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Honorable Members of the Judiciary Committee

FROM: Paul J. Knierim
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RE: Raised Bill 5345, An Act Concerning the Imposition of Fee Liens in
Certain Probate Court Matters

DATE: February 24, 2016

Thank you for the opportunity to testify on Raised Bill 5345, An Act Concerning the Imposition of Fee Liens in Certain Probate Court Matters. We support the proposal.

Last year, the General Assembly enacted C.G.S. section 45a-107b to establish an inchoate lien on real property as security for payment of the probate fee on decedents' estates. This bill would clarify two aspects of the new statute.

First, the bill would make it clear that the lien applies only to fees on the estates of decedents' dying on or after January 1, 2015. In doing so, the bill would eliminate concerns that the lien could affect title to real property that was conveyed as a result of a death that occurred before 2015.

Second, the bill would clarify the circumstances under which the lien would be unenforceable against a third party by defining the terms "bona fide purchaser" and "qualified encumbrancer." A party would have bona fide purchaser or qualified encumbrancer status for a parcel of real property only if the party has no actual, constructive or implied notice that a former owner died while owning the property or died after transferring the property to a trust. Any indication on the land records that the owner of the property died, that the property was transferred in connection with the settlement of the owner's estate or that the property otherwise transferred as a result of the owner's death would constitute constructive notice of the owner's death and would preclude bona fide purchaser or qualified encumbrancer status.

Thank you for your consideration.