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Honorable Members of the Judiciary Committee

FROM: Paul J. Knierim
Probate Court Administrator

DATE: April 1, 2013

RE: RB 6680 An Act Concerning Access to Jointly Held Assets that are
Located in a Safe Deposit Box

The Office of the Probate Court Administrator supports the concept of establishing a simple procedure by which a surviving joint owner can access a jointly owned asset contained in the solely owned safe deposit box of a deceased person. We recommend, however, that the bill be amended to incorporate procedural safeguards to ensure that the rights of all parties who may have an interest in property contained in a safe deposit box are protected.

The ownership of certain types of assets, such as certificated securities, is generally clear. The same may not be true for other assets, particularly items of tangible personal property, which are commonly held in safe deposit boxes. We are concerned that the bill as drafted permits a person to unilaterally remove an item from a safe deposit box without any mechanism to alert other interested parties of the action. It also fails to afford interested parties an opportunity to contest ownership of the asset.

Under current law, a Probate Court can issue an order to open a safe deposit box to determine whether it contains a will or cemetery deed. Section 45a-284 requires that a bank officer must be present when the box is opened. It also

requires the bank officer to submit a form to the court certifying whether there was a will or cemetery deed in the box and, if so, whether any such documents were removed.

We suggest that section 45a-284 be amended to permit removal of property from a decedent's solely owned safe deposit box only if a Probate Court has explicitly authorized removal. The person seeking authority to remove property would be required to provide the court with a bank officer's inventory of the contents of the box and a statement of the basis for his or her claim of ownership of any property contained in it. The court should have the discretion to issue the order ex parte when ownership is clear. In the alternative, the court could direct that a hearing be held to determine ownership after giving notice to heirs and beneficiaries. We believe that this framework falls within the current subject matter jurisdiction of the Probate Courts, which have authority to determine title to any property that is or may be part of an estate under section 45a-98(a).

We appreciate the opportunity to offer testimony on this bill and stand ready work with the proponents to develop a simple procedure for accessing a safe deposit while providing adequate protection for all interested parties.