

## **CBA LPRC POSITION REQUEST FORM**

### **The CBA Antitrust & Trade Regulation Sec. Law position request is as follows:**

Proposed legislative or regulatory concept:

The Section opposes Sections 1 of HB 5463, takes no position on Section 2 of HB 5463, and supports Section 3 of HB 5463.

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

Sec. 1 proposes to amend the Connecticut price gouging law – Conn. Gen. Stat. § 42-230 – by adding the language, ["The Attorney General shall have exclusive authority on behalf of the state of Connecticut to enforce any violation of the provisions of this section."](#) The current portion of the statute, which is not being amended, states, "Any violation of the provisions of this section shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b." Conn. Gen. Stat. § 42-110b(a) is the substantive provision of the Connecticut Unfair Trade Practices Act, which includes a private right of action, Conn. Gen. Stat. § 42-110g. The current bill should clarify whether the amendment is or is not intended to foreclose private CUTPA suits for price gouging claims.

Sec. 3 proposes to amend Conn. Gen. Stat. § 42-110d(f) of the Connecticut Unfair Trade Practices Act, the statute's confidentiality provision, regarding access to information concerning investigations undertaken by the Connecticut Department of Consumer Protection. Our Section believes this a very good change, because the current provision states, "in no event shall the commissioner withhold any such records longer than a period of eighteen months after the date on which the initial complaint was filed with the commissioner or after the date on which the investigation or examination was commenced, whichever is earlier." The amendment would replace the 18-month rule with language that will permit the Commissioner to keep investigative materials confidential until the investigation is closed. The current provision is highly problematic because there has always existed a real risk that confidential information held by the Connecticut Department of Consumer Protection will be disclosed before the investigation has in fact concluded.

3) Is draft regulation, legislation or proposed bill included? Yes, HB 5463

4) What is the date of any legislative hearing, if known? Friday, March 18, 2022

5) Was this position previously approved by the CBA? No If so, when does/did it expire? NO

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? unknown

8) Strength of section position (including process and results of section vote taken on issue): Of the 16 AT/TR Section EC members, 15 have now voted. 11 EC members support the entire proposal (12 support items A & C, but not B); 1 no; and 2 abstentions., ... and Sec. 3 is a matter that is not within the province of the Bar Association, and should be left to industry/business groups to pursue.

9) Fiscal impact (on the state): Unlikely to have any fiscal impact