

S-365

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1994

VOL. 37
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1787-2173

THURSDAY
April 28, 1994

002038
158
tcc

program that's reimbursed with partial federal dollars.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate Calendar 343? Are there any further remarks? If not, Senator, would you like to make a motion to place this item on the Consent Calendar?

SENATOR DAILY:

So moved, thank you, Madam President.

THE CHAIR:

Is there any objection to placing Senate Calendar 343, Substitute for Senate Bill 49, on the Consent Calendar? Is there any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Calendar Page 23, Calendar No. 306, Substitute for House Bill 5754, AN ACT CONCERNING THE CONNECTICUT LIMITED LIABILITY COMPANY ACT.

Favorable Report of the Committee on Finance, Revenue and Bonding.

The Clerk is in possession of two amendments.

THE CHAIR:

Thank you very much. I think someone has gone to get Senator Jepsen. The Senate will stand at ease until he comes. Here he is. Thank you.

SENATOR JEPSEN:

THURSDAY
April 28, 1994

002039

159
tcc

My apologies. I thought I was last on the list,
not first on the list.

THE CHAIR:

I think it is last.

SENATOR JEPSEN:

It is last. Oh, first, those who will be first
shall later be last.

THE CHAIR:

The meek will inherit the earth, yes.

SENATOR JEPSEN:

That's right too. I move acceptance of the Joint
Committee's Favorable Report and adoption of the bill.

THE CHAIR:

Thank you very much. Mr. Clerk.

SENATOR JEPSEN:

In concurrence with the House.

THE CLERK:

LC05315, which will be designated Senate Amendment
Schedule "A". It's offered by Senator Jepsen of the
27th District.

THE CHAIR:

Thank you very much. The Chair would recognize
Senator Jepsen.

SENATOR JEPSEN:

Briefly speaking, the underlying bill makes a large

THURSDAY
April 28, 1994

002040
160
tcc

number of technical and cleanup corrections to the existing Limited Liability Company Act that we passed last year and the amendment makes a number -- several more technical and cleanup type corrections to that act.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate Amendment "A", LCO No. 5315? Are there any further remarks? If not then, please let me know your mind. All those in favor of Senate Amendment "A", LCO No. 5315, please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Those opposed.

The ayes have it.

The amendment is adopted.

Mr. Clerk, do you have any further amendments?

THE CLERK:

LCO4707, which will be designated Senate Amendment Schedule "B". It's offered by Senator Jepsen of the 27th District.

THE CHAIR:

The Chair would recognize Senator Jepsen.

SENATOR JEPSEN:

THURSDAY
April 28, 1994

002041

161
tcc

Could I just ask for a moment of recess please.

THE CHAIR:

Yes, stand at ease.

SENATOR JEPSEN:

To check if I called the wrong amendment. If I might inquire from the Clerk, what was the amendment where he just said the LCO on that?

THE CHAIR:

4707.

SENATOR JEPSEN:

I'd have to move to reconsider that amendment. That was an incorrect amendment.

THE CHAIR:

Well, wait a minute.

SENATOR JEPSEN:

I'm sorry.

THE CLERK:

Madam President, just for clarification, LC05315, which was designated Senate Amendment Schedule "A" and adopted was the last amendment that was filed at the Clerk's office this afternoon.

SENATOR JEPSEN:

That's a correct amendment.

THE CLERK:

And LCO4707, which has been designated Senate

THURSDAY
April 28, 1994

002042
162
tcc

Amendment Schedule "B" was filed on April 26th.

SENATOR JEPSEN:

I'd like to withdraw that amendment and is there an
LCO No. 4313?

THE CLERK:

Madam President, I only have two amendments.

SENATOR JEPSEN:

May I ask the indulgence of the Senate for a
minute?

THE CHAIR:

That's all right, take your time.

SENATOR JEPSEN:

I think we're fine now.

THE CHAIR:

So that all you want to have acted on is 5315, "A"?

SENATOR JEPSEN:

Correct, and I'd like to comment on the bill
overall, which is that it contains a number of
technical changes in the limited liability company
statute and the most important of which is --.

THE CHAIR:

Just a second, Senator. I'm sorry. (Gavel) Would
the Senate please come to order. And if you're going
to engage in conversations, would you please take them
outside? We're having a hard time following amendments

THURSDAY
April 28, 1994

002043

163
tcc

here and we can't hear the numbers. I can't, nor can the Clerk. Thank you.

Senator, let's just go through where we are here.

SENATOR JEPSEN:

I believe I was right the second time. The amendment that was called and acted upon was, through my mistake, the incorrect amendment.

THE CHAIR:

5315?

SENATOR JEPSEN:

Yes, and I would like to, if it's appropriate, move reconsideration of that amendment.

THE CHAIR:

Thank you very much. Is there any objection to the motion to reconsider? Is there any objection? Hearing none then, we will reconsider. Would you like to move to reject it?

SENATOR JEPSEN:

I would so move.

THE CHAIR:

Thank you very much. Would anyone like to comment on the motion to reject LC05315? Are there any remarks? If not then, let me know your mind. All those in favor of the motion to reject 5315, signify by saying aye.

THURSDAY
April 28, 1994

002044
164
tcc

SENATORS:

Aye.

THE CHAIR:

Those opposed.

The ayes have it.

That amendment is then rejected.

Alrighty, now, do you have an amendment that you would like to call, perhaps call?

SENATOR JEPSEN:

There's an LCO No. 4313.

THE CHAIR:

And the Clerk claims he hasn't got that. Hang on a second, everybody. Mr. Clerk.

THE CLERK:

I found it. LCO4313, which will be designated Senate Amendment Schedule "C", offered by Senator Jepsen of the 27th District.

THE CHAIR:

Senator Jepsen.

SENATOR JEPSEN:

I move adoption and request permission to summarize.

THE CHAIR:

Please proceed, Senator, I'm sorry.

SENATOR JEPSEN:

THURSDAY
April 28, 1994

002045

165
tcc

Thank you, Madam President. Once again, my apologies.

THE CHAIR:

Would you please come to order, so we can hear, and I will ask you please to take your conversations out of here, members of the Circle and others. If you're not going to talk, then fine, stay here so we can listen to Senator Jepsen. Go ahead.

SENATOR JEPSEN:

Thank you, and again, my apologies. This has a number of technical corrections. For example, it makes it clear that by a majority on an LLC, it refers to more than one half once the moving party has -- not including the moving party. It creates agencies for designation of service of process with foreign companies and a number of other rather technical matters such as that.

I move adoption.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate Amendment "C", LCO No. 4313? Are there any further remarks? If not then, please let me know your mind. All those in favor of Senate Amendment "C", LCO No. 4313, please signify by saying aye.

SENATORS:

THURSDAY
April 28, 1994

002046

166
tcc

Aye.

THE CHAIR:

Those opposed.

The ayes have it.

The amendment is adopted.

I hate to ask this, but Mr. Clerk, do you have any other amendments?

THE CLERK:

Not that I can find, Madam President.

LAUGHTER

THE CHAIR:

On this bill? Great. Good. Okay. We think we've gathered them all up and disposed of them all. So, Senator Jepsen, you now have before you Substitute for House Bill No. 5754, as amended by Senate Amendment "C".

SENATOR JEPSEN:

Thank you, Madam President. As I mentioned, this contains a number of technical and semi-technical changes in the LLC statute. The most important single change is that it clarifies the process by which a partnership can convert into an LLC. This is, for those familiar with this area of the law, many partnerships wish to convert into LLCs for the liability protections that exist there and there is

THURSDAY
April 28, 1994

002047

167
tcc

some confusion in the process. This corrects that.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate Calendar 306, Substitute for House Bill 5754, as amended? Are there any further remarks? If not, Senator Jepsen, would you like to make a motion to place it on the Consent Calendar?

SENATOR JEPSEN:

I would so move.

THE CHAIR:

Thank you very much. Is there any objection to placing Senate Calendar 306, Substitute for House Bill 5754, as amended by Senate Amendment "C", on the Consent Calendar? Is there any objection? Hearing none, so ordered.

That completes Go List No. 2. Is that correct?
Senator Mustone.

SENATOR MUSTONE:

Madam President, could we please stand at ease for just a few moments, awaiting a few amendments.

THE CHAIR:

Thank you very much, Senator. Yes, we will stand at ease.

The Senate will please come to order and, Madam Clerk, do you have any business on your desk?

THURSDAY
April 28, 1994

002064
184
tcc

THE CHAIR:

Thank you very much, Mr. Clerk. The issue before the Chamber is Consent Calendar No. 2 for today, Thursday, April 28th. Would you please read the items that have been placed on Consent?

THE CLERK:

Beginning on Calendar Page 8, Calendar No. 343, Substitute for Senate Bill No. 49.

Calendar Page 9, Calendar No. 365, Substitute for House Bill 5475.

Calendar Page 20, Calendar No. 229, Substitute for Senate Bill No. 264.

Calendar Page 23, Calendar No. 306, Substitute for House Bill 5754. Calendar 317, Substitute for Senate Bill 385.

Madam President, that completes the Second Consent Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. You've heard the items placed on Consent Calendar No. 2. The machine is on. You may record your vote.

Senator Larson. Senator Larson. Have all Senators voted and are your votes properly recorded? Have all Senators voted and are your votes properly recorded? The machine is closed.

THURSDAY
April 28, 1994

002065
185
tcc

The result of the vote:

33 Yea

0 Nay

3 Absent

Consent Calendar No. 2 is adopted.

Senator DiBella.

SENATOR DIBELLA:

Thank you, Madam President. That's about all we've got to do today. I apologize to the Republicans for being slow today, but it was one of those days when nothing went right.

LAUGHTER

I have been in the minority and know what it is to sit around and the last time I did that I think was in the army, wait around and wait and sit around and wait, but we have ceased -- we have done everything we can do today and I guess what we've talked about is 12:00 noon caucus and 1:00 session on Monday.

THE CHAIR:

Thank you very much. Are there any announcements?
Senator Eads.

SENATOR EADS:

Thank you, Madam President, and thank you, Senator DiBella. I accept your apology. I know it's unfair and I know your word is as good as your bond, so all

S-367

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1994

VOL. 37
PART 8
2565-2954

WEDNESDAY
May 4, 1994

002747

28
tcc

On Page 21, Calendar Item No. 254, Substitute for Senate Bill No. 364, I would move this be placed on the Consent Calendar.

THE CHAIR:

Thank you very much. Is there any objection to placing Senate Calendar 254, Substitute for Senate Bill 364, on the Consent Calendar? Is there any objection? Hearing none, so ordered.

SENATOR DIBELLA:

On Page 21, Calendar Item No. 306, Substitute for House Bill No. 5754, I would move this be placed on the Consent Calendar.

THE CHAIR:

Is there any objection to placing Senate Calendar 306, Substitute for House Bill 5754, on the Consent Calendar? Any objection? Hearing none, so ordered.

SENATOR DIBELLA:

Calendar Item No. 309, Substitute for Senate Bill No. 277. I would move this be placed on the Consent Calendar.

THE CHAIR:

Is there any objection to placing Senate Calendar 309, Substitute for Senate Bill 277, I would move this be placed on the Consent Calendar.

THE CHAIR:

WEDNESDAY
May 4, 1994

002944

225
tcc

Bill 5712. Calendar 463, Substitute for House Bill
5563.

Calendar Page 11, Calendar 465, Substitute for
House Bill 5123. Calendar 466, Substitute for House
Bill 5500. Calendar 468, Substitute for House Bill
5680.

Calendar Page 13, Calendar 474, Substitute for
House Bill 5755. Calendar 475, Substitute for House
Bill 5625. Calendar 478, Substitute for House Bill
5830.

Calendar Page 14, Calendar 481, Substitute for
House Bill 5410.

Calendar Page 16, Calendar 198, Substitute for
Senate Bill 275.

Calendar Page 17, Calendar 295, Substitute for
House Bill 5614.

Calendar Page 20, Calendar No. 180, Substitute for
Senate Bill 292. Calendar 216, Substitute for Senate
Bill 413. Calendar 222, Substitute for House Bill
5537. Calendar 235, Senate Bill No. 414.

Calendar Page 21, Calendar 254, Substitute for
Senate Bill 364. Calendar 306, Substitute for House
Bill 5754. Calendar 309, Substitute for Senate Bill
277. Calendar 311, Substitute for Senate Bill 362.

Calendar Page 22, Calendar No. 246, Substitute for

WEDNESDAY
May 4, 1994

002945
226
tcc

House Bill 5496.

Mr. President, I believe that completes the Consent Calendar.

THE CHAIR:

Are there any corrections? Any deletions or additions? Yes, Senator Fleming.

SENATOR FLEMING:

Mr. President, I just -- did I hear the Clerk correct that Calendar No. 196 was on the Consent Calendar? I thought it had been P-T'd? Senator DiBella. Senator DiBella.

SENATOR DIBELLA:

Mr. President, this was Passed Temporarily that bill. It was not put on the Consent Calendar.

THE CHAIR:

Any other corrections, additions or deletions? The machine is open. Please cast your vote. Has everyone voted? Senator Penn. Has everyone voted. The machine is closed. The Clerk please tally the vote.

The result of the vote:

36	Yea
0	Nay
0	Absent

The Consent Calendar is adopted.

The Clerk please call the next item.

H-697

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1994

VOL. 37
PART 6
1866-2214

kfh

House of Representatives

Saturday, April 16, 1994

LAUGHTER

Let me say at the outset that I imagine today will be a very long and productive day, that unlike most sessions that we have here where we try our best to not for break for caucus or things of that nature, my guess is that everybody should be very fluid and flexible, that there will probably be times during the day that we'll need to go out and caucus among our colleagues, have discussions on the merits of certain parts of the bill that we'll be talking about, and I just caution everybody that today is a different kind of day in the General Assembly than we're used to.

Now I'll loosen my tie up after the last Republican amendment, and hopefully it will be today, so let's everybody be flexible and we'll get through today, and with that I'll ask if there is any business on the Clerk's desk.

CLERK:

Mr. Speaker, there is. Today's Calendar.

Clerk, please call 226.

CLERK:

Page 27, Calendar 226, Substitute for House Bill 5754, AN ACT CONCERNING THE CONNECTICUT LIMITED LIABILITY COMPANY ACT. Favorable Report of the Committee on Insurance.

kfh

House of Representatives

Saturday, April 16, 1994

SPEAKER RITTER:

The honorable chair of the Judiciary Committee,
Representative Tulisano. You have the Floor, sir.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint
Committee's Favorable Report and passage of the bill.

SPEAKER RITTER:

Motion is on acceptance and passage. Please
proceed.

REP. TULISANO: (29th)

Mr. Speaker, this bill is intended to clarify
certain sections of the limited liability company act,
which we passed last year.

As those who may recall, there was in fact a new
form of business entity created last year by this
General Assembly which made Connecticut one of the
leading states in the nation with regard to the same
which allows individuals to come together as a new
corporate group - a new group, not corporate group, and
as such be treated for tax purposes by the IRS and
others as individuals, but at the same time have
limited liability such as corporation.

It sort of combines the best of both limited
partnerships and of corporate law. This particular
bill places LLCs on the same footing as limited

kfh

House of Representatives

Saturday, April 16, 1994

partnerships. It makes other technical changes with regard to how records are kept at the Secretary of State's Office, how they may be dissolved.

Other information necessary in order to govern the LLCs, among them being that when you have a two-thirds vote of a changing of bylaws as an example, the person petitioning for the change as number of votes would not be included therein. I move for passage of the bill.

SPEAKER RITTER:

Will you remark further on this bill? Will you remark further? Representative Belden.

REP. BELDEN: (113th)

Mr. Speaker, just so that perhaps I understand it a little better, I might ask Representative Tulisano, at the end of the bill on line 1649 and 1650, it talks about certain sections being applicable to limited liability companies formed on or after October 1, 1993.

Could he perhaps for the record explain to me what form he means? Does that mean that they're registered with the Secretary of State, and everything is in order. Through you, Mr. Speaker.

REP. TULISANO: (29th)

Through you, Mr. Speaker, that means established in accordance with that new law, yes, and registered with the Secretary of State, and I keep using the corporate

kfh

House of Representatives Saturday, April 16, 1994

language, incorporated. I should say LLC.

SPEAKER RITTER:

Thank you, sir. Will you remark further on this bill? If not, staff and guests, come to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber please. The House of Representatives is taking its first roll call vote of the day. Members, please report to the Chamber.

SPEAKER RITTER:

Have all the members voted? Please check the roll call machine to make sure your vote is properly cast. If it has, the machine will be locked. Clerk, please take the tally.

Clerk, please announce the tally.

CLERK:

House Bill 5754.	
Total Number Voting	130
Necessary for Passage	66
Those Voting Yea	130
Those Voting Nay	0
Those absent and not Voting	21

kfh

House of Representatives

Saturday, April 16, 1994

SPEAKER RITTER:

The bill passes. Clerk, please continue with
Calendar 241.

CLERK:

Page 29, Calendar 241, House Bill 5434, AN ACT
CONCERNING HOMESTEAD EXEMPTION FOR MOBILE HOMES.

SPEAKER RITTER:

The honorable chair of the Judiciary Committee,
Representative Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER RITTER:

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint
Committee's Favorable Report and passage of the bill.

SPEAKER RITTER:

Motion's on acceptance and passage. Please
proceed, sir.

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, this bill includes
mobile homes as mobile manufactured homes to be
included in the law which defines a homestead in which
there is a homestead exemption granted. I move for
passage.

H-710

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1994

VOL. 37
PART 19
6708-7094

tcc

House of Representatives

Tuesday, May 3, 1994

DEPUTY SPEAKER PUDLIN:

The bill, as amended passes. Clerk, please return to the Call of the Calendar. Calendar Number 226.

CLERK:

Page 19, Calendar 226, Substitute for House Bill 5754, AN ACT CONCERNING THE CONNECTICUT LIMITED LIABILITY COMPANY ACT, as amended by Senate "C". Favorable Report of the Committee on Finance.

DEPUTY SPEAKER PUDLIN:

Representative Tulisano.

REP. TULISANO: (29th)

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

DEPUTY SPEAKER PUDLIN:

The question is acceptance and passage in accordance with the Senate. Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO4313.

DEPUTY SPEAKER PUDLIN:

Would the Clerk please call LCO4313, Senate "A"?

REP. TULISANO: (29th)

Permission to summarize.

DEPUTY SPEAKER PUDLIN:

tcc

House of Representatives

Tuesday, May 3, 1994

Excuse me, I believe I was wrong on that. Senate "C".

REP. TULISANO: (29th)

Permission to summarize, Mr. Speaker.

CLERK:

LCO4313, Senate "C".

DEPUTY SPEAKER PUDLIN:

The gentleman has asked leave of the Chamber to summarize. Hearing no objection, proceed sir.

REP. TULISANO: (29th)

Mr. Speaker, this deals with some technical changes to our current LLC statute which sets up a new business entity which we established last year.

It clarifies that the file in the amendment, if the file of the annual report is incorrect and is not correct on a due date, the LLC can be held in default, much like we do in a corporation, but the Secretary of State's Office. It clarifies that certain documents must conform to whatever the Secretary of State's Office's size and measure. It includes LLC's which require filing under assumed names. If you have to file -- if an LLC uses a fictitious name, the municipality has to file a certificate of trade name in that municipality.

I move its adoption.

tcc

House of Representatives

Tuesday, May 3, 1994

DEPUTY SPEAKER PUDLIN:

The question is on adoption. Will you remark?
Will you remark on Senate "C"? If not, let me try your
minds. All those in favor of Senate "C" signify by
saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Those opposed, nay. "C" is adopted.

REP. TULISANO: (29th)

Mr. Speaker. The Clerk has another amendment.
LC06641.

DEPUTY SPEAKER PUDLIN:

Would the Clerk please call LC06641, House "A"?

CLERK:

LC06641, House "A" offered by Representative
Tulisano.

DEPUTY SPEAKER PUDLIN:

Hearing no objection, summarize, sir.

REP. TULISANO: (29th)

Mr. Speaker, the amendment makes some changes on
line three and on line six which effectively, although
it is shortened term --

DEPUTY SPEAKER PUDLIN:

Excuse me, sir. I believe we have an objection on

tcc

House of Representatives

Tuesday, May 3, 1994

the floor. Representative Ward.

REP. WARD: (86th)

Mr. Speaker, I don't see any copies of that amendment on this side.

DEPUTY SPEAKER PUDLIN:

Then the House will stand at ease until copies are provided.

PAUSE

DEPUTY SPEAKER PUDLIN:

The House will return to order. Copies have been provided to both sides of the aisle. Will you continue with your summarization, Representative Tulisano?

REP. TULISANO: (29th)

Yes, Mr. Speaker. This amendment makes it clear that you value the partnership assets that maybe converting to an LLC. On the day liability became due. It clarifies that partners cannot limit a creditor. The conversion rate as the date, as the only date to determine the value of the partnership assets when it has been converted. It is designed to protect creditors.

I move its adoption.

DEPUTY SPEAKER PUDLIN:

The question is on adoption of House "A". Will you remark? Representative Nielsen. No. Will you remark?

tcc

House of Representatives

Tuesday, May 3, 1994

If not, let me try your minds. All those in favor of House "A", signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Those contrary minded, nay. The ayes have it. The amendment is adopted.

Will you remark further on the bill, as amended? Will you remark? If not, staff and guests to the well of the House. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members please report to the chamber. The House is voting by roll call. Members, to the chamber, please.

DEPUTY SPEAKER PUDLIN:

Have all the members voted? If they have not, will they please vote? If the members have voted and if the votes are properly recorded on the machine, -- would you please vote, sir? Ladies and gentlemen, it is the usual 48 hour drill caution. The machine will not be opened for very long periods of time. If you don't move quickly, you will miss votes. My apologies.

tcc

House of Representatives

Tuesday, May 3, 1994

The machine is locked. The Clerk will take a tally. The Clerk will announce that tally.

CLERK:

House Bill 5754, as amended by Senate "C" and House "A"

Total Number Voting	142
Necessary for Passage	72
Those Voting Yea	142
Those voting Nay	0
Those absent and not Voting	9

DEPUTY SPEAKER PUDLIN:

The bill, as amended, passes. Are there any points or announcements? Representative Mulready.

REP. MULREADY: (20th)

Mr. Speaker, I would remind all House Democrats on the Finance Committee to come back to the Speaker's Office immediately.

DEPUTY SPEAKER PUDLIN:

I am not sure I heard that, sir. Could you repeat it?

REP. MULREADY: (20th)

All Finance Committee Democrats, back to the Speaker's Office immediately.

DEPUTY SPEAKER PUDLIN:

Thank you very much, sir. Representative Beamon.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 3
769-1121

1994

The difference -- we would recommend from the report of the previous speaker is that you go to the Appropriations Committee and asked that this be funded this year so we can get the appeals heard. I also understand that in the City of New Haven there was a revaluation and there are hundreds and hundreds of appeals pending down there.

The power to tax is the power to destroy. If you can't get justice and you can't get a hearing, you have a loss of hope. When you have a loss of hope, you have a disinvestment or an abandonment. Both Hartford and New Haven who underwent revaluation has abandonment.

When the court does hear the Hartford cases, if the City owes \$50 million, on those appeals, that will put the City under receivership. The sooner this is addressed, the sooner you can start facing it.

Again, this was the unanimous consent of a task force of 44 individuals. I believe also if you play with the fees, it can become self funding after the initial appropriation. Because I know myself as a property taxpayer, I would have been very happy to pay a fee of \$1,000 or \$1,500 to get a hearing because when my property taxes which I couldn't get a hearing on were doubled, it literally put the partnership into bankruptcy because we couldn't rent the property.

So, there is a crisis. I would seriously recommend a joint favorable. I would make an amendment that there be an initial appropriation and that you adjust the fees so that they slide up so that it is a continuous funding of the appeal board.

Thank you very much.

REP. TULISANO: Thank you. Maria Marne Greenslead. I can't read your writing. Green somebody. That's the last part I can't read. You ran out of space.

MARIA GREENSLEAD: That's okay. Mr. Chairman. Members of the Committee. I am Maria Marena Greenslead from the Office of the Secretary of the State and I am here to speak in favor of HB5753, AN ACT CONCERNING CANCELLATION OF RESERVATION OF NAME OF A

HB5754

CORPORATION, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY and HB5754, AN ACT CONCERNING THE CONNECTICUT LIMITED LIABILITY COMPANY ACT.

REP. TULISANO: Wait a minute. What's going on?

MARIA GREENSLEAD: HB5753 and HB5754. On HB5753, the office has submitted this language to allow for the cancellation of a name reservation by the applicant during its term and we ask for one a end n n e e e e e g from the 10-1-94 proposed now to July 1, 1995.

We ask this so that we can complete the implementation of the automation project within the Commercial Recording Division and on schedule and enough time to change the program in order to accommodate that filing.

REP. TULISANO: July 1, 1995?

MARIA GREENSLEAD: We would like the effect date to be July 1, 1995. Otherwise, we ask for a joint favorable report of this bill.

On HB56 --

REP. TULISANO: Wait. Fill me in. Within the terms, did you say?

MARIA GREENSLEAD: Right.

REP. TULISANO: What does that mean?

MARIA GREENSLEAD: A name reservation is good for 120 days. So in the event that you put in a name reservation for a corporation and then decide you no longer wanted a corporate name reservation, perhaps you want a limited liability company, you may cancel it and put in for a limited liability company so that you can cancel your name or if you didn't want the name reservation and wanted to give it to someone else or whatever happened during that 120 days.

REP. TULISANO: What do you do now when I don't want anymore?

MARIA GREENSLEAD: You mean to waive the 120 day period?

REP. TULISANO: You really need a law to do that, huh? Okay. Can't you say, thank you, I withdraw and it is withdrawn?

MARIA GREENSLEAD: No, sir. It is good for 120 days today.

REP. TULISANO: That's what is wrong with government. Go ahead.

MARIA GREENSLEAD: HB5754. It is a technical amendments to the Limited Liability Act and our office supports this bill and we have worked with the Connecticut Bar Association in order to draft some of the language for the administrative portions of that bill.

REP. TULISANO: What are the major changes on that?

MARIA GREENSLEAD: The major changes on the Secretary of State's side are to allow for the conversion of a limited partnership to become a limited liability company. There is also a portion in there to ask for reports from the limited liability companies. And that is only to tell us that your name and where you still are located, your principle office address and nothing other than that.

REP. TULISANO: Okay. Thank you. Judge Robert Killian.

ROBERT KILLIAN: Thank you, Mr. Chairman and members of the committee. With your permission, I would like to address two bills, SB287, AN ACT CONCERNING THE UNIFORM TRANSFER ON DEATH SECURITY ACT and HB5731, AN ACT CONCERNING PENSIONS OF PROBATE JUDGES AND CLERKS.

I come here today in my capacity as Chairman of the Legislative Committee of the Connecticut Probate Assembly.

The act concerning the Uniform Transfer on Death Security Act is a proposal that provides for a simplified method for the transfer of securities and the death of the owner of the securities. It is a probate alternative and it allows the transfer to go directly to a named beneficiary without recourse of the Probate Court.

SB 287

We would suggest that an independent office of administrative hearings be established with adjudicators hired into the classified service and to guarantee all present adjudicators affected by the passage of this bill, be assigned to positions in the new office.

Thank you.

SEN. JEPSEN: Are there any questions at this time?
Richard Convicer to be followed by Patti Shea.

RICHARD CONVICER: Good afternoon, Senator Jepsen and members of the Judiciary Committee. My name is Richard Convicer and I am a principal at the law firm of Sorokin, Sorokin, Gross, Hyde & Williams in Hartford. I am presenting testimony today on behalf of the Connecticut Bar Association on HB5754.

I am here in my capacity as chairman of the Subcommittee on Limited Liability Companies which itself is a subcommittee of the CBA Tax Section Executive Committee.

The proposed amendments meet several objectives. First and foremost to insure favorable tax classification by the IRS, an entity formed under the Connecticut act would be taxable to partnerships. Secondly to remove ambiguities under the current act and third, to assist the Secretary of State's office in monitoring filings. I believe you have already heard testimony in regard to that by Attorney Maria Greenslead.

And fourth, an objective to the proposed amendment is to make clear the chain of title on land records on certain partnerships or LOC's of certain partnerships that merge or convert into other LLC's.

Under the present act, PA 93-267, a member who wishes to transfer his interest in an LLC to a third party has to obtain a consent of a majority in interest of the members. The amendment makes clear that in measuring that majority consent, that the transferring member, his or her interest is not taken into account in measuring the majority.

REP. TULISANO: So, it's not of the total. It is of those present and voting.

RICHARD CONVICER: It's over everybody ---

REP. TULISANO: It's a timely kind of discussion, Richard.

RICHARD CONVICER: It's a majority and interest of the other members.

REP. TULISANO: Of the other members.

RICHARD CONVICER: Of the other members. And that's what the amendment seeks to clarify. And this amendment is especially important since its enactment should cause the IRS to therefore conclude that there is no free transferability of interest. That the corporate characteristic of pre-transferability is lacking. And if we get them to conclude that, then it is likely that the IRS will conclude that the entity should be taxable as a partnership.

So, enactment of this proposed amendment will increase the likelihood of a favorable ruling by the IRS and should facilitate the issuance of such a ruling.

The second objective that the amendment deals with concerns how to measure what vote is necessary to take certain actions. Under PA 93-267, there are many areas in that act which calls for a majority of members or two-thirds in interest and sometimes it is silent. It doesn't say interest. It doesn't say members. It might just say majority or it may say majority interest.

What the amendment seeks to do is to establish clarity and uniformity on this point so that whenever there is some action to be required, if it needs a majority or two-thirds, it will now say two-thirds in interest or a majority in interest. So it makes -- it determines who these various threshold, voting thresholds are achieved and it is generally done with regard to the interest as opposed to simply counting heads.

And of course, that particular requirement can also be varied if the members so wish by operating agreement. But in the absence of any specific variation, the vote -- the necessary voting threshold will be determined with respect to the interest.

The third objective that the amendment seeks to change is to require that the company, the LLC limited liability companies, maintain certain records at its principle office.

Under the laws that presently exist, it is -- one could argue that the members could dispense with the record keeping requirement in their operating agreement. We believe that is in the best interest of public policy that people know--have a way of determining who the members of the LLC are, the creditors know who the members of the LLC are and thus, the amendment would require that certain records be maintained.

The amendment facilitates conversions of partnerships, general or limited partnerships into limited liability companies. Under existing law, a partnership has to formerly dissolve before its business can be conducted in an LLC. The amendment provides a procedure whereby it could simply convert without formerly dissolving.

The amendment also requires certain annual reports be filed with the Secretary of State's office in order to assist the Secretary of State to monitor those LLC that are active and to help clear out the dead letter LLC's.

The Connecticut statutes also require a trade name certificate to be filed where the business is to be conducted, but there is an exemption for limited partnerships because there is a certificate of limited partnership on file and hence, limited partnerships do not have to file trade names. We are seeking to expand that exemption to allow LLC also not to have to file trade name certificates for the same reason that the limited partnerships do not have to. Namely, that the LLC has on file at the Secretary of State's office articles of organization.

REP. TULISANO: What if the LLC is doing business under a different name?

RICHARD CONVICER: Doing business under a different name?

REP. TULISANO: Say an LLC -- give me a name of an LLC. Give me some name of an LLC that you know of.

RICHARD CONVICER: That I know of?

REP. TULISANO: Fictitious.

RICHARD CONVICER: Well, ABC. I'll be very creative.

REP. TULISANO: ABC doing business as Jones Pizza. Can you still be exempt?

RICHARD CONVICER: I guess the answer to that is would a limited partnership be exempt?

REP. TULISANO: I don't know.

RICHARD CONVICER: We are looking to treat the LLC the same as the limited partnership. So if the limited partnership would be exempt, the LLC would be.

REP. TULISANO: Then my opinion is that neither should be exempt and if they are, we would suggest that we see another amendment to make sure that in those situations, we have that recorded. Whatever way it is. We ought to -- they ought to have a trade name filed. The purpose is you can't track Jones Pizza at the Secretary of State's office.

RICHARD CONVICER: I am not sure whether or not the existing trade name certificate act would require it to be published.

REP. TULISANO: I mean I really do. I do -- corporations who are doing trade -- I have done it. Whether I was supposed to or not, I don't. Those are the intent of the statute.

RICHARD CONVICER: No. I think -- I personally would support that in modification if that is the way it would read.

SEN. JEPSEN: Did you discuss this at the water cooler?

RICHARD CONVICER: No. We have two cities between us.

Also, under the amendment any LLC or partnership which holds real estate which is converted to a LLC or an LLC merger with another LLC holding real estate, they would be such LLC or partnership would be required to file with the town clerk in which the real estate is located. A certificate giving the name before and after. This would be -- so it would be easier to follow the chain of title.

These amendments and others which are of an even more technical nature than the ones that I just described are fully described in the attached report.

I would be glad to entertain any questions.

REP. TULISANO: Mr. Jarjura.

REP. JARJURA: Now, with the existing law for the LLC's how come a corporation, whether it be a PC company or an S or a C corporation can't convert to an LLC without dissolution or dissolving? That is my understanding of existing laws for LLC's.

RICHARD CONVICER: There are two levels to answer that question. One is can it convert in a tax free fashion without incurring any income taxes to an LLC and then as a matter of state laws, how was it done without -- can it be done without dissolving?

First of all, I believe under the state's statutes as they are presently drafted, you cannot merge a partnership into -- a corporation into a partnership. It just doesn't permit it. The statutes do permit corporations to merge. But if you wanted to merge a corporation into a partnership, it would have to be under state law a dissolution and similarly if a corporation wanted to merge into an LLC it would have to, I believe, under the state statutes, have to dissolve.

REP. JARJURA: Right. I mean does that make sense to you?

RICHARD CONVICER: Well, yeah. Because first of all, there are tax consequences on conversion of a corporation into an LLC as opposed to a partnership into an LLC. You can convert a partnership into an LLC the way one would do under this amendment, generally without tax consequences. So to facilitate it under state law, it just makes it much easier because there is no tax consequence.

But if you are already going to incur a potential tax consequence by liquidating -- by converting a corporation into an LLC, then it is not such an additional burden to go through the formal dissolution to accompany the tax consequences. My concern is if you could convert a corporation into an LLC, without dissolving it, it might be a trap for the unwary, who might say, why don't we just convert. We don't have to dissolve anything. And that taxpayer might be completely unaware that they are going to be incurring a tax on liquidation even though it is not a dissolution of that under state law.

REP. JARJURA: That's the problem. I'm concerned that a corporation can't become an LLC without the tax consequences.

RICHARD CONVICER: That's not something the state has any control over.

REP. JARJURA: We don't have any control? Okay.

RICHARD CONVICER: That's federal law.

REP. JARJURA: All right. Federal law.

RICHARD CONVICER: Federal law does not permit corporation -- an LLC --

REP. JARJURA: Right.

RICHARD CONVICER: In most cases, is going to be taxable for federal purposes like a partnership and the federal internal revenue code does not permit corporations to go to convert into partnership or LLC's without liquidating. They only permit tax free merges and reorganizations, corporations into corporations.

But it is a federal issue. It is not a state issue.

REP. JARJURA: Not a state issue. Okay. Because what comes to my mind or what has come to my attention is that you take a group of doctors. Most of them are in an association in a PC. Their concern is that if they would like to take advantage of the LLC tax structure, where you can tax it as a partnership, but they can't convert and it would make sense for them because if they have one doctor for whatever reason, performs a bad operation one day, that one -- the rest of the members, if there were no LLC's wouldn't be held responsible.

RICHARD CONVICER: Well, from that point of view, if these doctors, these hypothetical doctors who were operating in a PC, if one doctor makes a bad error, the other doctors are not going to be personally liable because of that doctor's error anyways. The assets of the PC will be.

REP. JARJURA: Right.

RICHARD CONVICER: So by going to an LLC from that point of view, they are not going to gain anything.

REP. JARJURA: They are not going to gain anything?

RICHARD CONVICER: That's doesn't matter. What matters is whatever reason --

REP. JARJURA: Is it under the LLC, the interest that would be the only thing that would be subject to claims would be the interest of the one doctor under the LLC or maybe I am reading it wrong?

RICHARD CONVICER: In both a PC -- a PC is a corporation.

REP. JARJURA: Right.

RICHARD CONVICER: And so shareholders aren't liable for the torts committed by another shareholders. The assets would be. The one that commits the problem is personally liable, but the other doctors are not and that is why they are all in PC's. It doesn't -- and that would be the same as -- as a matter of fact, when we drafted the LLC last year,

with professionals, we really wanted to keep parity between the two. So, from a liability perspective, I don't see any difference at all between being in a PC or being in an LLC.

The only difference is from a tax perspective you can't get all your taxable income out of the PC. You are going to be paying at a very high rate. And that could be the reason why some professionals want to get out of a PC into an LLC and they can't do it if they have a lot of receivables, because they are going to face a tax and liquidation.

REP. JARJURA: That's the problem.

RICHARD CONVICER: Yeah. And that' -- we can't do anything about that.

REP. JARJURA: Okay.

RICHARD CONVICER: That's a federal problem.

REP. JARJURA: Thank you. Thank you, Mr. Chairman.

RICHARD CONVICER: That's it. Thank you for your attention.

SEN. JEPSEN: Patti Shea followed by Suzanne Walsh.

PATTI SHEA: Good afternoon, Mr. Chairman, members of the committee. I am here to testify today on two bills. SB346 which would allow nuisance cause of action against a municipality and eliminate the longstanding sole proximate cause defense. We oppose this bill and I won't go through the law for you. You have my written testimony.

Basically and I guess I have said this now for five years since this bill has been raised, but it would increase costs to municipalities in terms of having to defend lawsuits and it would increase their insurance premiums.

Secondly, I wanted to testify in opposition to HB5745. This is the act concerning liens on judgments or settlements in the case of workers' compensation cases where there is an action that an employee has against a third party.



Connecticut Bar Association

TESTIMONY OF
RICHARD G. CONVICER
BEFORE THE JUDICIARY COMMITTEE

Public Hearing on H.B. 5754
An Act Concerning The
Connecticut Limited Liability Company Act

Hartford, Connecticut

March 16, 1994

My name is Richard G. Convicer and I am a principal at the law firm of Sorokin, Sorokin, Gross, Hyde & Williams, P.C. in Hartford, Connecticut. I am presenting testimony today on behalf of the Connecticut Bar Association in my capacity as Chairman of the Subcommittee on Limited Liability Companies which is a Subcommittee of the CBA Tax Section Executive Committee.

The proposed amendments meet several objectives: (1) ensure favorable tax classification by the IRS; (2) remove ambiguities; (3) assist the Secretary of the State's office in monitoring filings; and (4) make clear the chain of title on land records.

Under the present Act, P.A. 93-267, a member who wishes to transfer such member's interest must obtain the consent of a majority in interest of the members. The amendment makes clear that the transferring member's interest is not counted in

measuring the requisite majority. This amendment is especially important since its enactment should cause the IRS to find that an entity formed under Connecticut law will lack the corporate characteristic of free transferability, which in turn should result in a ruling by the IRS that an entity formed under the Connecticut Limited Liability Company Act will be taxed as a partnership and not as a corporation. Enactment of the proposed amendment will increase the likelihood of a favorable ruling and should facilitate, if not expedite, the issuance of such a ruling.

P.A. 93-267 calls for certain actions to be taken by either a majority vote or two-thirds vote. In some cases, the vote is determined with reference to number of members, in other cases, the vote is determined with reference to a member's interest in the limited liability company ("LLC"), and, finally, in some cases, the statute is silent as to how the vote is to be determined. The amendment establishes clarity and uniformity by stating that a member's voting interest should be based upon the member's interest in the entity unless otherwise provided.

The amendment also requires that the limited liability company maintain certain records in order to enable members to verify the composition of the company and to provide creditors and other third parties a means of ensuring proper agency authority. Under the current law, members arguably could dispense with such requirement in their operating agreement.

The amendment also facilitates the conversion of a general or limited partnership into a limited liability company. Under

existing law, a partnership would have to dissolve formally before its business could be conducted by a limited liability company. The amendment provides a procedure whereby the partnership could convert to an LLC without formally dissolving.

The amendment also requires each limited liability company to file an annual report with the Secretary of the State setting forth the company name and current principal office address. The purpose of the filing requirement is to assist the Secretary of State's office in tracking limited liability companies by eliminating those companies which are no longer active. The amendments provide for a dissolution procedure for LLCs which are in default of such filing requirement. Similar procedures are introduced for foreign limited liability companies registering in Connecticut.

The Connecticut statutes generally require a trade name certificate to be filed at the office of the town clerk in the town in which the business is to be conducted. Under current law, limited partnerships are exempted from this filing requirement, presumably because there is a public record of the certificate of limited partnership on file at the Secretary of the State's office. The amendment would exempt LLCs from the filing requirement because the articles of organization are on file at the Secretary of the State's office and fulfill the same purpose.

Under the amendment, any LLC or partnership holding real estate which is converted to an LLC or any LLC merging with another LLC shall, within 60 days after a change, merger, consolidation or conversion, be required to file with the town clerk, in the town in which such entity's real estate is located, a certificate giving the name before and after such change, and the town clerk shall record an index of this certificate in the land records.

The above amendments and others which are of a more technical nature are more fully described in the attached report.

Thank you for your time and attention.

REPORT ACCOMPANYING AMENDMENTS TO
CONNECTICUT LIMITED LIABILITY COMPANY ACT

Submitted by:
CBA Tax Section LLC Subcommittee
January 18, 1994

I. Voting Requirements

Currently, Section 21(d) (electing or removing managers) calls for a majority vote of the members and Section 23(b) (amending an operating agreement) and Section 65(a) (merger or consolidation) call for a two-thirds vote, but each of these sections is silent as to whether such requisite vote is determined with reference to the percentage interest of the members or to the number of members. The amendments clarify that such vote shall be determined with reference to the percentage interest of the members. The Committee believes that voting power in proportion to ownership interest reflects the expectations of the owners and is consistent with the manner in which shareholders of corporations and partners vote on such matters. For the same reason, as well as to provide for a measure of consistency, Section 12(c) (amending articles of organization), Section 22(e) (accounting to the company), Section 23(a) (member authorization), Section 41(a) (cessation of membership) and Section 63(a) (authorizing suit), have been amended to change the requisite vote from majority in number of members to majority in interest. In those sections where the Act makes reference to a requisite vote of the managers, the provision has retained the reference to number of managers because the managers may not be members and thereby have no interest in the limited liability company. The vote necessary for any action may be specifically varied by agreement either in the operating agreement or in the articles of organization depending on the particular matter involved.

Presently, a majority in interest of the members must consent to the admission of an assignee as a member. The amendment to Section 38(a) permits members to change the requirements for such an admission in their operating agreement and also makes clear that the interest of the assigning member is not taken into account in determining the requisite majority in interest.

II. Required Records

Section 25 of the Act has been amended to make clear that certain records shall be required to be retained by the

company. Under current law, the members may in their operating agreement dispense with any recordkeeping requirement. The amendment requires that certain records be retained. The purpose behind such retention requirement is to enable members to verify the composition of the company and to provide creditors and other third parties a means of ensuring proper agency authority. However, for ease of administration, only those records which are already required under other sources of law have been required to be retained, e.g. articles of organization, names and addresses of members, federal, state and local income tax returns, any written operating agreements, and any other writings, if otherwise required. Subsections 5 and 6 of Section 25(a) dealing with writings setting forth contributions and events on which the company is to be dissolved have been deleted since these records are not independently required. Conforming amendments to Sections 28 and 29 deleting reference to record of contributions have been made.

In addition, the LLC may, but is not required, to keep a writing setting forth the amount of the contribution. Accordingly, Section 25(b) provides that if any such information is maintained, such writing shall constitute presumptive evidence as to the value of the member contributions.

Section 10 of the Act is amended by adding a requirement that the person or persons who form the limited liability company ("organizer", a new term defined in new section 2(15)) shall prepare a writing setting forth the names and residence address of the initial members of the limited liability company. Such writing shall be held with the records of the limited liability company. In addition, if the articles of organization provide that management is to be vested in a manager or managers, such writing shall contain the names and residence address of each of the initial managers. The purpose of this provision is to provide a record by which third parties will know who the initial members or managers are.

III. Partnership Conversions

Section 5 of the proposed amendments contain provisions for conversion of a general or limited partnership into a limited liability company. The provisions permit a general or limited partnership to convert to a limited liability company simply by including with the articles of organization certain information related to the partnership and a statement that the filing is the result of a partnership conversion. The limited liability company is then deemed to be the same entity that existed prior to the conversion but subject to the LLC provisions. The filing of the articles of

organization for the conversion of a limited partnership shall be deemed to be the filing of a certificate of cancellation of a converting limited partnership. For conversions of entities owning real estate and for limited liability companies owning real estate which change their names, Connecticut General Statutes Section 47-12 has been amended to require the converted entity (or, in the case of a name change, the limited liability company) to file a certificate noting the name before and after the conversion (or name change) with the town clerk of the town in which the real estate is located.

The effective date of the partnership conversion amendment should be July 1, 1995, rather than the usual effective date of October 1, 1994, because of the Secretary of the State's timetable for accommodating the conversions with appropriate software.

IV. Miscellaneous

The term "interest" has been added to the definition of "limited liability company membership interest" and "interest in the limited liability company" contained in Section 2(10) to make clear that references in the Act to "interest" refers to Section 2(10). In addition, under the amendment, the members may modify this definition in their operating agreement.

A technical amendment to Section 30 is intended to make clear that the operating agreement will control if it specifies the manner of payment to a withdrawing member. In the absence of this revision, the withdrawing member could argue that Section 30 only governs the determination of the amount of payment to the withdrawing member, and not the timing of such payment. In such event, the withdrawing member could argue that he or she is entitled to receive the payment in a "reasonable time", despite the payment terms in the operating agreement.

Presently, Section 21(b) provides that members may vest management in a manager or managers in the articles of organization. Since a non-member may file the articles of organization, a question may arise whether the members did in fact authorize vesting of management in a manager or managers. The amendment substitutes the term "organizer" for "member" to make clear that a non-member may vest such management authority on behalf of the LLC. Conforming amendments are made to Sections 2(15), Section 10, 11 and 13(a).

Additional language which had been omitted inadvertently from Section 8(e) has been added. An incorrect cross-reference has been corrected in Section 40(a)(2).

Section 11 has been amended to require that the principal office of the LLC be included in the articles of organization. This amendment will ensure that the Secretary of the State can meet its obligation to forward documentation to the LLC at its principal office.

Section 21(d) has been amended by rearranging the order of sentences and clauses to improve the clarity of the subsection.

Connecticut General Statutes Section 35-1 generally requires a trade name certificate to be filed at the office of the town clerk in the town in which the business is to be conducted. An exception presently is provided for limited partnerships which have duly filed a certificate as provided under Connecticut law. The amendments expand this exemption to permit LLCs to be exempted from such filing requirement if the articles of organization have been properly filed.