

TESTIMONY
OF
RICHARD B. NETTLER, CHAIR
COURT IMPROVEMENTS COMMITTEE
AND
SAMUEL F. HARAHAN, BOARD MEMBER
OF THE
COUNCIL FOR COURT EXCELLENCE
AT
THE PUBLIC HEARING
ON
BILL 15-0234, THE UNIFORM TRUST ACT OF 2003
COMMITTEE ON THE JUDICIARY
COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 26, 2003

Good morning, Chairwoman Patterson, members of the Committee, and ladies and gentlemen. My name is Richard B. Nettler. With me today is Samuel F. Harahan. We are pleased to be here as a volunteer board members and representatives of the Council for Court Excellence. As you know, the Council for Court Excellence is a nonprofit, nonpartisan civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the District of Columbia. For over 20 years, the Council for Court Excellence has been a unique resource for our community, bringing together members of the civic, legal, judicial, and business communities to work in common purpose to improve access to justice and to increase public understanding and support of our justice system. We have worked with the D.C. Council on the Uniform Trust Act of 2001 and the 1994 Probate Reform Act and the Omnibus Trusts and Estates Amendments of 2001. We have also testified on the Office of Administrative Trials and Hearings Establishment Act of 2001 and the Sentencing Reform Amendment Act of 2000, and submitted testimony for the record this year on the proposed budget for the DC Child and Family Services Agency.

No judicial member of the Council for Court Excellence has participated in the formulation of these comments. Both Sam and I appear today as representatives of the Council for Court Excellence and not on behalf of any client or in any other paid capacity.

On November 29, 2001, the Council for Court Excellence testified before this Committee on Bill 14-211, the Uniform Trust Act of 2001, sponsored by the National Conference of Commissioners on Uniform State Laws (“Uniform Law Commissioners”). At that hearing, we supported the urgent need for a legislatively enacted trust code for the District of Columbia, and recommended the “Substitute DC Uniform Trust Act of 2001” as the best course to follow. At that time, we joined with the Bar Association of the District of Columbia and the Estates, Trusts and Probate Law Section of the District of Columbia Bar in support of the Substitute Bill. Bill 14-211 was not moved out of this committee. We understand that this year the local Uniform Law Commissioners came to support the Substitute Bill and helped with its introduction into the DC Council as Bill 15-234, the Uniform Trust Act of 2003.

The trust code bill now before the DC Council, Bill 15-234, represents the broadest consensus among the parties interested in this matter. We acknowledge the additional amendments of the ad-hoc estates and trusts task force, and appreciate that they may contain elements worthy of the DC Council’s consideration. That said, the DC Council Judiciary Committee seems to be confronted with choosing among: (1) not acting at all and maintaining the status quo, or (2) further delaying action while the parties continue to negotiate, or (3) adopting trust legislation promptly. Responding to those choices in order, it may be fairly said that most, if not all, of the parties here today believe it is time for the District of Columbia to codify its trust law. Indeed, the concerned parties and this Committee have been working for over a year-and-a-half since your earlier hearing on Bill 14-211 to frame a viable substitute bill which will enjoy broad support. We strongly urge the Judiciary Committee and the DC Council to either

adopt Bill 15-234 in its present form or with such further amendments as the Judiciary Committee believes warranted based on the hearing record. The central goal of adopting a trust code for the District now should, we believe, remain paramount.

Bill 15-234 represents legislation which is compatible with local case law and which enables the District of Columbia to remain competitive as a trust situs with our neighboring jurisdictions of Maryland and Virginia, which have enacted trust codes. Further, enactment of Bill 15-234 would complement the Probate Reform Act of 1994, and more clearly define the rights and duties of trustees and trust beneficiaries when the trust document fails to adequately address those issues.

We acknowledge the hard work and productive labor by the DC Bar Task Force, the National Conference of Commissioners on Uniform State Laws, and the Committee on the Judiciary to bring this measure to public light. Speaking from the vantage of a broadly-based civic organization concerned with the administration of justice, it seems to us that, faced with the prospect of further delay or no bill at all, Bill 15-234 best secures the interests of the citizens of the District of Columbia.

This concludes our formal statement. We would be pleased to answer any questions that you may have. Thank you.