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To: Members of the Judiciary Committee
Legislative Office Building
Hartford, CT 06106

From: Edward A. Lowe, Esq.
Nirenstein, Horowitz & Associates, P.C.
200 Glastonbury Boulevard, Suite 202
Glastonbury, CT 06033

Re: Raised Bill No. 7104 – An Act Concerning Adoption of the Connecticut Uniform Trust Code

Honorable Committee Members:

My name is Edward Lowe; I am an associate attorney at the law firm of Nirenstein, Horowitz & Associates, a Connecticut law firm where I practice exclusively in estate planning. I am writing to express my concerns regarding the Connecticut Uniform Trust Code Act, Raised Bill 7104 (the "Act").

The Act before you today is a modified version of the original uniform code created by the Uniform Law Commission, and thankfully addresses many of the issues inherent in the unmodified uniform code. However, this modified code requires the highest level of scrutiny to make sure it will serve the people of Connecticut and allow our state to maintain economic viability.

As it is currently drafted, the Act imposes two particularly draconian restrictions on those creating a trust as part of their estate planning. Two of the Reporting Provisions of the uniform code's Default and Mandatory Rules, **Section 5(b)(7)** and **Section 5(b)(8)** of the Act (the "Reporting Provisions"), exist in the current version of the Act. The Reporting Provisions in their current form would have a severely detrimental impact on our citizens' ability to create a manageable and inexpensive estate plan. Indeed, these two particular provisions are so unsavory that they were made entirely optional by the Uniform Law Commission in a 2004 amendment to the uniform code, and were not even included in the proposed legislation when this committee considered adopting a modified version of the Uniform Trust Code in 2018. *See Comment to Section 105 of the Uniform Trust Code.*

The Reporting Provisions of the Act hold that the creator of an irrevocable trust must always provide for (1) the notification of each “qualified beneficiary” of their right to request a trustee's report and (2) the requirement of the trustee respond to such a request. A “qualified beneficiary” includes not only current beneficiaries, but contingent beneficiaries who would be entitled to receive benefits from a trust if the current beneficiaries died or the trust itself was terminated, Section 3(22).

Many of my clients seek planning in which they protect a portion of their estate through the creation of an irrevocable trust. When it comes to married couples, this estate plan often involves creating an irrevocable shelter trust for the benefit of the surviving spouse when one spouse dies. This trust would typically then pass to the children when the final spouse dies. As such, the children are considered qualified beneficiaries under the current version of the Act. When Dad dies, and Mom is managing that irrevocable trust left behind solely for her benefit, the Reporting Provisions state that the children can legally compel Mom to provide them with regular reporting at Mom’s expense. This will not only cost Mom the time and money needed to retain the right professionals (attorneys, accountants, appraisers, etc.) to provide these qualified beneficiaries with their legally mandated reports, but will also force Mom to disclose her private financial activities to her children. The assets in the trust were always intended for Mom to manage the same way she did when Dad was alive, but this proposed law would require her to share her private financial activities with her children all because they will one day receive Mom’s assets when Mom is gone.

Families are rarely perfect, and quarrels can be frequent. It is realistic to expect that the Reporting Provisions can and will be abused and offer little to no benefit to current trust beneficiaries, the class of people we should be seeking to protect. The Reporting Provisions obstruct our citizens’ rights to manage their finances privately and without unnecessary administrative burdens.

These provisions of the code should be removed from the Act. Doing so will allow our citizens to protect their estate without the administrative burden imposed by the Reporting Provisions, and will further the Act’s stated goal of providing for the economic viability of our state and its people.

Until these issues have been resolved, the Act should be rejected by the Judiciary Committee.

Respectfully submitted,



Edward A. Lowe, Esq.