

2021-2022 CBA LPRC POSITION REQUEST FORM

The CBA **Estates & Probate Section** position request is as follows:

1) Proposed legislative or regulatory concept:

The Estates & Probate Section wishes to expand the exclusion of estate planning documents from the bill on remote online notarization. SB99 has been passed by the Commerce committee. Meanwhile, there are parties involved in amending that bill. The bill being amended currently excludes the making and execution of wills, codicils and trusts. The Section wishes to expand the exclusion under Section 15(j) of the bill to read as follows: ***“the making or execution of wills, codicils, trusts, powers of attorney, health care instructions under C.G.S. §19a-575a, standby guardians under C.G.S. §45a-624c, or a self-proving affidavit for an Appointment of Health Care Representative or Living Will under C.G.S. §§1-56r and 19a-578.”***

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

Some attorneys may interpret the remote online notarization bill being proposed as allowing the signing of the estate planning documents remotely. Yet, estate planning documents have witnessing and other statutory requirements not covered by the bill. The Governor’s Executive Order 7Q was interpreted by many lawyers as allowing remote ink signing of estate planning documents. It waived witnesses and allowed remote notarizations. The Estates & Probate Section plans to propose legislation in the 2023 Legislative Session on remote execution of estate planning documents. The Section awaits the broadening of the Uniform Electronic Transactions Act to cover estate planning documents. It is likely to pass this summer. The Section wishes to clarify that the remote online notarization bill does not cover estate planning documents.

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

See the attached draft of the legislation.

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

On February 22, 2022, the Commerce Committee held a hearing on SB 99 which proposes a working group on remote online notarization. It was understood that SB 99 will be replaced by the remote online notarization bill that is being worked on.

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

This position has not previously been approved.

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

Yes, LPRC has previously approved the Estates & Probate Section’s withdrawal of opposition to the remote online notarization bill.

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

Our lobbyist, Melissa Biggs of DNB Lobby, understands that the Real Property Section wishes the Estates & Probate Section to define estate planning documents to be excluded from coverage of their remote online notarization bill. Powers of attorney are used in real estate transactions.

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

At the March 7, 2022, meeting of the Estates & Probate Section, the Legislative Liaison, Joseph A. Cipparone, asked for a vote of the Executive Committee members on expansion of the definition of estate planning documents for the remote online notarization bill. There was no opposition to the expansion. On March 15, 2022, the Legislative Liaison sent the above language being proposed to the Steering Committee of the Section and it was approved without opposition.

9) Fiscal impact (on the state): None.