



General Assembly

February Session, 2008

Raised Bill No. 696

LCO No. 3339

03339_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE COURTS OF PROBATE.

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 Section 45a-107 of the general statutes is repealed and the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] except as provided in subdivisions (4) to (6), inclusive, of this
14 subsection, plus (B) all damages recovered for injuries resulting in
15 death, minus any hospital and medical expenses for treatment of such

16 injuries resulting in death minus any hospital and medical expenses
 17 for treatment of such injuries that are not reimbursable by medical
 18 insurance, and minus the attorney's fees and other costs and expenses
 19 of recovering such damages. Any portion of the basis for costs that is
 20 determined by property passing to the surviving spouse shall be
 21 reduced by fifty per cent. Except as provided in subdivision (3) of this
 22 subsection, in no case shall the minimum cost be less than twenty-five
 23 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 who was domiciled in this

36 state at the date of his or her death, the gross estate for estate tax
37 purposes shall, for the purpose of determining the basis for costs
38 pursuant to subdivision (1) of this subsection, be reduced by the fair
39 market value of any real property or tangible personal property of the
40 deceased person situated outside of this state, and the amount of any
41 indebtedness secured by a mortgage or lien on real property situated
42 in this state.

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

53 (6) The gross estate for estate tax purposes shall not, for the purpose
54 of determining the basis for costs pursuant to subdivision (1) of this
55 subsection, include any life insurance proceeds.

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

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

68 attorney's fees and other costs and expenses of recovering such
 69 damages. Any portion of the basis for costs that is determined by
 70 property passing to the surviving spouse shall be reduced by fifty per
 71 cent. Except as provided in subdivision (3) of this subsection, in no
 72 case shall the minimum cost be less than twenty-five dollars.

73 (2) Except as provided in subdivisions (3) and (4) of this subsection,
 74 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>

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

79 (4) In estates where the gross taxable estate is less than six hundred
 80 thousand dollars, in which no succession tax return is required to be
 81 filed, a probate fee of .1 per cent shall be charged against nonsolely-
 82 owned real estate, in addition to any other fees computed under this
 83 section.

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

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

98 (2) Except as provided in subdivision (3) of this subsection, costs
99 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

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

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

105 (1) The basis for costs shall be: (A) The gross estate for succession
106 tax purposes, as provided in section 12-349, minus one-third of the first

107 fifty thousand dollars of any part of the gross estate for succession tax
108 purposes that passes other than by will or under the laws of intestacy,
109 plus (B) all damages recovered for injuries resulting in death minus
110 any hospital and medical expenses for treatment of such injuries that
111 are not reimbursable by medical insurance and minus the attorney's
112 fees and other costs and expenses of recovering such damages.

113 (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

114 [(e)] (f) For estates in which proceedings were commenced prior to
115 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

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

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

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

132 ~~[(i)]~~ (j) A charge of fifty dollars for an appeal shall be payable to the

133 court by the appellant.

134 [(j)] (k) A charge of fifty dollars plus the actual costs of rescheduling
135 the adjourned hearing shall be payable to the court by any party who
136 requests an adjournment of a scheduled hearing or whose failure to
137 appear necessitates an adjournment, provided the court may waive the
138 charge and costs for cause shown.

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

143 Sec. 2. Section 45a-36a of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2008*):

145 (a) Any judge of probate in office on or after October 1, 1997, whose
146 probate district is merged with another district, and who has not been
147 elected to a term which begins at the time of, or subsequent to, such
148 [consolidation] merger, (1) may elect to receive four years of credited
149 service, as defined in subdivision (2) of section 45a-34, (2) may elect to
150 receive a reduction of [his] the judge's retirement age of not more than
151 four years pursuant to subsection (a) of section 45a-36, or (3) may elect
152 any combination [of] under subdivisions (1) and (2) of this [section]
153 subsection, provided such combination shall not exceed four years in
154 total. A judge of probate may elect to receive retirement benefits under
155 this section at any time once the judge becomes eligible to retire and
156 receive retirement benefits. A judge of probate subject to this
157 subsection shall not be disqualified from receiving benefits under this
158 subsection due to such judge's employment, subsequent to such
159 merger, in a probate court in a capacity other than as a probate judge.

160 (b) Any clerk of a probate court employed on or after October 1,
161 2008, whose probate court is merged with another district, and who
162 has not been rehired by another probate court after such merger, (1)
163 may elect to receive four years of credited service, as defined in

164 subdivision (2) of section 45a-34, (2) may elect to receive a reduction of
165 the clerk's retirement age of not more than four years pursuant to
166 subsection (a) of section 45a-36, or (3) may elect any combination
167 under subdivisions (1) and (2) of this subsection, provided such
168 combination shall not exceed four years in total.

169 Sec. 3. Section 45a-77 of the 2008 supplement to the general statutes
170 is repealed and the following is substituted in lieu thereof (*Effective*
171 *October 1, 2008*):

172 (a) The Probate Court Administrator may attend to any matters that
173 the Probate Court Administrator considers necessary for the efficient
174 operation of the courts of probate and for the expeditious dispatch and
175 proper conduct of the business of such courts. The Probate Court
176 Administrator shall administer and enforce the provisions of this
177 chapter and the regulations issued under this section, and shall ensure
178 performance of the duties of judges of probate and clerks of the courts
179 of probate in accordance with the provisions of this chapter and such
180 regulations. The Probate Court Administrator may make
181 recommendations to the General Assembly for legislation for the
182 improvement of the administration of the courts of probate.

183 (b) (1) The Probate Court Administrator may issue and shall enforce
184 regulations, provided such regulations are approved in accordance
185 with subdivision (1) of subsection (c) of this section. Such regulations
186 shall be binding on all courts of probate and shall concern the
187 following matters for the administration of the probate court system:
188 (A) Auditing, accounting, statistical, billing, recording, filing and other
189 court procedures; (B) reassignment and transfer of cases; (C) training
190 of court personnel and continuing education programs for judges of
191 probate and court personnel; and (D) the enforcement of the
192 provisions of this chapter and the regulations issued pursuant to this
193 section, including, but not limited to, recovery of expenses associated
194 with any such enforcement, as permitted by such regulations.

195 (2) The Probate Court Administrator may adopt regulations, in

196 accordance with chapter 54, provided such regulations are approved in
197 accordance with subsection (c) of this section. Such regulations shall be
198 binding on all courts of probate and shall concern: (A) The availability
199 of judges; (B) court facilities, personnel and records; (C) hours of court
200 operation; and (D) telephone service.

201 (c) (1) Either the Probate Court Administrator or the executive
202 committee of the Connecticut Probate Assembly may propose
203 regulations authorized under subsection (b) of this section. Any
204 regulation proposed by the Probate Court Administrator shall be
205 submitted to the executive committee of the Connecticut Probate
206 Assembly for approval. Any regulation proposed by the executive
207 committee of the Connecticut Probate Assembly shall be submitted to
208 the Probate Court Administrator for approval. If either the Probate
209 Court Administrator or the executive committee of the Connecticut
210 Probate Assembly fails to approve a proposed regulation, such
211 proposed regulation may be submitted to a panel of three Superior
212 Court judges appointed by the Chief Justice of the Supreme Court. The
213 panel of judges, after consideration of the positions of the Probate
214 Court Administrator and the executive committee of the Connecticut
215 Probate Assembly, shall either approve the proposed regulation or
216 reject the proposed regulation.

217 (2) Any proposed new regulation and any change in an existing
218 regulation issued under this section on or after July 1, 2007, shall be
219 submitted to the joint standing committee of the General Assembly
220 having cognizance of matters relating to the judiciary for approval or
221 disapproval in its entirety, provided, if more than one proposed new
222 regulation or change in an existing regulation is submitted at the same
223 time, said committee shall approve or disapprove all such proposed
224 new regulations and changes in existing regulations together in their
225 entirety. Unless disapproved by said committee within ninety days of
226 the date of such submittal, each such regulation shall become effective
227 on the date specified in such regulation, but not in any event until
228 ninety days after promulgation.

229 (d) The Probate Court Administrator shall regularly review the
230 auditing, accounting, statistical, billing, recording, filing,
231 administrative and other procedures of the courts of probate.

232 (e) The Probate Court Administrator shall, personally, or by an
233 authorized designee of the Probate Court Administrator who has been
234 admitted to the practice of law in this state for at least five years, visit
235 each court of probate at least once during each two-year period to
236 examine the records and files of such court in the presence of the judge
237 of the court or the judge's authorized designee. The Probate Court
238 Administrator shall make any additional inquiries that the Probate
239 Court Administrator considers appropriate to ascertain whether the
240 business of the court, including the charging of costs and payments to
241 the State Treasurer, has been conducted in accordance with law, rules
242 of the courts of probate, regulations issued under this section and the
243 canons of judicial ethics, and to obtain information concerning the
244 business of the courts of probate which is necessary for the Probate
245 Court Administrator to perform properly the duties of the office.

246 Sec. 4. Subsection (c) of section 45a-92 of the 2008 supplement to the
247 general statutes is repealed and the following is substituted in lieu
248 thereof (*Effective October 1, 2008*):

249 (c) Each judge of probate or personal representative, except a judge
250 of probate who is the Probate Court Administrator, shall at the time of
251 filing such returns pay to the State Treasurer to be credited to the fund
252 established by section 45a-82, a percentage of the annual net income
253 from such office based on the following table in which the percentage
254 appearing in the left column shall first be multiplied by the minimum
255 annual compensation of a high volume court as provided in subsection
256 (k) of this section, as in effect on the first day of July of the calendar
257 year for which an assessment is due pursuant to this section, the
258 product of which shall then be multiplied by the applicable percentage
259 appearing in the right column:

T67	First 20% of the compensation assessment rate	
T68	of a high volume court	\$1 nominal
T69	Next 6.67%	5%
T70	Next 6.66%	10%
T71	Next 6.67%	15%
T72	Next 6.67%	25%
T73	Next 6.66%	35%
T74	Next 13.34%	50%
T75	Next 33.33%	75%
T76	Next 33.67%	80%
T77	Next 66.67%	85%
T78	Next 133.33%	95%
T79		
T80	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T81	by the Probate Court Administrator	
T82		
T83	All over the maximum amount computed at 100% by the Probate	
T84	Court Administrator.	

260 As used in this subsection, "maximum amount" means the amount
261 of annual net income from such office which, when applying the
262 percentage payments set forth above, shall result in the judge of
263 probate retaining as net compensation, after the payment of the above
264 amounts, no more than the product resulting from the multiplication
265 of seventy-two dollars by the annual weighted-workload of the court,
266 as defined in regulations issued by the Probate Court Administrator
267 pursuant to subdivision (1) of subsection (b) of section 45a-77 of the
268 2008 supplement to the general statutes, as amended by this act, but
269 not to exceed the compensation of a high volume court as set forth in
270 subsection (k) of this section, provided this limitation shall not apply to
271 those courts described in subsection (k) of this section. Such payment
272 shall be deemed to be a necessary expense of such office, but shall not
273 be deductible from the gross income for the purpose of determining
274 net income of such office under this section. Notwithstanding the

275 provisions of this subsection, the annual minimum compensation of a
276 judge of probate shall be no less than the product resulting from the
277 multiplication of fifteen dollars by the annual weighted-workload of
278 the court, as defined in regulations issued by the Probate Court
279 Administrator pursuant to subdivision (1) of subsection (b) of section
280 45a-77 of the 2008 supplement to the general statutes, as amended by
281 this act, or no less than the judge's average compensation for the three-
282 year period from January 1, 1996, to December 31, 1998, provided there
283 was no break in the judge's service during such three-year period, but,
284 in no event shall that minimum compensation exceed that provided
285 pursuant to subsection (k) of this section.

286 Sec. 5. Subsection (g) of section 5-259 of the 2008 supplement to the
287 general statutes is repealed and the following is substituted in lieu
288 thereof (*Effective July 1, 2009*):

289 (g) (1) Notwithstanding the provisions of subsection (a) of this
290 section, [the] prior to July 1, 2009: (A) The Probate Court
291 Administration Fund established [in accordance with] under section
292 45a-82 [.] shall pay for each probate judge and Probate Court employee
293 not more than one hundred per cent of the portion of the premium
294 charged for his or her individual coverage and not more than fifty per
295 cent of any additional cost for his or her form of coverage, [. The] and
296 (B) the remainder of the premium for such coverage shall be paid by
297 the probate judge or Probate Court employee to the State Treasurer.
298 Payment shall be credited by the State Treasurer to the fund
299 established [by] under section 45a-82. The total premiums payable
300 shall be remitted by the Probate Court Administrator directly to the
301 insurance company or companies or nonprofit organization or
302 organizations providing the coverage. On and after July 1, 2009, such
303 coverage shall be paid from funds appropriated by the General
304 Assembly and shall be provided to each probate judge and Probate
305 Court employee.

306 (2) The Probate Court Administrator shall issue regulations

307 governing group hospitalization and medical and surgical insurance
 308 [pursuant to subdivision (1) of subsection (b)] in accordance with
 309 subsection (c) of section 45a-77 of the 2008 supplement to the general
 310 statutes, as amended by this act.

311 Sec. 6. (*Effective from passage*) Section 45a-189 of the general statutes
 312 is repealed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	45a-107
Sec. 2	<i>October 1, 2008</i>	45a-36a
Sec. 3	<i>October 1, 2008</i>	45a-77
Sec. 4	<i>October 1, 2008</i>	45a-92(c)
Sec. 5	<i>July 1, 2009</i>	5-259(g)
Sec. 6	<i>from passage</i>	Repealer section

Statement of Purpose:

To: (1) Revise the method for calculating probate fees, (2) revise provisions regarding retirement credit for judges and clerks whose probate districts have been merged with another district, (3) revise the approval process for certain regulations, (4) revise an alternate method of calculating a probate judge's compensation, (5) provide that health insurance coverage for probate judges and Probate Court employees be paid from funds appropriated by the General Assembly, and (6) repeal certain provisions regarding amendments to probate appeals.

[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.]