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Testimony of Thomas A. Klee, Chair, CBA Business Law Section
**Senate Bill 547, An Act Concerning the Duties and Responsibilities of Directors
and Officers of Business Corporations and Nonstock Corporations**
Judiciary Committee
March 14, 2006

Senator McDonald, Representative Lawlor, members of the Judiciary Committee,
thank you for the opportunity to appear before the committee to comment on Senate Bill 547,
An Act Concerning the Duties and Responsibilities of Directors and Officers of Business
Corporations and Nonstock Corporations.

My name is Thomas Klee. I am the chairman of the Business Law Section of the
Connecticut Bar Association. I am an attorney in private practice in Bloomfield and Hartford
where I focus on representing business organizations. The Business Law Section, which consists
of attorneys who concentrate on business and corporate law, **supports** Senate Bill 547. On behalf
of the Section, I would like to thank the committee for raising the concept in the bill. We believe
the bill is important to business organizations in Connecticut. Since the bill was filed and
referred to the Judiciary Committee, we have agreed to two minor amendments to the bill. I
respectfully ask that the committee **approve** the bill with those changes, which are described
below.

Senate Bill 547 would amend the Connecticut Business Corporation Act to adopt recent
changes to the Model Business Corporation Act (MBCA) and similar corresponding
amendments to the Connecticut Revised Nonstock Corporation Act.

Connecticut adopted the MBCA in 1995, and this bill is part of the ongoing process of updating Connecticut's corporate statutes and keeping them current with the MBCA. There are distinct advantages to Connecticut's adoption of the MBCA in its most current version. First, the model act promotes uniformity among the states. As Connecticut is a small state with relatively little corporate case law, case law from other states can provide valuable insight to assist with interpreting the statute. Second, the MBCA has an official commentary, which is a useful source of information to lawyers and the courts about the meaning and interpretation of the law. As the MBCA is updated, the official comments are updated as well.

Senate Bill 547 itself is quite lengthy, but the changes fall into several categories and can be summarized fairly succinctly. The bill would, among other matters:

- clarify the handling of directors' conflicting interest transactions, which are transactions in which a director is a party or has a material financial interest;
- create a procedure for a director wishing to take advantage of a business opportunity that might be suitable for the corporation to first present the business opportunity to the board or shareholders to obtain a disclaimer of the corporation's interest in the proposed business opportunity;
- clarify the procedure for requiring a court to dismiss a derivative proceeding after qualified directors have made a reasonable determination that the suit is not in the best interest of the corporation;
- clarify the rules pertaining to which directors are qualified to approve indemnification of directors; and

- make corresponding changes in the Connecticut Revised Nonstock Corporation Act.

We believe that Senate Bill 547 is necessary to ensure that Connecticut's corporate statutes remain current and up to date. We also believe the bill will help make the state a more favorable location for businesses to incorporate and retain their headquarters, increasing employment opportunities for Connecticut citizens and revenue to the state.

The Section recommends that the committee amend the bill in sections 9 and 22 to retain the current definition of "Related Person" set forth in Conn. Gen. Stat. §§33-781(3) and 33-1127(3), as described below.

Thank you again for the opportunity to appear before the committee. I would be pleased to answer any questions you may have.

Proposed Amendment

Insert a closing bracket at the end of line 398

Insert an opening bracket in line 406, before "(4)"

Strike lines 444 to 458, inclusive, in their entirety, and renumber the remaining subdivisions accordingly

Insert a closing bracket at the end of line 1016

Insert an opening bracket in line 1024, before "(4)"

Strike lines 1062 to 1076, inclusive, in their entirety, and renumber the remaining subdivisions accordingly