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**Testimony of Houston Putnam Lowry<sup>1</sup>**  
Member of the Executive Committee of the  
Connecticut Bar Association's Alternative Dispute Resolution Section,  
**In support of House Bill 5531**  
**An Act Adopting the Revised Uniform Arbitration Act**  
Judiciary Committee  
March 3, 2008

This testimony is submitted on behalf of the Connecticut Bar Association's ADR Section ("Section") in support of RCB-5531, an act adopting the Revised Uniform Arbitration Act. In addition to the Section, the Revised Uniform Arbitration Act is supported by the American Bar Association, the American Arbitration Association, the National Academy of Arbitrators and the National Arbitration Forum. It has been adopted by Alaska, Colorado, District of Columbia, Hawaii, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Utah and Washington.

The Revised Uniform Arbitration Act is an update by the National Conference of Commissioners on Uniform State Laws ("NCCUSL") on the original 1956 Uniform Arbitration Act. Although Connecticut never adopted the original Uniform Arbitration Act, Connecticut's statute bears a strong resemblance to the final NCCUSL product. The revision primarily codifies existing case law and progressively develops the law of arbitration<sup>2</sup> without violating existing federal law on the subject.<sup>3</sup>

The following are important new features of the Revised Uniform Arbitration Act:

1. **Electronic Agreements.** The bill enforces agreements to arbitrate that appear in electronic documents (§2(6) and §7(a)). This is in accordance with Connecticut's enactment of the Uniform Electronic Transactions Act.<sup>4</sup>

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<sup>1</sup> A member of Brown & Welsh, P.C. in Meriden, Connecticut, Chartered Arbitrator and Liveryman of the Worshipful Company of Arbitrators (London, England). I have done over 500 arbitrations and mediations as a neutral.

<sup>2</sup> Connecticut General Statutes §52-408, *et seq.*

<sup>3</sup> 9 USC §1, *et seq.*

<sup>4</sup> Connecticut General Statutes §1-266, *et seq.*

2. **Applying to court does not waive arbitration.** The bill clarifies that a party may apply to a court for relief without automatically waiving their right to arbitrate as provided in their agreement (§6, comment 5).
3. **Provisional remedies.** While the existing Connecticut arbitration statute does not make it clear prejudgment remedies may be granted, a practice has arisen allowing them. The preferred practice is codified in this bill (§9). If an arbitrator issues a provisional remedy, the court is specifically authorized to enforce the order (§19 and §24).
4. **Disclosure.** Current Connecticut law does not require disclosure of facts which might call the arbitrator's impartiality into question. Better practice (and this law-§13(a)) requires disclosure to the parties. Awards have been overturned because arbitrators have not disclosed existing facts which have subsequently led the parties to question their impartiality.
5. **Procedure.** An arbitrator must conduct the arbitration in a fair and expeditious manner (§16(a)).
6. **Award clarification and correction.** This act allows an arbitrator to clarify or correct an award (§21).

Section 25(c) of the Revised Uniform Arbitration Act<sup>5</sup> was omitted from this bill. It should be inserted after line 489.

Sections 32-40 are not in the Revised Uniform Arbitration Act, but were inserted to make various minor changes to certain Connecticut labor arbitration statutes.

The Revised Uniform Arbitration Act is not intended to make broad changes to Connecticut's arbitration act.<sup>6</sup> It is not intended to modify the current powers of arbitrators to issue awards or the scope of those awards.

It is intended to make it easier for the parties and the arbitrator to comply with the law by codifying existing best practice. The law of arbitration should be readily available even to those who do not arbitrate frequently.

The Section requests your support in favorably reporting this bill (as modified in accordance with our suggestion) to the General Assembly.

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<sup>5</sup> Which reads: (c) On [application] of a prevailing party to a contested judicial proceeding under Section 22, 23, or 24, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

<sup>6</sup> This bill does ***NOT*** affect international commercial arbitrations, which are covered by an entirely separate statute, Connecticut General Statutes §50a-100, *et seq.*