



General Assembly

January Session, 2001

Raised Bill No. 1055

LCO No. 3239

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE PROBATE STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-341 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) (1) An inventory of all the property of every deceased person
4 and insolvent debtor, except real property situated outside the state,
5 duly appraised, shall be made and signed under penalty of false
6 statement by the fiduciary.

7 (2) When any personal property of a deceased person or insolvent
8 debtor is outside of this state the court may receive an inventory of
9 such property, accompanied by such evidence of its value as it deems
10 sufficient and signed under penalty of false statement by the fiduciary.

11 (3) The inventory and appraisal of the estate of any deceased
12 nonresident shall include only such interest as the decedent had at the
13 time of his or her death in the real property and tangible personal
14 property situated in this state and intangible personal property,
15 provided intangible personal property shall not be included if the

16 proceeding in this state with regard to such estate is ancillary to a
17 proceeding in another jurisdiction.

18 (4) The fiduciary shall appraise or cause to be appraised such
19 inventoried property at its fair market value.

20 (b) (1) The fiduciary shall file the inventory in the court of probate
21 having jurisdiction of the estate of the deceased person or insolvent
22 debtor within two months after the acceptance of the bond or other
23 qualification of the fiduciary.

24 (2) The court may, for cause shown, extend the time for the filing of
25 such inventory to not more than four months from the qualification of
26 the fiduciary.

27 (c) If the court grants administration of a decedent's estate to a
28 person other than (1) the person designated in the will as executor or
29 successor to such executor, (2) the surviving spouse, (3) any child of
30 the decedent or any guardian of such child as the court shall
31 determine, (4) any grandchild of the decedent or any guardian of such
32 grandchild as the court shall determine, (5) the decedent's parents, (6)
33 any brother or sister of the decedent, or (7) the next of kin entitled to
34 share in the estate, the fiduciary appointed by the court shall file an
35 inventory as required by this section prior to the sale, either under a
36 power in the will or under the laws of this state, of any property other
37 than real estate; except that if the fiduciary appointed is a state bank
38 and trust company or national banking association authorized to do
39 business in this state, such fiduciary shall not be required to file such
40 an inventory of intangible personal property prior to sale. The
41 fiduciary shall send a copy of such inventory to each person interested
42 in the estate and shall notify each such person by regular mail, that a
43 sale of certain items in the inventory is contemplated. Such notice shall
44 inform the recipient that he or she may object to such sale by filing a
45 notice of objection in writing with the court of probate having
46 jurisdiction of the estate of the decedent within five days after receipt
47 of such notice of sale. Upon receipt of such notice of objection, the

48 court shall set a time and place for a hearing, with notice to all persons
49 interested in the estate.

50 (d) Notwithstanding the provisions of subsection (c) of this section,
51 upon application by the fiduciary, the court may order a sale of
52 personal property without a hearing prior to the filing of an inventory
53 and notice of sale, provided the court finds that an expeditious sale is
54 necessary for the protection of the estate and a delay would cause
55 irreparable harm to the estate.

56 (e) The fiduciary shall file an inventory containing a legal
57 description of any real estate of the decedent prior to a sale pursuant to
58 sections 45a-162 to 45a-169, inclusive, and sections 45a-427 and
59 45a-428.

60 [(f) The fiduciary shall file a return of sale with the court after any
61 sale of real estate or personal property of the decedent.]

62 Sec. 2. Subsection (a) of section 45a-649 of the general statutes is
63 repealed and the following is substituted in lieu thereof:

64 (a) Upon an application for involuntary representation, the court
65 shall issue a citation to the following enumerated parties to appear
66 before it at a time and place named in the citation, which shall be
67 served on the parties at least seven days before the hearing date, which
68 date shall not be more than thirty days after the receipt of the
69 application by the Court of Probate unless continued for cause shown.
70 Notice of the hearing shall be sent within thirty days after receipt of
71 the application. (1) The court shall direct that personal service be
72 made, by a state marshal, constable or an indifferent person, upon the
73 following: (A) The respondent, except that if the court finds personal
74 service on the respondent would be detrimental to the health or
75 welfare of the respondent, the court may order that such service be
76 made upon counsel for the respondent, if any, and if none, upon the
77 attorney appointed under subsection (b) of this section; (B) the
78 respondent's spouse, if any, if the spouse is not the applicant, except

79 that in cases where the application is for involuntary representation
80 pursuant to section 17b-456, and there is no spouse, the court shall
81 order notice by certified mail to the children of the respondent and if
82 none, the parents of the respondent and if none, the brothers and
83 sisters of the respondent or their representatives, and if none, the next
84 of kin of such respondent. (2) The court shall order such notice as it
85 directs to the following: (A) The applicant; (B) the person in charge of
86 welfare in the town where the respondent is domiciled or resident and
87 if there is no such person, the first selectman or chief executive officer
88 of the town if the respondent is receiving assistance from the town; (C)
89 the Commissioner of Social Services, if the respondent is in a state-
90 operated institution or receiving aid, care or assistance from the state;
91 (D) [by registered or certified mail, to] the Administrator of Veterans
92 Affairs if the respondent is receiving veterans' benefits or the Veterans
93 Home and Hospital, or both, if the respondent is receiving aid or care
94 from such hospital, or both; (E) the Commissioner of Administrative
95 Services, if the respondent is receiving aid or care from the state; (F)
96 the children of the respondent and if none, the parents of the
97 respondent and if none, the brothers and sisters of the respondent or
98 their representatives; (G) the person in charge of the hospital, nursing
99 home or some other institution, if the respondent is in a hospital,
100 nursing home or some other institution. (3) The court, in its discretion,
101 may order such notice as it directs to other persons having an interest
102 in the respondent and to such persons the respondent requests be
103 notified.

104 Sec. 3. Subsection (j) of section 45a-82 of the general statutes is
105 repealed and the following is substituted in lieu thereof:

106 (j) In the event that any court of probate otherwise receives income
107 which is insufficient to meet, on an ongoing basis, the reasonable and
108 necessary financial needs of that court, including the salaries of the
109 judge and the judge's staff, there shall be transferred from time to time
110 from the Probate Court Administration Fund such amounts as are
111 determined by the Probate Court Administrator to be reasonable and

112 necessary for the proper administration of each such court. Except as
113 provided in subsection (k) of section 45a-92, the judge's annual salary
114 shall not exceed the average annual salary of such judge for the three-
115 year period next preceding the request for financial assistance or the
116 product resulting from the multiplication of fifteen dollars by the
117 annual weighted workload of the court, as defined in subsection (c) of
118 section 45a-92, whichever is greater, but not to exceed the annual
119 compensation provided in subsection (k) of section 45a-92.

120 Sec. 4. Section 45a-139 of the general statutes is repealed and the
121 following is substituted in lieu thereof:

122 (a) As used in this title, except as otherwise provided, "bond" or
123 "probate bond" means a bond with security given to secure the faithful
124 performance by an appointed fiduciary of the duties of his trust and
125 the administration of and accounting for all moneys and other
126 property coming into his hands, as fiduciary, according to law.

127 (b) Except as otherwise provided, every bond or probate bond shall
128 be payable to the state, shall be conditioned for the faithful
129 performance by the principal in the bond of the duties of his trust and
130 the administration of and accounting for all moneys and other
131 property coming into his hands, as fiduciary, according to law, and
132 shall be in such amount and with such security as shall be required by
133 the judge of probate having jurisdiction pursuant to rules prescribed
134 by the Supreme Court. If bond is required of a fiduciary, his
135 appointment shall not be effective until the bond has been accepted by
136 the Court of Probate.

137 (c) A judge may waive bond if the assets of the estate are less than
138 twenty thousand dollars, or if the net amount unrestricted is less than
139 ten thousand dollars.

Statement of Purpose:

To make the probate court more efficient by eliminating the requirement that fiduciaries file a return of sale of real estate, to delete

the requirement of service by certified mail to the Administrator of Veterans' Affairs or the Veterans' Home and Hospital, to permit judges of probate with significant workloads to receive adequate compensation when court's income is insufficient, and to permit a judge to waive bond if assets are less than twenty thousand dollars or the net unrestricted amount is less than ten thousand dollars.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]