Knierim

RE: S. B. 1144 - An Act Concerning Statutes Relating to Trust and Probate Matters

Since this bill is, in effect, an omnibus bill containing a variety of subjects, some of which relate to Probate Court practice, I will only address certain sections.

Section 1 - I do not think the addition of the words "with the will annexed" on lines 22 and 24 are necessary, since the existing statutory language contains the initials "c.t.a." which is the accepted abbreviation for the Latin phrase "cum testamento annexo" which means with the will annexed.

Section 8 - The suggested deletion of the requirement that the inventory of the estate of a deceased nonresident not be required to include intangible personal property on line 296 is appropriate for cases where the proceeding in Connecticut is ancillary to that in another state. However, several years ago, at the request of the Connecticut Bar Association, the legislature permitted original probate in Connecticut of the wills of nonresidents, and in such cases there are no probate proceedings in the state of domicile. If the requirement that intangible personal property be eliminated in inventories filed in Connecticut, heirs and beneficiaries might be deceived, and orders of distribution would not be complete since there would be no forum where the intangible personal property would be accounted for. In order to remedy the situation, I would suggest the reinstatement of the bracketed out language on lines 295 1/2 and 296, and the addition of the following language after the word "property" on line 296: "PROVIDED HOWEVER THAT SUCH INVENTORY AND APPRAISAL NEED NOT INCLUDE INTANGIBLE PERSONAL PROPERTY IF THE PROCEEDING IN CONNECTICUT WITH REGARD TO SUCH ESTATE IS ANCILLARY TO A PROCEEDING IN ANOTHER JURISDICTION."

Section 9 - I support this section with one minor change for clarification. Several years ago, my office, with the support of the Connecticut Probate Assembly submitted to the General Assembly a bill which was passed and is now found in §45-267a eliminating the requirement of detailed final accounts where the fiduciary

and the beneficiary are one and the same. The process has worked exceptionally well, and has avoided considerable time and expense on the part of those using the courts. Section 9 of the bill before you extends this to multiple fiduciary-beneficiary situations, and also to estates where the only beneficiaries who are nonfiduciaries are specific legatees. This change will be most helpful in reducing the amount of paperwork necessary to complete administration of decedents' estates, and the Connecticut Probate Assembly joins me in supporting this section.

I would ask that, for clarification purposes, the following phrase be added before the beginning of this section on line 343: "EXCEPT IN THE CASE WHERE ANY BENEFICIARY IS A TRUSTEE OF A TESTAMENTARY OR INTER VIVOS TRUST". This clarification prevents trustees from avoiding accountings by taking advantage of the existing statutory language. The statute was never intended to apply to trustee beneficiaries.

Section 11 - This section can be eliminated from the bill before you. I had submitted a bill permitting courts to authorize conservators to make gifts, and when the sponsors of the bill before you learned of my bill, they requested a meeting to discuss reconciliation of the two proposals. That was done, and so reported to you at the public hearing on the bill submitted by my office, which is now H. B. 6983. Your committee gave a joint and favorable report to substitute H. B. 6983, and it is now being voted upon by the House of Representatives. Therefore, the elements of section 11 before you have already been passed upon by this committee.

GEK/jcm

TO: Committee on the Judiciary

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   (b) The proposed changes in this bill are necessary to update the Act in light of recent changes in the federal tax laws, as well as correct certain typographical errors in the existing law. Their overall objective is to continue the usefulness of the Fiduciary Powers Act by preventing problems that might otherwise arise as a result of tax changes in instruments incorporating the Act in the future. Other proposed changes have been made based on needs shown by experience with the Act.

2. The bill broadens existing provisions excusing an executor who is a sole beneficiary from accounting, so long as he files a statement in the probate court that all taxes and other charges have been paid. Fiduciaries will be excused from an accounting where one or more of them are the sole residuary legatees, even if there are beneficiaries of specific bequests, so long as the latter have been distributed.

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[illegible] per Conn Bar Assoc. Probate Section — (J.C. Moskeski). Should be supplemented with changes suggested by Glenn Knierim, Probate Ct. Admin.

STATE OF CONNECTICUT

Raised Committee Bill No. 1144 Page 1 of 14 6

Referred to Committee on JUDICIARY 7

LCO No. 4599 8

Introduced by (JUD) 9

General Assembly, 10

January Session, A.D., 1983 11

AN ACT CONCERNING STATUTES RELATING TO TRUSTS AND PROBATE 14
MATTERS. 15

Be it enacted by the Senate and House of Representatives in 17
General Assembly convened: 18

Section 1. Section 45-100d of the general statutes is 19
repealed and the following is substituted in lieu thereof: 20

(a) As used in this chapter, (1) the term "fiduciary" means 21
the one or more executors or administrators c.t.a. (WITH THE WILL 22
ANNEXED) or administrators c.t.a., d.b.n. (WITH THE WILL ANNEXED 24
AND THE GOODS UNADMINISTERED) of the estate of a decendent, or the 25
one or more trustees of a testamentary or inter vivos trust 26
estate, or any successor or successors to the original fiduciary, 27
or any substitute, or any ancillary fiduciary, whether corporate 28
or individual and whether or not specifically named in the will
or trust instrument, and includes the terms "cofiduciary," 29
"coexecutor" and "cotrustee." (2) The term "settlor" means the 30
creator of an inter vivos trust, whether called "settlor," 31
"grantor," "donor," or "trustor" in the instrument. (3) The terms 32
"will" and "trust instrument" include, respectively, codicils to 33
a will and amendments to a trust as the context may require.
(4) "QTIP" MEANS QUALIFIED TERMINABLE INTEREST PROPERTY AS 35
DEFINED UNDER SECTION 2056(b)(7)(B) OF THE FEDERAL INTERNAL 36
REVENUE CODE OF 1954, AS AMENDED, OR ANY CORRESPONDING PROVISION 37
OF APPLICABLE REVENUE LAW.

(b) In all cases, the singular includes the plural of said 40
terms and vice versa. Reference to any person by use of the
neuter term "it" includes masculine and feminine and vice versa. 41

(c) By an expressed intention of the testator or settlor so 43
to do contained in a will or in an instrument in writing whereby 44
a trust estate is created inter vivos, any one or more or all of 45
the powers or any portion thereof enumerated in section 45-100e, 46
as they exist at the time of the signing of a will by the 47
testator or at the time of the signing by the first settlor who 48
signs a trust instrument, may be, by appropriate reference made
thereto, incorporated in such will or other instrument, with the 49
same effect as though such language were set forth verbatim in 50
such will or other instrument. If a codicil or amendment to a 51
trust instrument has been executed, the incorporated powers 52
contained in such will or other instrument shall remain unchanged 53
unless modified or otherwise altered by such codicil or
amendment. Incorporation of one or more or all of the powers 54
contained in said section by reference to said section shall be 55
in addition to and not in limitation of other powers in the will 56
or other instrument and of the common law powers or other 57
statutory powers of the fiduciary. Any one or more or all of the 58
additional powers or any portions thereof enumerated in section
45-100f also may be incorporated by reference as therein provided 59
but only to the extent they are individually referred to in such 60
will or other instrument. In the event of a conflict between one 61
or more of the powers contained in sections 45-100e and 45-100f 62
and the express terms of the will or other instrument, the terms 63
of such will or other instrument shall govern. In the event of a 64
conflict between one or more of the powers contained in sections
45-100e and 45-100f, and any other provision of the general 65
statutes, the power or powers contained in sections 45-100e and 66
45-100f shall govern.

(d) No discretionary power or authority conferred upon a 69
fiduciary as provided in this chapter may be exercised by such
fiduciary in such a manner as, in the aggregate, to deprive the 70

trust or the estate involved of an otherwise available tax 71
exemption, deduction or credit, expressly including the marital 72
and orphans deductions and the deduction for transfers for 73
public, charitable and religious uses, except as otherwise
prescribed by the testator or settlor, or operate to attract or 74
impose a tax upon a settlor or estate of a testator or upon any 75
other person as owner of any portion of the trust or estate 76
involved.- NOTWITHSTANDING ANY PROVISIONS CONTAINED IN OR 77
INCORPORATED FROM THE GENERAL STATUTES OR OTHERWISE INTO A WILL OR TRUST INSTRUMENT, NO PERSON SHALL 78
HAVE A POWER TO MAKE ANY EQUITABLE ADJUSTMENTS AFFECTING ANY 79
QUALIFIED TERMINABLE INTEREST PROPERTY OR A QTIP TRUST. FOR THE 81
PURPOSES OF THIS SUBSECTION, "EQUITABLE ADJUSTMENTS" MEANS ADJUSTMENTS TO 82
TRUST CORPUS OR INCOME OR BOTH WHICH INVOLVE A REALLOCATION OF 83
ASSETS FROM THE ACCOUNT OF ONE BENEFICIARY TO THAT OF ANOTHER TO 84
COMPENSATE FOR DISPROPORTIONATE SHARING OF A TAX BURDEN RESULTING
FROM A TAX ELECTION. The exercise of a power in violation of the 87
restriction contained in this subsection shall render the
[fiduciary's] action BY THE FIDUCIARY OR ANY OTHER PERSON with 89
regard to that violation void. "Tax" means a federal, state, 91
(whether that of Connecticut, another state or territory of the
United States, the District of Columbia or the Commonwealth of 92
Puerto Rico) local, municipal or foreign, whether national, 93
provincial, state, local or municipal, income, gift, estate, 94
generation-skipping, inheritance, succession, ACCESSIONS or other 95
death tax, duty or excise imposed on the transfer of property at 96
death or by gift. "Marital deduction [,]" ["orphans deduction"] 97
and "deduction for transfers for public, charitable and religious 98
uses," shall have the same meaning and application as shall exist 99
under the Federal Internal Revenue Code in effect at the death of 100
the testator or at the time a trust becomes irrevocable, as the 101
case may be. The definition of tax in this subsection shall be
deemed to be the definition as it existed in this subsection on 102
and after January 1, 1970, and in subsection (b) of section 45- 103
100a insofar as said section 45-100a applies to any instrument in 104

which it was incorporated from January 1, 1967, to December 31, 1969, inclusive. 105

(c) Nothing herein shall be construed to prevent the 108
incorporation of the powers enumerated in section 45-100e or 45- 109
100f in any other kind of instrument or agreement.

Sec. 2. Subsection (2) of section 45-100e of the general 110
statutes is repealed and the following is substituted in lieu 111
thereof:

(2) To sell, exchange, alter, assign, transfer, grant 113
options to buy, SIGN REAL ESTATE LISING AGREEMENTS; to convey, 114
pledge, hypothecate; and to mortgage, lease and sublease, even 115
beyond the period of the estate or any trust; to partition or 116
otherwise dispose of any property or interest therein; to do any 117
of such acts without an order of any court, at public or private
sale or otherwise, upon such terms and conditions, including 118
credit, and for such consideration as the fiduciary shall deem 119
advisable; to transfer and convey the property or any interest 120
therein, in fee simple absolute or otherwise free of all trusts. 121
The receipts of the fiduciary for moneys or things paid or 122
delivered shall be effective discharges therefrom to the persons 123
paying or delivering the same and no one either dealing with the
fiduciary or from whom the fiduciary shall receive any money, 124
property or other credit shall be required to see to the 125
application thereof or shall be under any duty to follow the 126
proceeds or other consideration received by the fiduciary from 127
such sale or exchange. No one dealing with the fiduciary, or with 128
any real, personal or mixed property which is or was estate or
trust property, shall be bound to ascertain or inquire as to the 129
existence or occurrence of any event or purpose in or for which a 130
sale is herein authorized or directed or otherwise as to the 131
purpose or regularity of any acts of the fiduciary purporting to 132
be done in pursuance of any other provisions or powers herein 133
incorporated or granted.

Sec. 3. Subsection (3) of section 45-100e of the general statutes is repealed and the following is substituted in lieu thereof:

(3) To invest and reinvest, as the fiduciary shall deem advisable, in stocks of any class, bonds, debentures, notes, mortgages or other securities AS WELL AS in investment trusts, mutual funds and common trust funds, TO OPEN ACCOUNTS IN ANY TYPE OF COMMERCIAL OR SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION OR SIMILAR ORGANIZATION OR COMPANY, WHETHER WITHIN OR WITHOUT THE STATE OF CONNECTICUT and to acquire by lease or purchase any interest in real property or real estate investment trusts whether such investment is in or outside the state of Connecticut or the United States and even though such investment shall not be of the character approved by applicable law but for this provision. Notwithstanding any other provisions, to the contrary, neither a trustee of an irrevocable trust, intended to qualify for the federal gift tax exclusion as a gift of a present interest under Section 2503(b) or 2503(c) of the Federal Internal Revenue Code of 1954, as amended, or any corresponding provisions of applicable revenue laws, nor the trustee of a trust providing for payment of all income therefrom to the life beneficiary, INCLUDING A QTIP TRUST, may under any circumstances invest or reinvest in unproductive, underproductive or non-income-producing property, or ACQUIRE any life insurance, endowments or annuities UNLESS EXPLICITLY SO AUTHORIZED IN THE TRUST INSTRUMENT.

Sec. 4. Subsection (35) of section 45-100e of the general statutes is repealed and the following is substituted in lieu thereof:

(35) Alternate Valuation Date. --The fiduciary may elect to value the estate for tax purposes at the values of its assets on the date of decedent's death or at those values on an estate tax valuation date other than the date of the decedent's death, whether or not such election increases or decreases the federal estate tax. No adjustments shall be required to be made between income and principal or between the property interests passing to

THE REQUIREMENT OF EXPLICIT AUTHORIZATION IN THE TRUST INSTRUMENT TO ACQUIRE LIFE INSURANCE, ENDOWMENTS OR ANNUITIES SHALL BE DEEMED TO HAVE BEEN INCLUDED IN THIS SUBSECTION ON AND AFTER JANUARY 1, 1970, AND IN SUBDIVISION (3) OF SECTION (3) OF SECTION 45-100e, AS SECTION 45-100a APPLIES TO ANY INSTRUMENT IN WHICH [illegible] INCORPORATED FROM JANUARY 1, 1967 TO DECEMBER 31, 1969, INCLUSIVE.

any beneficiaries which may be affected as a result of such 167
election. (B) Administration and Other Expenses. --To the extent
permitted by law, the fiduciary may elect to claim certain 168
administration expenses, casualty losses, medical and other 169
expenses as deductions either on the income tax returns of the 170
estate or of the decedent or on the federal estate tax return or 171
partly on each. The fiduciary shall elect to claim from time to 172
time such expenses as deductions on the particular tax returns
which in the fiduciary's opinion should result in the lowest 173
total taxes being paid by the estate and its beneficiaries, 174
regardless of whether such expenses may be payable from the 175
income or principal of such estate, and the fiduciary is not 176
required to make adjustments between income or principal or
between the property interests passing to any beneficiaries which 177
may be affected on account of such election, except that (i) 178
where one or more residuary legatees of a will containing a so- 179
called preresiduary marital [or orphans] deduction formula 180
provision is a charitable organization, as defined in Section
501(c) of the Federal Internal Revenue Code of 1954, as amended, 181
or any corresponding provision of applicable revenue laws, in 182
effect at the date of the death of the testator of a will 183
incorporating this chapter, and (ii) the fiduciary elects to 184
treat such expenses in whole or in part as income tax deductions
with the result that federal estate taxes paid from and 185
chargeable to such principal are greater than if the contrary 186
election had been made, an amount equal to the difference in such 187
estate taxes shall be reimbursed to such principal from the 188
income. (C) Joint Returns. --The fiduciary is specifically
authorized but not required to execute and file a joint income 189
tax return with the surviving spouse or his executor or 190
administrator for the year of the decedent's death and for any 191
prior years. The fiduciary is also authorized but not required to 192
execute and file a gift tax return with the decedent's spouse or 193
his executor or administrator, if any gift tax return is required
of either the decedent or his spouse for any quarter in the year 194

in which death occurs or for any quarter or year prior thereto. The fiduciary is authorized but not required to consent to treat any gifts made by such decedent's spouse as being made one-half by the decedent. The fiduciary may pay such income and gift taxes as are chargeable to the decedent and, in its discretion, may pay the entire amount of such taxes. The fiduciary shall incur no personal liability for any action taken by it in good faith in accordance with any of the foregoing authorizations. (B) Instalment Payment of Estate Taxes. --The fiduciary is authorized in its discretion to elect to pay all or any part of the federal estate tax on the estate in instalments under the provisions of Sections 6166 [or 6166A] of the Federal Internal Revenue Code of 1954, as amended, or any corresponding provision of applicable revenue laws. (E) Request for Extension of Time for Paying Estate Tax. --The fiduciary is authorized in its discretion to request an extension of time for paying the federal estate tax, or any instalment thereof on the estate or any amounts determined as a deficiency thereon under the provisions of Section 6161 or 6163 of the Federal Internal Revenue Code of 1954, as amended, or any corresponding provision of applicable revenue laws. (F) Election of Special Use Valuation. --The fiduciary is authorized to make all elections with respect to valuations authorized by Section [2032a] 2032A and related sections of the Federal Internal Revenue Code of 1954, as amended, or any corresponding provisions of applicable revenue laws. (G) Pension and profit-sharing plans.--To elect, either revocably or irrevocably, to receive death benefits and any other sums payable with respect to any ~~person~~ pension and profit-sharing plans in a lump sum, in instalments or as an annuity; to waive the benefit of any income averaging provisions available for distributions from pension and profit-sharing plans; to elect a different mode of distribution with respect to each applicable pension and profit-sharing plan. The term, "pension and profit-sharing plan," includes any pension, profit-sharing, thrift, stock purchase, or bonus plan as well as any so called "Keogh" plans and individual retirement accounts. A

decedent's spouse, if acting as a fiduciary, shall take no part in the exercise of any election under any pension or profit-sharing plan. (H) In making any of the elections authorized in subparagraph (D), (E), (F) or (G) of this subdivision, the fiduciary is authorized to take all action it deems necessary to implement said elections without incurring personal liability for any action taken or omitted by it in good faith under said authorization.

Sec. 5. Subsection (4) of section 45-100f of the general statutes is repealed and the following is substituted in lieu thereof:

(4) To retain, trade and speculate in any real, personal or mixed property as the fiduciary shall deem advisable, wherever situated, including but not limited to: (A) Any one or more or all commodities and commodity options regularly traded on exchanges in or outside the United States, in either spot or futures contracts, claims, straddles, spreads or any other type of commodity contract, whether long or short; (B) puts, calls, straddles and options in any domestic or foreign securities and short sales of such contracts and of securities; (C) interests in oil, gas, coal, gravel, sand, timber, sulphur, precious and semiprecious stones, minerals, metals and their ores, including but not limited to iron, aluminum, copper, rhodium, palladium, platinum, radium, uranium and gold and silver bullion, bars, bricks and coins, and any other mineral and timber rights, royalties, leases and payments, AND INTERESTS IN COMPUTER HARDWARE AND SOFTWARE; (D) any interests in breeding or dairy cattle, horses, hogs, sheep, dogs, cats or other animals; (E) postage and revenue stamps, postal covers, coins, jewelry, rare books, paintings, etchings, statues, sculptures, antiques, curios, antique firearms and edged weapons, and other collectible items and art objects; (F) aircraft, ships, railroad locomotives, rolling stock, buses, antique automobiles and other vehicles; (G) foreign currencies and United States Treasury bills including futures contracts in such assets, whether long or short.

Sec. 6. Subsection (9) of section 45-100f of the general statutes is repealed and the following is substituted in lieu thereof:

(9) Residential Realty. --To retain any residential real property, [or] apartment OR TOWNHOUSE and the contents of said real property or apartment OR TOWNHOUSE received by it hereunder, to purchase, to rent and to maintain residential real property including an ordinary, cooperative or condominium apartment OR TOWNHOUSE for occupancy, rent free, by any of the beneficiaries hereunder, so long as one or more of them wish to use and occupy it as a home, and to sell it when it is no longer so used and occupied, to pay all rent, taxes, assessments, repairs and other charges for maintaining such real and personal property or apartment, including title, public liability, fire and extended coverage insurance, and to make such purchases or payments out of such beneficiary's portion of the principal or income, in accordance with applicable law, as the fiduciary in its sole discretion shall determine.

Sec. 7. Subsection (10) of section 45-100f of the general statutes is repealed and the following is substituted in lieu thereof:

(10) To deal in every way with the estate AND TRUST of the settlor or testator, including but not limited to the purchase from, the sale to, the exchange of assets with such estate AND TRUST, or the making of loans thereto, either secured or unsecured AND EITHER INTEREST FREE OR at such rates of interest as the fiduciary shall determine, AND TO MAKE LOANS FROM AN ESTATE TO A TRUST, IN THE DISCRETION OF THE FIDUCIARY. The powers described herein may be exercised by the fiduciary even though it is the legal representative of the estate, and the fiduciary shall not incur any liability for any loss resulting from the exercise of any such power.

Sec. 8. Section 45-202 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) (1) An inventory of all the property of every deceased 284
person and insolvent debtor, except real property situated 285
outside the state, duly appraised, shall be made and sworn to by 286
the fiduciary [or trustee].

(2) When any personal property of a deceased person or 288
insolvent debtor is outside of this state the court may receive 289
an inventory of such property, accompanied by such evidence of 290
its value as it deems sufficient and sworn to by the fiduciary. 291

(3) The inventory and appraisal of the estate of any 293
deceased nonresident shall include only such interest as the 294
decedent had at the time of his death in the real property [,] 295
AND tangible personal property situated in this state. [and
intangible personal property.] 296

(4) The fiduciary shall appraise or cause to be appraised 298
such inventoried property at its fair market value. 299

(b) (1) The fiduciary shall file the inventory in the court 301
of probate having jurisdiction of the estate of the deceased 302
person or insolvent debtor within two months after the acceptance 303
of the bond or other qualification of the fiduciary. 304

(2) The court may, for cause shown, extend the time for the 306
filing of such inventory to not more than four months from the 307
qualification of the fiduciary. 308

(c) If the court grants administration of a decedent's 310
estate to a person other than (1) the person designated in the 311
will as executor or successor to such executor, (2) the surviving 312
spouse, (3) any child of the decedent or any guardian of such 313
child as the court shall determine, (4) any grandchild of the
decedent or any guardian of such grandchild as the court shall 314
determine, (5) the decedent's parents, (6) any brother or sister 315
of the decedent or (7) the next of kin entitled to share in the 316
estate, the fiduciary appointed by the court shall file an 317
inventory as required by this section prior to the sale, either 318
under a power in the will or under the laws of this state, of any
property other than real estate. The fiduciary shall send a copy 319
of such inventory to each person interested in the estate and 320

EXCEPT THAT IF THE FIDUCIARY APPOINTED IS A STATE BANK AND TRUST COMPANY...
[from HB 6718]

shall notify each such person by certified mail, return receipt requested, that a sale of certain items in the inventory is contemplated. Such notice shall inform the recipient that he or she may object to such sale by filing a notice of objection in writing with the court of probate having jurisdiction of the estate of the decedent within five days after receipt of such notice of sale. Upon receipt of such notice of objection, the court shall set a time and place for a hearing, with notice to all persons interested in the estate.

(d) Notwithstanding the provisions of subsection (c), upon application by the fiduciary, the court may order a sale of personal property without a hearing prior to the filing of an inventory and notice of sale, provided the court finds that an expeditious sale is necessary for the protection of the estate and a delay would cause irreparable harm to the estate.

(e) The fiduciary shall file an inventory containing a legal description of any real estate of the decedent prior to a sale pursuant to sections 45-236 to 45-244, inclusive, and sections 45-271c and 45-271d.

(f) The fiduciary shall file a return of sale with the court after any sale of real estate or personal property of the decedent.

Sec. 9. Section 45-267a of the general statutes is repealed and the following is substituted in lieu thereof:

Whenever the fiduciary of a decedent's estate is the sole beneficiary of the RESIDUE OF THE estate, OR WHENEVER MULTIPLE FIDUCIARIES OF A DECENDENT'S ESTATE ARE THE ONLY BENEFICIARIES OF THE RESIDUE OF THE ESTATE, AND ALL DISPOSITIONS, IF ANY, TO OTHER BENEFICIARIES ARE SPECIFIC BEQUESTS, the fiduciary may, in lieu of any other accounting required under this chapter, file with the court of probate having jurisdiction of the estate a statement under oath that all debts, funeral expenses, taxes and expenses of administration have been paid, AND THE SPECIFIC BEQUESTS, IF ANY, HAVE BEEN DISTRIBUTED AND RECEIPTS THEREFOR OBTAINED. The statement shall include the total amount reported

The provisions of sections 45-299 through 45-312 shall apply to disclaimers made after October 1, 1981, provided, however, that

on the return of claims filed under section 45-207 and an itemized list of all funeral expenses, taxes and expenses of 355
administration. THE RECEIPTS OF THE BENEFICIARIES OF ANY 356
SPECIFIC BEQUESTS SHALL BE FILED WITH THE COURT OF PROBATE AT THE 358
TIME SUCH STATEMENT IS FILED. The court of probate may 359
thereafter enter a decree releasing and discharging the fiduciary 360
and the sureties on his bond, if any, from any further liability. 361
Any fiduciary so discharged shall be excused from filing an
accounting and any further returns with the court; provided the 362
court may, for cause shown, refuse to accept the statement and 363
require an accounting from the fiduciary. 364

Sec. 10. (NEW) Disclaimers respecting transfers of property 365
made before and applicable to estates of persons dying before 367
October 1, 1981, shall be valid if made in accordance with the 368
provisions of chapter 798 of the general statutes in effect on
September 30, 1981 or in accordance with other statutory or 369
common law.

Sec. 11. Section 45-75 of the general statutes is repealed 370
and the following is substitited in lieu thereof: 371

(a) The conservator of the estate shall, within two months 372
after the date of his or her appointment, return an inventory 373
under oath of the estate of his or her ward. The conservator 374
shall manage all the property and apply so much of the net income 375
of the property, and, if necessary, any part of the principal of 376
the property, which is required to support the ward and those
members of the ward's family whom he has the legal duty to 377
support and to pay his debts, and may sue for and collect all 378
debts due him.

(b) Any conservator of the estate of a married person may 380
apply such portion of the property of the ward to the support, 381
maintenance and medical treatment of the ward's spouse which the 382
court of probate, upon hearing after notice, decides to be proper 383
under the circumstances of the case.

(c) Notwithstanding the provisions of section 45-268, the 385
court may, and at the request of any interested party shall, 386

require annual accountings from any conservator of the estate and 387
the court shall hold a hearing on any such account with notice to 388
all persons entitled to notice under section 45-70c.

(d) In the case of any person receiving public or medical 390
assistance in accordance with the provisions of chapter 302, the 391
conservator of the estate shall apply toward the cost of care of 392
such person any assets exceeding limits on assets set by statute 393
or regulations adopted by the commissioner of income maintenance. 394

(e) UPON APPLICATION OF THE CONSERVATOR OF THE ESTATE AND 396
HEARING AFTER DUE NOTICE, THE COURT MAY AUTHORIZE THE CONSERVATOR 397
TO PAY AND DISTRIBUTE GIFTS OF INCOME AND OF PRINCIPAL OF THE 398
ESTATE OF HIS OR HER WARD (1) TO OR AMONG ONE OR MORE INDIVIDUALS 399
AND (2) TO OR AMONG ONE OR MORE QUALIFIED CHARITIES, AS DEFINED 400
IN THE FEDERAL INTERNAL REVENUE CODE OF 1954 THEN IN EFFECT, IN 401
ACCORDANCE WITH ANY PRIOR PATTERN OF CHARITABLE GIVING 402
ESTABLISHED BY SUCH WARD WHILE CAPABLE. THE GRANTING OF SUCH 404
APPLICATION AND THE AMOUNTS AND RECIPIENTS OF ANY SUCH GIFTS 405
SHALL BE IN THE DISCRETION OF THE COURT. THE COURT SHALL GIVE 407
CONSIDERATION (i) TO THE PERMANENCY OF THE WARD'S CONDITION; (ii) 408
TO THE AMOUNTS OF INCOME AND PRINCIPAL AVAILABLE AFTER DUE 409
PROVISION FOR THE CONTINUING PROPER CARE, COMFORT AND MAINTENANCE 410
OF SUCH WARD IN ACCORDANCE WITH SUCH WARD'S ESTABLISHED STANDARD 411
OF LIVING AND FOR THE SUPPORT OF PERSONS THE WARD IS LEGALLY 412
OBLIGATED TO SUPPORT; (iii) TO THE CIRCUMSTANCES AND CONDITIONS 413
OF LIFE OF THE PROPOSED DONEES AND THE MOTIVATION FOR THE 414
PROPOSED GIFTS; (iv) TO PAST CHARITABLE GIFTS OF SUCH WARD WHILE 416
CAPABLE; AND (v) TO THE PROVISIONS WHICH, IN THE JUDGMENT OF THE 417
COURT, SUCH WARD WOULD HAVE MADE IF SHE OR HE HAD BEEN CAPABLE, 418
FOR MINIMIZATION OF INCOME AND ESTATE TAXES CONSISTENT WITH 419
PROPER ESTATE PLANNING. THE COURT SHALL STATE ITS FINDINGS IN 420
WRITING.

[already taken care of in HB 6983, passed House on 4-13-83

STATEMENT OF PURPOSE: To update the Fiduciary Powers Act in light 423
of recent changes in the federal tax laws, to eliminate the 424