



STATE OF CONNECTICUT  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR

JUDGE JAMES J. LAWLOR  
ADMINISTRATOR  
ATTORNEY THOMAS E. GAFFEY  
CHIEF COUNSEL  
HELEN B. BENNET  
ATTORNEY  
DEBRA COHEN  
ATTORNEY

186 NEWINGTON ROAD  
WEST HARTFORD, CT 06110  
TEL (860) 231-2442  
FAX (860) 231-1055

To: Senate Co-Chair Andrew McDonald  
House Co-Chair Michael Lawlor  
Senate Ranking Member John Kissel  
House Ranking Member Arthur O'Neill  
Honorable Members of the Judiciary Committee

From: Judge James J. Lawlor  
Probate Court Administrator

Re: CB 6675 An Act Concerning the Sale or Mortgage of Specifically Devised Real  
Property in Solvent and Insolvent Estates.

Date: February 16, 2007

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On behalf of the Office of the Probate Court Administrator, it is my pleasure to submit the following testimony referencing the bill above.

Committee Bill 6675 would repeal §45a-428, concerning the sale of specifically devised real property.

Under the common law, specifically devised property may be taken for the payment of the debts and expenses of an estate only if there are no other assets available for that purpose. This principle is, in part, codified in §45a-428. The statute permits the Probate Court to order the sale of specifically devised property in an insolvent estate where, by definition, the property is needed for the payment of debts of the estate. If the estate is solvent but lacks other assets for the payment of necessary debts and expenses, the Probate Court may order the sale of the property.

However, if the other assets of the estate are sufficient for the payments of the necessary debts and expenses, the statute allows specifically devised property to be sold only with the consent of the specific devisee.

The repeal of §45a-428 would suggest that specifically devised real property could be sold without the consent of the specific devisee whether or not needed for payment of the bills of the estate. This is contrary to the common law principles noted above. Unless the sale is required for the proper administration of the estate, no purpose appears to justify the sale of specifically

devised property without the consent of the devisee. In fact, it would permit the sale of such property in direct contravention to the stated intent of the testator.

We believe that the statute as it currently exists appropriately reflects applicable common law principles and should not be changed without good and sufficient reason. For these reasons we cannot support the proposed bill.

Thank you.