

## CBA LPRC POSITION REQUEST FORM

The CBA Commercial Law and Bankruptcy Section **position request** is as follows:

- 1) Proposed legislative or regulatory concept:

Support Congressional legislation that removes language currently contained in the United States Bankruptcy Code permitting companies to file for bankruptcy where they are incorporated or where smaller affiliates operate in favor of filing where the debtor's principal place of business or principal assets are located

- 2) A plain language explanation and rationale for advancing this position:

Corporations are currently permitted to file in their places of incorporation or in districts where their affiliates have pending bankruptcy cases. This means that many (particularly large) cases are filed in the District of Delaware, where more than half of U.S. publicly-traded companies are chartered, or in the Southern District of New York. The potential bill closes the loophole that permits forum shopping and allows not only bankruptcy practitioners and professionals, but also employees, creditors and consumers to participate more fully in the local bankruptcy process.

The rationale for advancing this position is to avoid venue shopping outside the District of Connecticut.

- 3) Is draft regulation, legislation or proposed bill included?

No - we are seeking approval to support a potential bill in the U.S. Congress. Over the last two years, two separate bills have been introduced in either the House or the Senate supporting bankruptcy venue reform. While both bills have died, the Commercial Law and Bankruptcy Committee is seeking approval to support any future bills containing such venue reform language, rather than having to seek approval every year for a new bill, potentially on a fast track basis.

- 4) What is the date of any legislative hearing, if known?

None.

- 5) Was this position previously approved by the CBA? If so, when does/did it expire?

Yes, as described above, the CL&B section has sought approval for positions supporting specific Congressional legislation addressing bankruptcy venue in previous years; it has expired.

- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?

No.

- 7) Potential or actual CBA opposition from another CBA section or committee?

Commercial Finance, Federal Practice, Business Law.

- 8) Strength of section position (including process and results of section vote taken on issue):

The executive committee of the Section voted to support the Potential bill on November 11, 2020.

- 9) Fiscal impact (on the state):

Passage of the bill should have a positive fiscal impact on the state because it is expected to generate additional bankruptcy filings within the state, which will generate fees for professionals. For example, the loss of Chapter 11 cases from 2004-2016 meant that CT lost more than \$122,500,00000. of potential revenue.

Are you seeking "fast-track" approval? <sup>1</sup>

No.<sup>1</sup>

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<sup>1</sup> A "fast track" recommendation will be submitted to the House of Delegates (HOD) or Board of Governors (BOG) at its next scheduled meeting (or, if between meetings of the HOD or BOG and during the legislative session, to the Executive Committee), and is warranted only when the Legislative Policy & Review Committee concludes that further analysis and study is unnecessary and where there is legitimate time pressure to address pending legislation.

2020