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Testimony of Marcel J. Bernier
Business Law Section
Co-Chair of the LLCs Committee

**In SUPPORT of
HB 5316
“An Act Concerning the Establishment of Series Limited Liability Companies”**

Judiciary Committee
March 23, 2015

Senator Coleman, Representative Tong and members of the Judiciary Committee:

Thank you for the opportunity to address the Judiciary Committee.

My name is Marcel Bernier. I have been practicing law in Connecticut since 1982. I am a partner in the Hartford office of Murtha Cullina LLP. The focus of my practice is on corporate and limited liability company law. I am testifying on behalf of the Business Law Section of the Connecticut Bar Association to support HB5316.

A “series” is a set of assets segregated within a limited liability company (“LLC”) which conducts activities in its own right. The idea of the series is that only the assets of the series (rather than all of the assets of the LLC) are available for the claims of creditors of the series (rather than all of the creditors of the LLC). The series is not a separate legal entity. For example, one series LLC might have series A owning one building and series B owning a second building.

The series is an internal liability shield within the LLC. However, most states do not have series LLC laws so it is unknown whether a state without a series LLC law would respect the internal liability shield within the series LLC or would determine that all of the assets of the LLC (rather than only the assets of the series) would be available to creditors of the series. It is also unclear whether the internal liability shield would be respected by a federal bankruptcy court. Due to the uncertainty of whether the internal liability shield will be respected, series LLCs are not generally used for operating businesses with significant liability issues or businesses with activities in more than the state of formation.

In most states with series LLC laws, each series is not required to pay the business entity tax which is paid by the LLC. This is one advantage of a series LLC.

The CBS's Business Law Section would be prepared to support the introduction of series LLCs in Connecticut with acceptable language at the appropriate time.

During 2015 the Business Law Section will be seeking the approval of the Connecticut Bar Association to approve a new Connecticut Limited Liability Company Act based on the Uniform Limited Liability Company Act (2006) (Last Amended 2013) prepared by the Uniform Law Commission (the "Uniform LLC Act"). The Uniform LLC Act has been adopted by 15 states and is pending as legislation in 4 states.

If the Uniform LLC Act is adopted in Connecticut, it would state that the law of the jurisdiction of formation of a foreign LLC governs the liability of a series LLC. This means Connecticut would respect the internal liability shield of a series LLC formed in another state which is conducting business in Connecticut.

The Uniform Law Commission is working on series LLC legislation which is expected to be completed in the summer of 2015. The Business Law Section would propose to consider series LLC legislation for Connecticut after the Uniform Law Commission completes its series LLC legislation this summer and is happy to support Representative David Labriola's proposal.