

I am a lawyer in Montpelier and was on the Study Committee when the Uniform Trust Code was adopted by Vermont in 2009. During our year-and-a-half study of the UTC, the Study Committee examined the role of the courts in trust cases. As part of the UTC bill, probate courts were given primary jurisdiction of those cases. We debated the elimination of de novo review in the superior courts and ultimately agreed that the somewhat less formal atmosphere of the probate courts would be lost if the probate courts became the sole fact-finding level in the judicial system. I think the law of unintended consequences will apply if Sections 3, 4 and 5 in the proposed bill eliminate the intermediate appeal to the superior courts. I believe that cases in the probate courts will become more formal and that that formality may breed more appeals. If people are forced to become formal at an earlier stage, their complaints become more hardened and more expensive in lawyer and judge time.

I also do tax work and represent folks who have problems with the Vermont Department of Taxes. Several of us in the tax bar have been trying to change the appeal system from its current status in which the only factual record is developed before the Commissioner's hearing officer. The results are often disappointing for taxpayers, but we attorneys have had slightly better success when cases are heard in an appeal to the superior court. That appeal is not de novo. Most taxpayers cannot afford to take an appeal to court, and the suggested changes would exacerbate that problem if a direct appeal to the supreme court were required. I would ask that sections 9 through 16 be eliminated. The Commissioner of Taxes is considering changes to the appeals procedure, and we might be able to have an administrative hearing with more protections for taxpayers. This bill would interfere with that effort. By the way, there are only a handful of cases each year that get resolved in the superior court now, so I doubt that the bill would provide much lightening of the load.

Thank you for passing along my comments.

Paul Hanlon