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TESTIMONY BEFORE THE CONNECTICUT GENERAL ASSEMBLY JUDICIARY
COMMITTEE IN SUPPORT OF RAISED BILL NO. 6608
AN ACT ADOPTING THE REVISED UNIFORM ARBITRATION ACT
MARCH 25, 2011

Testimony of Harry N. Mazadoorian.

My name is Harry Mazadoorian. I am a resident of Kensington and am an attorney, arbitrator and mediator. I also serve as Distinguished Senior Fellow at the Center on Dispute Resolution at Quinnipiac University School of Law and formerly served as Distinguished Professor of Dispute Resolution Law from Practice at the law school.

Many years ago, I served as Legislative Commissioner before this honorable Assembly.

I submit this written testimony in support of passage of the Revised Uniform Arbitration Act, Raised Bill 6608.

I regret that I am not able to testify in person in favor of this Bill. I had planned to attend the public hearing on March 25, but have a conflict I cannot resolve.

I preface my comments by noting that, as a commercial arbitrator, I have had had the opportunity to observe the development of arbitration practice over many years as well as the thought that went into the drafting of this Act at the national level.

A. THE ORIGINAL ACT. The original Uniform Arbitration Act was first promulgated as a uniform act in 1955. Its basic objective was to insure the enforceability of pre-dispute arbitration agreements and to set forth limited grounds for vacating or modifying awards. The Act and its similar federal counterpart have generally achieved their main objectives.

B. NEXT GENERATION ARBITRATION ISSUES. During the ensuing period, arbitration has proven an effective alternative to litigation. Both the United States Supreme Court and the Connecticut Supreme Court support arbitration. Where parties have selected arbitration, it has generally proven efficient and cost effective.

During this period of time, however, as arbitration has enjoyed considerable use, a number of questions have arisen about matters which are not—and were not intended to be—addressed by the original act. Since the act was silent on these issues, and thus there is no legislative answer to the issues, they were addressed by the courts. Additionally, they have been addressed by administering organizations or by negotiation of the parties. As may be expected, the various state courts have sometimes taken differing and conflicting positions on these matters as have administering organizations.

Additionally, of late, there has been some concern that arbitration has taken on many of the characteristics of litigation, when in fact it was intended to be a substantially different process.

The Revised Act seeks to address many of the regularly recurring issues in arbitration practice as well as to allow arbitration to maintain the distinctive qualities which it was intended to have.

Among the matters dealt with by the Act are arbitrability and the arbitrator's powers in that area, provisional remedies, required disclosures, and consolidation. It specifically deals with several areas of dispositive motions and discovery to allow for arbitration to deliver on its promise of efficiency. The Act further brings arbitration into the twenty first century by allowing for specified electronic records.

C. WHAT THE PROPOSED ACT DOES NOT SEEK TO DO. The drafters have wisely not sought to deal with a number of areas including:

- Expanding punitive damages (In fact the Act requires that the legal basis of any award of punitive damages—if already permitted under other existing law —must be documented in law and fact.)

- Interfering with statutorily required arbitrations

- Dealing with matters such as standards for substantive review, something which has recently been addressed by the US Supreme Court.

As might be expected with a bill such as this, some opposition has been encountered. In the true spirit of alternative dispute resolution, the proponents of the bill have reached out to all groups and have addressed and /or compromised on all matters raised.

D. CONNECTICUT'S SPECIAL ROLE. Arbitration is not new to Connecticut. My research for a Mediation Practice Book for which I served as editor indicates that as early as 1645, the Connecticut General Court, the forerunner of this honorable Assembly, recommended greater arbitration use. Connecticut was reportedly the first of the Colonies to adopt an arbitration act (in 1753): It was entitled "An Act for the more Easy and Effective Finishing of Controversies by the Use of Arbitration." New Haven was the site of one of the first Chamber of Commerce commercial arbitration tribunals in 1794. Connecticut's ties to arbitration are deep and rich.

Furthermore, Connecticut is privileged to have one of its own, Attorney Francis J. Pavetti a Uniform Law Commissioner of Waterford, as the chairman of the National Conference

of Commissioners on Uniform State Laws drafting committee on the Revised Uniform Arbitration Act. Uniform Law Commissioner Attorney Barry C. Hawkins of Stamford also served on the committee.

E. CONCLUSION

The Revised Uniform Arbitration Act brings about some much needed changes to an act which is more than fifty years old. It has been adopted by fourteen states and the District of Columbia and has the endorsement of a number of leading bar and dispute resolution organizations. I believe that it received a joint favorable report from this committee last year.

I urge its adoption.

Harry N. Mazadoorian