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Testimony of Edward S. Hill, Chair
Real Property Law Section of the Connecticut Bar Association
Judiciary Committee
House Bill 6488, An Act Concerning the Conveyance of Land
March 21, 2011

Senator Coleman, Representative Fox, and members of the Judiciary Committee, thank you for the opportunity to appear and speak in **support** of House Bill 6488, An Act Concerning the Conveyance of Land. My name is Edward S. Hill and I am the Chair of the CBA Real Property Law Section, which has over 1,000 real estate attorneys who, as you would expect, have a great interest in legislation affecting the practice of conveying real property in Connecticut. The Section wishes to thank the Committee for raising this bill, which will help to cure a potential defect in deeds and avoid the resulting unintended risks and consequences.

This bill is intended to correct an inconsistency in the Connecticut General Statutes that prescribe the formalities of execution of deeds of real estate. The inconsistency is this: Section 47-5 of the Connecticut General Statutes prescribes how deeds conveying real estate are to be executed. One of the requirements is that the signer acknowledges that the execution of the deed is the signer's "free act and deed." The use of the term "acknowledge" leads to the conclusion that the forms of acknowledgement in Chapter 6 of the Statutes (sections 1-28 through 1-41, Uniform Acknowledgment Act) and in Chapter 8 (sections 1-57 through 1-65, the Uniform Recognition of Acknowledgments Act) will satisfy the requirements of Section 47-5. In fact, the acknowledgment forms in neither of those Chapters provides for the "free act and deed" requirement of Section 47-5.

An acknowledgement under Chapter 6 means that the signer executed the deed "for the purposes therein contained" and, similarly, in Chapter 8 that the signer signed the deed "for the purposes therein stated." Obviously, neither is an acknowledgement that the signing was the signer's "free act and deed." Although this formal defect has the benefit of the short statute of limitations under §47-36aa (two years from when the deed is recorded), the parties, especially the grantee, are at risk for those two years that the validity of the deed could be challenged, for example, in a bankruptcy case or by a lien creditor of the grantor. The parties should not be at risk for that period, or any period, merely because the acknowledgement that complied with Chapters 6 or 8, which would be otherwise sufficient and would be sufficient for a deed executed outside of Connecticut, doesn't meet the "free act and deed" requirement.

This bill would amend Section 47-5 to recognize current real estate practices and eliminate the trap described above. It would change the deed acknowledgment requirement contained in §47-5 to make a deed that is acknowledged as one's "free act and deed" or in compliance with Chapter 6 or Chapter 8 to be valid.

The CBA Real Property Section urges this committee to **act favorably** on House Bill 6488. Thank you for the opportunity to speak in support of the bill and I would be happy to answer any questions you may have.