

Testimony of Professor John H. Langbein  
Concerning Senate Bill No. 977,  
**An Act Adopting the Connecticut Uniform Trust Code**  
Judiciary Committee  
April 14, 2003

Senator McDonald, Representative Lawlor, members of the Judiciary Committee, thank you for the opportunity to appear before the committee to comment on Senate Bill No. 977, **An Act Adopting the Connecticut Uniform Trust Code**. My name is John H. Langbein. I am Sterling Professor of Law and Legislative History at Yale Law School and since 1984 have served as a Uniform Law Commissioner. **On behalf of the Connecticut Bar Association, I respectfully request that the Judiciary Committee act favorably on Senate Bill No. 977, An Act Adopting the Connecticut Uniform Trust Code.** Before I begin my comments, I want to publicly acknowledge the efforts of both Rep. Paul Doyle and Sen. Andrew Roraback and thank them for their support of the bill.

The bill would enact the Connecticut Uniform Trust Code (“CUTC”), which is based on the Uniform Act completed by the National Conference of Commissioners on Uniform State Laws in 2000. It was my privilege to serve on the drafting committee which in turn was assisted by numerous advisors, including representatives of the American Bankers Association. The UTC is the first national codification of the law of trusts and has already been enacted in four states (Iowa, Kansas, Nebraska and Wyoming). Currently, Connecticut trust law consists largely of common-law rules set forth in appellate court decisions arising from fact-specific adjudications. While the CUTC is largely a codification of existing law, it also contains minor reforms to address current concerns. Connecticut, like the great majority of states, has only limited statutory law in this area, and there are large gaps in its coverage.

In 1999, I began assisting the Uniform Laws Subcommittee of the CBA’s Estates & Probate Section with its intensive study of the UTC. The subcommittee worked closely with family law practitioners and representatives of Connecticut financial institutions to ensure that the CUTC would meet their clients’ needs. In addition, subcommittee members met with several Probate Court judges to tailor the draft legislation to Connecticut’s probate court system. A drafting committee then met to revise the UTC to incorporate the suggestions of all of these groups, with the assistance of the UTC Reporter, Professor David English of the University of Missouri Law School. This past summer, several committee members attended a meeting of New England practitioners organized by Judge John R. Maher of New Hampshire. Since then, they have been told by Judge Maher’s New Hampshire study group, which includes banking industry representatives, that they expect to take Connecticut’s work and use it virtually unchanged, so that the New Hampshire UTC will closely resemble the CUTC.

The residents of Connecticut will benefit from the enactment of a uniform law in this area in many important ways. New residents of Connecticut who create a trust in a state with the uniform law will be able to transfer its administration to Connecticut knowing that the trust will have the same legal effect. Connecticut lawyers and judges will be able to turn to appellate decisions in other jurisdictions interpreting the uniform law for answers to questions, greatly reducing the time and expense that would have been required to address the issues anew. Treatises and articles have already been written on the UTC, providing guidance to courts, practitioners, and laypersons. Law schools in most states now include the Uniform Trust Code as part of their trusts and estates curricula.

The CUTC provides a comprehensive set of rules that fairly, consistently, and clearly govern trusts. Most of these are default rules which will apply only in the absence of a contrary indication in the trust instrument, but are useful if questions arise that the drafter of the instrument did not foresee. However, there are a few important and common-sense mandatory rules.

The CUTC has been tailored to Connecticut policy and practices and the clear, comprehensive, and modern rules it provides will facilitate the drafting of trusts and enhance certainty and enforceability. One of its greatest innovations is that it creates mechanisms for modifying trusts, which provides flexibility for both settlors and beneficiaries and enable them to correct the problems inherent in many old trusts. The CUTC provides easier access to probate courts on virtually any issue in connection with a trust's administration, although the Superior Court retains the concurrent jurisdiction it now possesses. It gives trustees more flexibility in acting and carrying out their responsibilities to the beneficiaries and in effectuating the settlor's intent.

I would like to highlight two important and non-controversial policy changes. The CUTC protects spouses and children by modernizing so-called "spendthrift" rules from being used to permit a trust beneficiary to evade his or her child-support or alimony obligations. However, a creditor can only attach a distribution from a spendthrift trust that is actually made to a child or spouse. Further, the exceptions do not apply to purely discretionary trusts. Since most Connecticut drafters use discretionary trusts, the CUTC does not really change the law in this area. Rather, it clarifies the law that applies to the less sophisticated documents that do attempt to use "spendthrift" provisions, alone. It also validates the establishment of trusts for animals, which are currently not enforceable in Connecticut.

Thank you again for the opportunity to comment on Senate Bill No. 977.  
**On behalf of the Connecticut Bar Association, I respectfully request that the Judiciary Committee act favorably on Senate Bill No. 977, An Act Adopting the Connecticut Uniform Trust Code.**

I would be pleased to answer any questions you might have, either now or whenever you wish to contact me by telephone or e-mail.

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