



Senate

General Assembly

File No. 153

February Session, 2008

Substitute Senate Bill No. 165

Senate, March 26, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE FEES OF THE PROBATE COURT SYSTEM.

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

1 Section 1. Section 45a-107 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008*):

3 (a) The basic costs for all proceedings in the settlement of the estate
4 of any deceased person, including succession and estate tax
5 proceedings, shall be in accordance with the provisions of this section.

6 (b) For estates in which proceedings were commenced on or after
7 [April 1, 1998] July 1, 2008, costs shall be computed as follows:

8 (1) The basis for costs shall be (A) the greatest of (i) the gross estate
9 for succession tax purposes, as provided in section 12-349, (ii) the
10 inventory, including all supplements thereto, (iii) the Connecticut
11 taxable estate, as defined in section 12-391, or (iv) the gross estate for
12 estate tax purposes, as provided in chapters 217 and 218, [whichever is

13 greater] minus the permitted reductions specified in subdivisions (4) to
 14 (6), inclusive, of this subsection, plus (B) all damages recovered for
 15 injuries resulting in death minus any hospital and medical expenses
 16 for treatment of such injuries resulting in death minus any hospital
 17 and medical expenses for treatment of such injuries that are not
 18 reimbursable by medical insurance and minus the attorney's fees and
 19 other costs and expenses of recovering such damages. Any portion of
 20 the basis for costs that is determined by property passing to the
 21 surviving spouse shall be reduced by fifty per cent. Except as provided
 22 in subdivision (3) of this subsection, in no case shall the minimum cost
 23 be less than twenty-five dollars.

24 (2) Except as provided in subdivisions (3) [and (4)] to (6), inclusive,
 25 of this subsection, costs shall be assessed in accordance with the
 26 following table:

T1	Basis for Computation	
T2	Of Costs	Total Cost
T3	0 to \$500	\$25
T4	\$501 to \$1,000	\$50
T5	\$1,000 to \$10,000	\$50, plus 1% of all
T6		in excess of \$1,000
T7	\$10,000 to \$500,000	\$150, plus .35% of all
T8		in excess of \$10,000
T9	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T10		in excess of \$500,000
T11	\$4,754,000 and over	\$12,500

27 (3) Notwithstanding the provisions of subdivision (1) of this
 28 subsection, if the basis for costs is less than ten thousand dollars and a
 29 full estate is opened, the minimum cost shall be one hundred fifty
 30 dollars.

31 (4) [In estates where the gross taxable estate is less than six hundred
 32 thousand dollars, in which no succession tax return is required to be

33 filed, a probate fee of .1 per cent shall be charged against non-solely-
34 owned real estate, in addition to any other fees computed under this
35 section.] In the case of a deceased person domiciled in this state at the
36 date of death, the gross estate for estate tax purposes shall, for the
37 purpose of determining the basis for costs under subdivision (1) of this
38 subsection, be reduced by the fair market value of any real or tangible
39 personal property owned by the deceased person located outside this
40 state, and the amount of any indebtedness secured by a mortgage or
41 lien on real property located in this state.

42 (5) In the case of a deceased person not domiciled in this state but
43 who owned real or tangible personal property located in this state at
44 the date of death, for the purpose of determining the basis for costs
45 under subdivision (1) of this subsection, the fair market value of such
46 real or tangible personal property located in this state shall be included
47 in the gross estate for estate tax purposes. The value of any such real
48 property shall be reduced by the amount of any indebtedness secured
49 by a mortgage or lien on such real property.

50 (6) The gross estate for estate tax purposes shall not, for the purpose
51 of determining the basis for costs under subdivision (1) of this
52 subsection, include any life insurance proceeds.

53 (c) For estates in which proceedings were commenced on or after
54 April 1, 1998, and prior to July 1, 2008, costs shall be computed as
55 follows:

56 (1) The basis for costs shall be (A) the greatest of (i) the gross estate
57 for succession tax purposes, as provided in section 12-349, (ii) the
58 inventory, including all supplements thereto, (iii) the Connecticut
59 taxable estate, as defined in section 12-391, or (iv) the gross estate for
60 estate tax purposes, as provided in chapters 217 and 218, plus (B) all
61 damages recovered for injuries resulting in death, minus any hospital
62 and medical expenses for treatment of such injuries resulting in death,
63 minus any hospital and medical expenses for treatment of such injuries
64 that are not reimbursable by medical insurance, and minus the
65 attorney's fees and other costs and expenses of recovering such

66 damages. Any portion of the basis for costs, that is determined by
 67 property passing to the surviving spouse, shall be reduced by fifty per
 68 cent. Except as provided in subdivision (3) of this subsection, in no
 69 case shall the minimum cost be less than twenty-five dollars.

70 (2) Except as provided in subdivisions (3) and (4) of this subsection,
 71 costs shall be assessed in accordance with the following table:

T12	<u>Basis for Computation</u>	
T13	<u>Of Costs</u>	<u>Total Cost</u>
T14	<u>0 to \$500</u>	<u>\$25</u>
T15	<u>\$501 to \$1,000</u>	<u>\$50</u>
T16	<u>\$1,000 to \$10,000</u>	<u>\$50, plus 1% of all</u>
T17		<u>in excess of \$1,000</u>
T18	<u>\$10,000 to \$500,000</u>	<u>\$150, plus .35% of all</u>
T19		<u>in excess of \$10,000</u>
T20	<u>\$500,000 to \$4,754,000</u>	<u>\$1,865, plus .25% of all</u>
T21		<u>in excess of \$500,000</u>
T22	<u>\$4,754,000 and over</u>	<u>\$12,500</u>

72 (3) Notwithstanding the provisions of subdivision (1) of this
 73 subsection, if the basis for costs is less than ten thousand dollars and a
 74 full estate is opened, the minimum cost shall be one hundred fifty
 75 dollars.

76 (4) In estates where the gross taxable estate is less than six hundred
 77 thousand dollars, in which no succession tax return is required to be
 78 filed, a probate fee of one-tenth of one per cent shall be charged against
 79 nonsolely-owned real estate, in addition to any other fees computed
 80 under this section.

81 [(c)] (d) For estates in which proceedings were commenced on or
 82 after July 1, 1993, and prior to April 1, 1998, costs shall be computed as
 83 follows:

84 (1) The basis for costs shall be: (A) The gross estate for succession

85 tax purposes, as provided in section 12-349, or the inventory, including
 86 all supplements thereto, whichever is greater, plus (B) all damages
 87 recovered for injuries resulting in death minus any hospital and
 88 medical expenses for treatment of such injuries that are not
 89 reimbursable by medical insurance and minus the attorney's fees and
 90 other costs and expenses of recovering such damages. Any portion of
 91 the basis for costs that is determined by property passing to the
 92 surviving spouse shall be reduced by fifty per cent. Except as provided
 93 in subdivision (3) of this subsection, in no case shall the minimum cost
 94 be less than ten dollars.

95 (2) Except as provided in subdivision (3) of this subsection, costs
 96 shall be assessed in accordance with the following table:

T23	Basis for Computation	
T24	Of Costs	Total Cost
T25	0 to \$1,000	\$10.00
T26	\$1,000 to \$10,000	\$10, plus 1% of all
T27		in excess of \$1,000
T28	\$10,000 to \$500,000	\$100, plus .30% of all
T29		in excess of \$10,000
T30	\$500,000 to \$4,715,000	\$1,570, plus .20% of all
T31		in excess of \$500,000
T32	\$4,715,000 and over	\$10,000

97 (3) If the basis for costs is less than ten thousand dollars and a full
 98 estate is opened, the minimum cost shall be one hundred dollars.

99 [(d)] (e) For estates in which proceedings were commenced on or
 100 after July 1, 1983, and prior to July 1, 1993, costs shall be computed as
 101 follows:

102 (1) The basis for costs shall be: (A) The gross estate for succession
 103 tax purposes, as provided in section 12-349, minus one-third of the first
 104 fifty thousand dollars of any part of the gross estate for succession tax
 105 purposes that passes other than by will or under the laws of intestacy,

106 plus (B) all damages recovered for injuries resulting in death minus
 107 any hospital and medical expenses for treatment of such injuries that
 108 are not reimbursable by medical insurance and minus the attorney's
 109 fees and other costs and expenses of recovering such damages.

110 (2) Costs shall be assessed in accordance with the following table:

T33	Basis for Computation	
T34	Of Costs	Total Cost
T35	0 to \$1,000	\$10.00
T36	\$1,000 to \$10,000	\$10, plus 1% of all
T37		in excess of \$1,000
T38	\$10,000 to \$100,000	\$100, plus .30% of all
T39		in excess of \$10,000
T40	\$100,000 to \$200,000	\$370, plus .25% of all
T41		in excess of \$100,000
T42	\$200,000 to \$500,000	\$620, plus .2% of all
T43		in excess of \$200,000
T44	\$500,000 to \$1,000,000	\$1,220, plus .15% of all
T45		in excess of \$500,000
T46	\$1,000,000 to \$5,000,000	\$1,970, plus .125% of all
T47		in excess of \$1,000,000
T48	\$5,000,000 and over	\$6,970, plus .1% of all
T49		in excess of \$5,000,000

111 [(e)] (f) For estates in which proceedings were commenced prior to
 112 July 1, 1983, costs shall be computed as follows:

T50	With respect to any estate	Costs computed under:
T51	in which any proceedings	
T52	were commenced or	
T53	succession tax documents filed:	
T54	Prior to January 1, 1968	Section 45-17 of the
T55		1961 supplement to

T56		the general statutes
T57	Prior to July 1, 1969, but	Section 45-17a of the
T58	on or after January 1, 1968	1967 supplement to
T59		the general statutes
T60	Prior to July 1, 1978, but	Section 45-17a of the
T61	on or after July 1, 1969	1969 supplement to
T62		the general statutes
T63	Prior to July 1, 1983, but	Section 45-17a of the
T64	on or after July 1, 1978	general statutes,
T65		revised to
T66		January 1, 1983

113 [(f)] (g) If more than one hearing is held in any matter under this
 114 section, an additional charge of twenty-five dollars shall be payable to
 115 the court by the estate, or, in the discretion of the court, by any
 116 interested party against whom the court shall assess such additional
 117 charge.

118 [(g)] (h) If the total time of any one hearing in the matter exceeds
 119 one hour, an additional charge of twenty-five dollars per hour for each
 120 hour in excess of the first hour shall be payable to the court by the
 121 estate, or at the discretion of the court by any interested party against
 122 whom the court shall assess the additional charge, provided the
 123 additional charge shall not exceed three hundred dollars.

124 [(h)] (i) A charge of fifty dollars shall be payable to the court by any
 125 creditor applying to the Court of Probate pursuant to section 45a-364
 126 or 45a-401 for consideration of a claim. If such claim is allowed by the
 127 court, the court may order the fiduciary to reimburse the charge from
 128 the estate.

129 [(i)] (j) A charge of fifty dollars for an appeal shall be payable to the
 130 court by the appellant.

131 [(j)] (k) A charge of fifty dollars plus the actual costs of rescheduling

132 the adjourned hearing shall be payable to the court by any party who
 133 requests an adjournment of a scheduled hearing or whose failure to
 134 appear necessitates an adjournment, provided the court may waive the
 135 charge and costs for cause shown.

136 [(k)] (l) In no event shall any fee exceed ten thousand dollars for any
 137 estate in which proceedings were commenced prior to April 1, 1998,
 138 and twelve thousand five hundred dollars for any estate in which
 139 proceedings were commenced on or after April 1, 1998.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	45a-107

Statement of Legislative Commissioners:

"Decedent" was changed to "deceased person" for consistency.

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Probate Court	PCAF - Revenue	\$200,000-	\$200,000-
	Loss	\$400,000	\$400,000

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill would exclude life insurance proceeds, out-of-state real and personal property, and mortgage or lien indebtedness on in-state real property from a decedent's gross estate for the purpose of calculating probate fees. This would result in an estimated \$200,000-\$400,000 revenue loss to the Probate Court Administration Fund. It would also result in a revenue loss to the 117 probate courts throughout the state that are funded through statutory fees charged to users of the court.

Currently, the Probate Court Administration Fund is projected to run a deficit of \$537,647 in FY 10. It is estimated that this bill would increase that deficiency to between \$737,647 and \$937,647.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 165*****AN ACT CONCERNING THE FEES OF THE PROBATE COURT SYSTEM.*****SUMMARY:**

Under current law, the basis for costs for estates used to calculate probate court fees in which proceedings were begun on or after April 1, 1998 is the greater of the:

1. gross estate for succession tax purposes;
2. inventory, including all supplements;
3. Connecticut taxable estate; or
4. gross estate for estate tax purposes.

This bill makes several changes to the basis for calculating these fees for estates in which proceedings begin on or after July 1, 2008. For purposes of this calculation, the bill excludes from the gross estate for estate tax purposes of estates of decedents domiciled in Connecticut when they died:

1. life insurance proceeds,
2. the fair market value of any real property or tangible personal property located outside Connecticut, and
3. the amount of any indebtedness secured by a mortgage or lien on real property located in Connecticut.

For estates of decedents not domiciled in Connecticut when they died, the bill includes in the basis for costs the value of real and tangible property located in Connecticut minus the amount of any

indebtedness secured by a mortgage or lien.

The bill also eliminates the requirement that where the gross taxable estate is less than \$600,000, and no succession tax return is required to be filed, a probate fee of .1 % be charged against non-solely-owned real estate, in addition to any other fees.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Probate Court Funding

The 117 probate courts are funded through statutory fees charged to the users of the courts.

Gross Estate for Estate Tax Purposes

The law defines “gross estate” as the gross estate for federal estate tax purposes. As such, it includes all assets of a decedent wherever located (CGS § 12-391 (c) (3) and CGS § 45a-107(b) (1)).

The “gross estate” for federal estate tax purposes often includes more property than that included in the “probate estate” under the property laws of the state in which the decedent lived when he died (26 USC §§ 2034-2053).

Succession Tax

Before July 1, 2005, probate fees in decedents’ estates were generally calculated with reference to the gross estate for purposes of the Connecticut succession tax. In 2005, the legislature repealed this tax. The gross estate for estate tax purposes then became the primary basis for calculating probate fees. Life insurance was exempt from the succession tax and thus not included in calculating probate fees, but it is included in the federal gross estate tax (CGS § 26-2042). The gross estate for succession tax purposes included real and tangible property only if located in Connecticut, but the federal gross estate tax includes real and tangible property located anywhere within the United States (26 USC § 3301 *et. seq.*).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/06/2008)