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Testimony of John R. Ivimey, Secretary of the Executive Committee,
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Senate Bill 698
An Act Concerning The Calculation, Reduction and Waiver Of Probate Fees

Judiciary Committee
March 19, 2008

Senator McDonald, Representative Lawlor and members of the Judiciary Committee, thank you for the opportunity to appear before the committee to comment on certain revisions to the Connecticut probate court fees proposed in Senate Bill 698, An Act Concerning the Calculation, Reduction and Waiver of Probate Fees.

My name is John R. Ivimey. I am a stockholder at Reid and Riege, P.C. and chairman of a special committee of the Estates and Probate Section of the Connecticut Bar Association tasked with challenging the imposition of a statutory probate court fee based on assets of decedents over which the court has no jurisdiction and that are not subject to the Connecticut estate tax. Although there are a number of such assets, the categories of assets that we are most concerned about are real estate located outside Connecticut in the estates of Connecticut residents and assets other than Connecticut real estate and Connecticut tangible personal property in the ancillary estates of nonresidents.

We believe this bill tries to address these problems. However, we do not believe that the language of the bill achieves this goal. The bill protects Connecticut residents from the imposition of a probate court fee on out-of-state real and tangible property, but still imposes an inappropriate fee on nonresidents. Under the proposed bill, the fee imposed on a nonresident

owning property in Connecticut is based on the nonresident's Connecticut property plus all of the nonresident's intangible personal property. This intangible personal property is not subject to Probate Court jurisdiction or to the Connecticut estate tax. We believe technical changes should be made to the bill to fix this apparent oversight, and to only impose the fee of a nonresident on the nonresident's property located in Connecticut. We offer as a possible solution the following language for Section 1 (b)(1) of the proposed bill:

- “(1) The basis for costs shall be (A) the greatest of (i) the gross estate for succession tax purposes, as provided in section 12-349, (ii) the inventory, including all supplements thereto, (iii) the Connecticut taxable estate, as defined in section 12-391, or (iv) the gross estate for estate tax purposes, as provided in chapters 217 and 218, **over which this state has jurisdiction, less the proceeds of any life insurance, minus any portion of such gross estate for estate tax purposes that represents the amount of any proceeds from any life insurance policy, or the fair market value of any real property or tangible personal property of the deceased person situated outside of this state,** plus (B) all damages recovered for injuries resulting in ~~death~~ **the death of a person who at the time of death was a resident of this state,** minus any hospital and medical expenses for treatment of such injuries resulting in death minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance and minus the attorney's fees and other costs and expenses of recovering such damages. Any portion of the basis for costs that is determined by property passing to the surviving spouse shall be reduced by fifty per cent. Except as provided in subdivision (3) of this subsection, in no case shall the minimum cost be less than twenty-five dollars.

Thank you for allowing me the opportunity to comment on Senate Bill 698. The CBA Estates & Probate Section respectfully requests that the Judiciary Committee act favorably on this Bill with our suggested changes. I'd be happy to hear any of your questions.