Connecticut Bar Association

30 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street

P: (860) 223-4400
F: (860) 223-4488

Testimony of Barry Hawkins
In Opposition to Sections 37-40 of Governor's Bill 5027
An Act Implementing the Governor's Budget Recommendations Concerning the Elimination, Consolidation and Modification of Various Boards and Commissioners

Government Administration and Elections Committee
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I am Barry C. Hawkins, a partner in the Stamford office of the Law Firm of Shipman & Goodwin LLP and a resident of Bridgeport, Connecticut. I am the President-Elect of the Connecticut Bar Association. In addition, since 1999 I have served as one of Connecticut's eight Uniform Law Commissioners. In that capacity I am a member of the National Uniform Law Commission (also known as the National Conference of Commissioners on Uniform Laws or NCCUSL) where I have served on various drafting and study committees and currently hold the position of a Division Chair. I am authorized to speak today on behalf of the Connecticut Bar Association in **opposition to consolidating** the Connecticut Uniform Law Commission ("ULC") with the Connecticut Law Revision Commission ("LRC"). Other members of the ULC and LRC will also present their views in opposition to the proposed consolidation.

Other than the fact that both of these commissions use the words "commission" and "Law" they are totally separate and distinct entities, having remarkably different purposes and functions. Combining the two into one "super commission" is simply an exercise in optics, with the following inevitable results:

1. Each of these commissions would lose its ability to achieve its present and still vitally necessary mission.
2. Absolutely no cost savings or greater efficiency will be achieved by such a merger.
3. Although it is possible that the LRC in the merged form will still be able to accomplish a portion of its mission, it will be severely hampered in doing so with at least 8 too many members. In contrast, the merged commission cannot continue to serve the state as the Connecticut's delegation to the national Uniform Law Commission (where 90% of its work is done) because as restructured, the commission would be totally non-compliant with the Constitution of the Uniform Law Commission and thus unable to perform its mission or serve the needs of the public.

Let me explain. The nearly forty year old LRC is purely a state commission and does its primary work in serving the needs of the General Assembly in reviewing and analyzing complex legislation. This mission is often incompatible with the time constraints of the regular legislative process. The LRC, although once finely staffed with full time lawyers skilled in legislative review, has been without paid staff for several years.

Let me give you an example of how the LRC works to help the General Assembly.

Three years ago I served, for the third time in my career, as a volunteer member of a study committee convened and led by the LRC. In this most recent service, stakeholders, representing the many competing interests concerned about condominium law met numerous times over a period of three months to study, debate, and make suggestions for revision to the Connecticut Common Interest Act amendments bill. More than thirty lawyers, homeowner representatives, insurance agents, manager, lenders and realtors worked diligently to achieve compromise solutions in the wording of a long and complex set of amendments to make sure they were, to borrow from Fox News, "Fair and balanced." As important, the LRC convened CIOA Study Committee made sure that the Uniform Amendments to CIOA actually reflected the needs of Connecticut homeowners and taxpayers. Led by Study Committee Chairman William Breetz, who is both my fellow ULC Commissioner and a thirty five year member of the LRC, the CIOA Study Committee crafted a set of Connecticut-centric revisions to the uniform law product, which work product was then adopted by the G.A. on its consent calendar. This process avoided lengthy and divisive public hearings in the G.A. The meetings were public at all times and many members of the public attended and at times addressed the CIOA Study Committee. The final work product achieved wide spread approval and support because the process worked openly, competently and was fueled by the voluntary contributions of the professional time and expertise of the members of the LRC.

In the case of the CIOA amendments, the Act under consideration was a product of the national ULC process. The ULC had proposed and crafted the uniform legislation through its usual multi-year process involving observers and contributors on a national basis. However, the LRC also conducts its work on many bills which are not ULC work product but are lengthy and complex and have been referred to the LRC for its assistance. For more information and an inside perspective I draw your attention to the testimony submitted today by Commissioner William Breetz which more fully develops that theme.

The Uniform Law Commission in Connecticut is the delegation of 8 appointed Connecticut lawyers, all serving without pay, who belong to the 120 year old Uniform Law Commission (sometimes known as the National Conference of Commissioners of Uniform State Law (NCCUSL). Probably 90% of the work done by the ULC is done in conjunction with similar delegation from the 50 states, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. The ULC work nationally is done in drafting and study committees which meet periodically to study and debate the issues, hold public hearings with identified stakeholders and interest groups and often craft proposed uniform or model acts to address and correct the identified problems, where uniform state legislation appears to be best suited to resolve the problem. The drafting process is aided by the contribution of thousands of hours of legal skills of the lawyer commissioners who make up the voting members of the drafting committees. Their deliberations, usually over a two to three year process are enhanced by the contributions of official advisors (also unpaid) from the American Bar Association and its sections having competence or interest in the subject matter. In addition to the thousands of hours of volunteered legal time reflected in each such uniform act, the process is also assisted by a paid professional staff at the Chicago office of the ULC and hired law school professors who are the experts in the substantive areas of law under consideration. These Reporters, for a very modest stipend, supply much of the drafting and legal scholarship contained in the final acts. Although the staff expenses and the commissioner's travel expenses are reimbursed by the ULC (funded primarily from the dues collected from all 53 jurisdictions) the primary fuel for the success of the commission over 120 years remains the contributed time of the commissioners. Once a year the entire commission meets over the summer in a 5 or 6 day Annual Meeting to review preliminary drafts of bills which are in

progress and to pass, if appropriate, by vote of the states, those acts which are ready for enactment by the states.

While those commissioners who have participated in the drafting of a particular act remain the most involved in the enactment process, all commissioners become generally familiar with the scope and purpose of each act so passed. While not many of these acts are as well-known as the UCC, the Uniform Trust Code or CIOA, they collectively represent a rich and varied store of expertly crafted legislation, adopted in an open and transparent process. The remaining 10% of the work of Connecticut's ULC delegation is to identify worthy acts for introduction and support in Connecticut and to provide public hearing testimony if appropriate.

In a word, the work of the ULC is to create and support uniform and useful law for adoption by the States under our federal system of government. The work of the LRC is to help assist the G.A. in its review of complex legislation, sometimes but not always, the very laws proposed by the ULC. By combining the two together, Bill 5027, brings together the commission which works primarily to create laws with another commission which has among its duties the mission of reviewing many of the ULC proposals for adoption in Connecticut. Combining these functions, and their remarkably different commissions, neither of which has any budget nor staff whatsoever (save for the ULC national dues which remains unchanged), does not save a nickel. Worse, because the new statutory provisions for naming commissioners does not address the ULC requirement that each commissioner <u>must</u> be a lawyer in order to be a commissioner, the statute will not work as drafted, and will leave Connecticut with a hobbled LRC and a ULC delegation which may not be qualified to serve. The Connecticut Bar Association urges that Sections 38-40 of Bill 5027 be deleted from the Bill, leaving these two commissions unchanged.