

Testimony of Alfred J. Garofolo,  
Member of the Connecticut Title Association

**Senate Bill No. 248 An Act Concerning Revisions to Statutes Affecting Title to Real  
Property**

Judiciary Committee  
February 29, 2016

Senator Coleman, Representative Tong and distinguished members of the Judiciary Committee, thank you for the opportunity to appear before the committee to comment in support of Senate Bill No. 248.

I am Alfred J. Garofolo, and I am speaking on behalf of the Connecticut Title Association (CTA) as its duly authorized representative. CTA is a nonstock corporation organized under the laws of the State of Connecticut. CTA's primary purposes are to promote the common business interests of title insurance companies licensed in the State of Connecticut and the science and skill of underwriting to educate its members, lenders and other entities about the nature, uses and benefits of title insurance. CTA supports Senate Bill. No. 248.

Preliminarily, it should be noted that the objective of this Bill is to clarify various statutory provisions which, over the course of time and practice, have generated questions as to their meaning and have, in some cases, presented issues of conflicting interpretation. In most instances, the proposed changes do not alter the generally accepted application of the statute but merely remove potential ambiguities. Because of the uncomplicated nature of each suggested change, I will address each section briefly and highlight the basis therefor.

Section 1 re: C.G.S. Sec. 45a-428. This statutory provision has evoked some debate between members of the Probate and Real Estate sections of the bar. The Connecticut Standards of Title Section 13.4, Comment 2 is unequivocal: "Title to specifically devised property conveyed by an executor under an unlimited testamentary power to convey and without an order of the court of probate authorizing such sale should be considered marketable, whether or not there has been written consent of the specific devisees." The proposed change would be in accord with the position of the Standards and would remove any issue as to the power of the fiduciary.

Section 2 re: C.G.S. Sec. 45a-583. The existing statute would render ineffective a disclaimer of a real property interest unless the same is recorded within the same 9-month period required to assert a disclaimer in other instances. The proposed bill would eliminate this result and make the disclaimer effective upon recording. Prior to recording, the disclaimer would be effective against the disclaimant, the person on whose behalf the disclaimer is made and persons having actual knowledge of the disclaimer.

Section 3 re: C.G.S. Sec. 47-12a. This change would merely clarify that the list of matters in C.G.S. Sec. 47-12a(b) is not intended to be exclusive.

Section 4 re: C.G.S. Sec. 49-9a. Presently, the statute could be read as allowing a prior owner of the property to provide the necessary affidavit. The proposed change requires that the affidavit must be from a present owner or the personal representative (fiduciary) thereof.

Section 5 re: C.G.S. Sec. 49-39. The existing statute is confusing because it "extends" the time to commence an action to within 60 days of the final disposition of an appeal taken pursuant to C.G.S. Sec. 49-35c. Left unanswered is the effect of a pending application to

discharge. The proposal makes it clear that the 60 day period applies to the application proceeding even in the absence of an appeal therefrom.

Section 6 re: C.G.S. Sec. 49-72. Issues have arisen with respect to this provision as to the extent of the priority to be given to a private water company lien. The language of the statute generally mirrors that for municipal tax liens thereby leading to some support for the proposition that the lien has a special priority. OLR Bill Analysis for P.A. 95-353 Sec. 3 gave as the reason for the language that it “gives private water companies a 15-year lien on unpaid connection charges ... and gives these liens precedence over all but tax and common interest ownership (condominium) association liens....” On the other hand, the statute appears to limit the priority only to matters *subsequently* recorded. If the intent of the statute is to confer lien priority similar to that for municipal tax liens and public water/sewer liens, then the proposed change accomplishes that result.

Section 7 re: C.G.S. Sec. 52-380a. This provision makes it clear that a judgment lien recorded with respect to a small claims judgment expires 10 years after the date the judgment is rendered. Under the existing statute, an action to foreclose a judgment lien cannot be “commenced unless an execution may issue pursuant to section 52-356a.” Unfortunately, 52-356a does not provide any reference to time limitations; however, section 52-598 does. Section 52-598(a) provides, in part, that “[n]o execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered....” This 20 year period ties directly into that same period set forth in 52-380a. Section 52-598(b) provides that “[n]o execution to enforce a judgment for money damages rendered in a small claims session

may be issued *after the expiration of ten years* from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered. (emphasis added.) The proposed amendment to 52-380a is consistent with this time frame and removes any ambiguity concerning the foreclosure of small claims judgment liens.

Section 8 re: new section. Under existing law, a conveyance to a trust is ineffective as it is to a grantee not recognized by law to have the capacity to hold title to real property. A proper conveyance would be to the trustee of the trust. While C.G.S. Sec. 47-36aa(a)(4) validates the conveyance if there is no action challenging the validity of the deed within 2 years from the date of recording, it is necessary to deed out the property in the name of the same grantee, i.e., the trust. See, Connecticut Standards of Title Sec. 7.3 Comment 4. The proposed section would immediately recognize the validity of a deed into a trust rather than a trustee as well as the validity of any conveyance by the trust when signed by the duly authorized trustee.

For the foregoing reasons, the CTA supports Senate Bill. No. 248. Accordingly, on behalf of the Connecticut Title Association, I respectfully request that the Judiciary Committee accept Senate Bill No. 248 and vote it out of committee.

Thank you for giving me the opportunity to appear before the Committee. At this time, I would be pleased to answer any questions you may have.