



Senate

General Assembly

File No. 892

January Session, 2009

Substitute Senate Bill No. 808

Senate, May 4, 2009

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT INCREASING PROBATE COURT FEES AND COSTS.

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

1 Section 1. Section 45a-106 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 The basic costs payable to courts of probate for any proceeding
4 other than in connection with the settlement of the estate of a deceased
5 person or periodic accounts of trustees, guardians, conservators or
6 other fiduciaries shall be as follows:

7 (1) Except for such proceedings for which basic costs are specified in
8 subdivision (7) or (8) of this section or are otherwise specified or
9 exempted in section 45a-111 or elsewhere in the general statutes, there
10 shall be payable to the Court of Probate with respect to each
11 application, petition or motion filed with the court to commence a
12 matter before it, an entry fee of [one hundred fifty] one hundred ninety
13 dollars which shall be paid by the person making the application,

14 petition or motion.

15 (2) On each matter commenced by the court on its own motion, an
16 entry fee of [one hundred fifty] one hundred ninety dollars shall be
17 payable by an interested party as determined by the court.

18 (3) If more than one hearing is held in any matter so entered, an
19 additional charge of [twenty-five] thirty-five dollars shall be payable to
20 the court by the party paying the entry fee in the matter, or, in the
21 discretion of the court, by any interested party against whom the court
22 shall assess such additional charge.

23 (4) If the total time of any one hearing in the matter exceeds one
24 hour, an additional charge of [twenty-five] thirty-five dollars per hour
25 for each hour in excess of the first hour shall be payable to the court by
26 the party paying the entry fee in the matter, or, in the discretion of the
27 court, by any interested party against whom the court shall assess the
28 additional charge, provided the additional charge shall not exceed
29 three hundred seventy-five dollars.

30 (5) For purposes of establishing charges payable to courts of probate
31 hereunder, all applications, petitions and motions filed and
32 proceedings thereunder, in connection with a matter which has been
33 entered as above, which are necessary to enter a final decree in and are
34 incidental to the action of the court being sought in the matter so
35 entered shall be covered by the entry fee and by any additional charge
36 under subdivisions (3) and (4) of this section that may have become
37 payable in such matter. No additional charges under this section shall
38 be made for any such incidental applications, petitions or motions,
39 provided once a final decree is entered in any matter and, thereafter,
40 additional action or actions are sought in the court in connection
41 therewith, such additional action or actions shall be treated as a new
42 matter hereunder.

43 (6) For the purpose of sections 45a-106 to 45a-112, inclusive, as
44 amended by this act, there shall be a charge of [fifty] sixty-five dollars
45 for an appeal which shall be payable to the court by the appellant.

46 (7) For proceedings brought under section 46b-30, the cost shall be
47 ~~[twenty-five]~~ thirty-five dollars.

48 (8) For filing a will in the Probate Court, the cost shall be ~~[five]~~ ten
49 dollars. For filing any other document in the probate court under the
50 provisions of any statute if the court is not required to take any action,
51 the cost shall be ~~[twenty-five]~~ thirty-five dollars, in addition to any
52 applicable recording charge. The cost shall be payable by the person
53 filing such document.

54 (9) A charge of ~~[fifty]~~ sixty-five dollars plus the actual costs of
55 rescheduling the adjourned hearing shall be payable to the court by
56 any party who requests an adjournment of a scheduled hearing or
57 whose failure to appear necessitates an adjournment, provided the
58 court, for cause shown, may waive either the charge or the costs, or
59 both.

60 Sec. 2. Section 45a-107 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective July 1, 2009*):

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

65 (b) For estates in which proceedings were commenced on or after
66 July 1, 2009, costs shall be computed as follows:

67 (1) The basis for costs shall be (A) the inventory, including all
68 supplements thereto, the Connecticut taxable estate, as defined in
69 section 12-391, or the gross estate for estate tax purposes, as provided
70 in chapters 217 and 218, whichever is greater, plus (B) all damages
71 recovered for injuries resulting in death minus any hospital and
72 medical expenses for treatment of such injuries resulting in death
73 minus any hospital and medical expenses for treatment of such injuries
74 that are not reimbursable by medical insurance and minus the
75 attorney's fees and other costs and expenses of recovering such
76 damages. Any portion of the basis for costs that is determined by

77 property passing to the surviving spouse shall be reduced by fifty per
 78 cent. Except as provided in subdivision (3) of this subsection, in no
 79 case shall the minimum cost be less than thirty-five dollars.

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

T1	<u>Basis for Computation</u>	
T2	<u>Of Costs</u>	<u>Total Cost</u>
T3	<u>0 to \$500</u>	<u>\$35</u>
T4	<u>\$501 to \$1,000</u>	<u>\$65</u>
T5	<u>\$1,000 to \$10,000</u>	<u>\$65, plus 1.25% of all</u>
T6		<u>in excess of \$1,000</u>
T7	<u>\$10,000 to \$500,000</u>	<u>\$190, plus .44% of all</u>
T8		<u>in excess of \$10,000</u>
T9	<u>\$500,000 to \$4,754,000</u>	<u>\$2,335, plus .31% of all</u>
T10		<u>in excess of \$500,000</u>
T11	<u>\$4,754,000 and over</u>	<u>\$15,625</u>

82 (3) Notwithstanding the provisions of subdivision (1) of this
 83 subsection, if the basis for costs is less than ten thousand dollars and a
 84 full estate is opened, the minimum cost shall be one hundred ninety
 85 dollars.

86 (4) In estates where the gross taxable estate is less than six hundred
 87 thousand dollars, a probate fee of .125 per cent shall be charged against
 88 non-solely-owned real estate, in addition to any other fees computed
 89 under this section.

90 [(b)] (c) For estates in which proceedings were commenced on or
 91 after April 1, 1998, but prior to July 1, 2009, costs shall be computed as
 92 follows:

93 (1) The basis for costs shall be (A) the gross estate for succession tax
 94 purposes, as provided in section 12-349, the inventory, including all
 95 supplements thereto, the Connecticut taxable estate, as defined in

96 section 12-391, or the gross estate for estate tax purposes, as provided
 97 in chapters 217 and 218, whichever is greater, plus (B) all damages
 98 recovered for injuries resulting in death minus any hospital and
 99 medical expenses for treatment of such injuries resulting in death
 100 minus any hospital and medical expenses for treatment of such injuries
 101 that are not reimbursable by medical insurance and minus the
 102 attorney's fees and other costs and expenses of recovering such
 103 damages. Any portion of the basis for costs that is determined by
 104 property passing to the surviving spouse shall be reduced by fifty per
 105 cent. Except as provided in subdivision (3) of this subsection, in no
 106 case shall the minimum cost be less than twenty-five dollars.

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

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

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

113 (4) In estates where the gross taxable estate is less than six hundred
 114 thousand dollars, in which no succession tax return is required to be
 115 filed, a probate fee of .1 per cent shall be charged against non-solely-
 116 owned real estate, in addition to any other fees computed under this

117 section.

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

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

132 (2) Except as provided in subdivision (3) of this subsection, costs
 133 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

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

136 [(d)] (e) For estates in which proceedings were commenced on or

137 after July 1, 1983, and prior to July 1, 1993, costs shall be computed as
138 follows:

139 (1) The basis for costs shall be: (A) The gross estate for succession
140 tax purposes, as provided in section 12-349, minus one-third of the first
141 fifty thousand dollars of any part of the gross estate for succession tax
142 purposes that passes other than by will or under the laws of intestacy,
143 plus (B) all damages recovered for injuries resulting in death minus
144 any hospital and medical expenses for treatment of such injuries that
145 are not reimbursable by medical insurance and minus the attorney's
146 fees and other costs and expenses of recovering such damages.

147 (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

148 [(e)] (f) For estates in which proceedings were commenced prior to
149 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

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

155 [(g)] (h) If the total time of any one hearing in the matter exceeds
 156 one hour, an additional charge of [twenty-five] thirty-five dollars per
 157 hour for each hour in excess of the first hour shall be payable to the
 158 court by the estate, or at the discretion of the court by any interested
 159 party against whom the court shall assess the additional charge,
 160 provided the additional charge shall not exceed three hundred
 161 seventy-five dollars.

162 [(h)] (i) A charge of [fifty] sixty-five dollars shall be payable to the
 163 court by any creditor applying to the Court of Probate pursuant to
 164 section 45a-364 or 45a-401 for consideration of a claim. If such claim is

165 allowed by the court, the court may order the fiduciary to reimburse
166 the charge from the estate.

167 [(i)] (j) A charge of [fifty] sixty-five dollars for an appeal shall be
168 payable to the court by the appellant.

169 [(j)] (k) A charge of [fifty] sixty-five dollars plus the actual costs of
170 rescheduling the adjourned hearing shall be payable to the court by
171 any party who requests an adjournment of a scheduled hearing or
172 whose failure to appear necessitates an adjournment, provided the
173 court may waive the charge and costs for cause shown.

174 [(k)] (l) In no event shall any fee exceed ten thousand dollars for any
175 estate in which proceedings were commenced prior to April 1, 1998,
176 [and] twelve thousand five hundred dollars for any estate in which
177 proceedings were commenced on or after April 1, 1998, but prior to
178 July 1, 2009, and fifteen thousand six hundred twenty-five dollars for
179 any estate in which proceedings were commenced on or after July 1,
180 2009.

181 Sec. 3. Section 45a-108 of the general statutes is repealed and the
182 following is substituted in lieu thereof (*Effective July 1, 2009*):

183 (a) (1) Except with respect to a decedent's estate, the basic costs for
184 all proceedings in connection with allowance and settlement of a
185 periodic or other account, after notice and hearing, regardless of the
186 date of origin of the estate in which such account is filed, shall be in
187 accordance with the following schedule:

T67	If the book value or market value or	Cost
T68	receipts, whichever is larger, is:	
T69	Less than \$25,000	[\$50.00] <u>\$65.00</u>
T70	\$25,000 to \$375,000	 [.20%] <u>.25%</u> thereof
T71	\$375,000 and over	[\$750.00] <u>\$940.00</u>

188 (2) If more than one account is the subject of a hearing, the charges
189 shall be based on the values in the most recent account being heard.

190 (b) If more than one hearing is held in any matter under this section,
191 an additional charge of [twenty-five] thirty-five dollars shall be
192 payable to the court by the moving party, or, in the discretion of the
193 court, by any interested party against whom the court shall assess such
194 additional charge.

195 (c) If the total time of any one hearing in the matter exceeds one
196 hour, an additional charge of [twenty-five] thirty-five dollars per hour
197 for each hour in excess of the first hour shall be payable to the court by
198 the moving party, or in the discretion of the court, by any interested
199 party against whom the court shall assess the additional charge,
200 provided the additional charge shall not exceed three hundred
201 seventy-five dollars.

202 (d) A charge of [fifty] sixty-five dollars for an appeal shall be
203 payable to the court by the appellant.

204 (e) A charge of [fifty] sixty-five dollars plus the actual costs of
205 rescheduling the adjourned hearing shall be payable to the court by
206 any party who requests an adjournment of a scheduled hearing or
207 whose failure to appear necessitates an adjournment, provided the
208 court may waive the charge and costs for cause shown.

209 Sec. 4. Section 45a-109 of the general statutes is repealed and the
210 following is substituted in lieu thereof (*Effective July 1, 2009*):

211 In addition to the basic charges and costs specified in sections 45a-
212 106 to 45a-108, inclusive, as amended by this act, the following
213 expenses shall be payable to the courts of probate: (1) For recording
214 each page or fraction thereof after the first five pages of any one
215 document, [three] five dollars; (2) for each notice in excess of two with
216 respect to any hearing or continued hearing, [two] five dollars; (3) for
217 any expenses incurred by the court of probate for newspaper
218 publication of notices, certified or registered mailing of notices, or for
219 service of process or notice, the actual amount of the expenses so
220 incurred; (4) for providing copies of any document from a file in the
221 court of any matter within the jurisdiction of the court, [five] ten

222 dollars for a copy of any such document up to five pages in length and
 223 one dollar and fifty cents per copy for each additional page or
 224 fractional part thereof as the case may be, provided there shall be
 225 furnished without charge to the fiduciary or if none, to the petitioner
 226 with respect to any probate matter one uncertified copy of each decree,
 227 certificate or other court order setting forth the action of the court on
 228 any proceeding in such matter; (5) for certifying copies of any
 229 document from a file in the court of any matter before the court, [five]
 230 ten dollars per each copy certified for the first two pages of a
 231 document, and [two] five dollars for each copy certified for each page
 232 after the second page of such document, provided no charge shall be
 233 made for any copy certified or otherwise that the court is required by
 234 statute to make; and (6) for retrieval of a file not located on the
 235 premises of the court, the actual cost or [ten] fifteen dollars, whichever
 236 is greater.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	45a-106
Sec. 2	<i>July 1, 2009</i>	45a-107
Sec. 3	<i>July 1, 2009</i>	45a-108
Sec. 4	<i>July 1, 2009</i>	45a-109

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Probate Court	PCAF - Revenue Gain	\$3.0-\$3.3 million	\$6.0-\$6.5 million

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill increases all fees charged by probate courts for serviced provided. This is estimated to result in a revenue gain to the Probate Court Administration Fund (PCAF) of \$3.0-\$3.3 million in FY 10 and \$6.0-\$6.5 million in FY 11. The PCAF is currently projected to experience a negative balance of \$3.9 million in FY 10 and \$12.2 million in FY 11. Under the bill, it is estimated that these negative balances would be reduced to \$675,000-\$925,000 in FY 10 and \$5.6 million-\$6.2 million in FY 11.

The Out Years

The annualized ongoing revenue gain to the PCAF associated with estate fees would continue into the future subject to the inflation of underlying asset values; all other revenue sources would remain constant into the future as they are set by statute.

Sources: *Probate Court Financials (Calendar 2007)*

OLR Bill Analysis**sSB 808*****AN ACT INCREASING PROBATE COURT FEES AND COSTS.*****SUMMARY:**

This bill increases probate court fees for applications, petitions, or motions filed with or commenced by the probate court. It also increases the costs for settling estates for which proceedings begin on or after July 1, 2009 and for proceedings concerning accounting by trustees, guardians, conservators, and other fiduciaries. Finally, it increases fees for probate court documents, copies, and certified copies. Specific fee increases are listed in the tables below.

The bill also eliminates obsolete references to the succession tax in determining estate fees. The succession tax was repealed on July 1, 2005.

EFFECTIVE DATE: July 1, 2009

PROBATE COURT FEE INCREASES

The bill increases probate court fees for the proceedings and filings shown in Table 1.

TABLE 1: PROBATE FEE INCREASES

	<i>Current Law</i>	<i>The Bill</i>
Entry fee for application, petition or motion to begin proceedings	\$150	\$190
Entry fee for interested party in matter commenced on court's own motion	\$150	\$190
Each additional hearing on any matter	\$25	\$35
Hearings exceeding one hour	\$25 per hour, up to maximum of \$300	\$35 per hour, up to a maximum of \$375
Request hearing adjournment	\$50 plus actual	\$65 plus actual

	rescheduling costs	rescheduling costs
or failing to appear		
Creditor's application for consideration of claim	\$50	\$65
Appeal	\$50	\$65
Waiver to allow minors to marry	\$25	\$35
Filing a will	\$5	\$10
Filing any other document, if the court does not have to take action	\$25 plus any applicable recording charge	\$35 plus any applicable recording charge
Recording fee for document, per page fee for each page over five	\$3	\$5
Third and each additional hearing notice	\$2	\$5
Copy of document up to five pages	\$5	\$10
Each additional page, per copy	\$1	\$1.50
Certified copy of document up to two pages	\$5	\$10
Certified copy of each additional page	\$2	\$5
Minimum fee for retrieving document not located on court premises	\$10	\$15

ESTATE SETTLEMENT PROCEEDINGS

Fee Basis, Scale of Fees, and Minimum Fee

Probate fees for settling an estate are based on the value of the estate. Under current law, the estate value for fee purposes is (1) the greater of (a) the gross estate for succession tax purposes, (b) the inventory (the probatable estate), (c) the Connecticut taxable estate for estate tax purposes, or (d) the gross estate for estate tax purposes, plus (2) all damages for injuries resulting in death, minus (3) any hospital and medical expenses that are not reimbursable by medical insurance and any attorneys fees and costs incurred in recovering the damages. The value for fee purposes must be reduced by 50% of any property passing to the surviving spouse. The minimum fee for settling an estate valued at less than \$10,000 is \$150.

For estate settlement proceedings that begin on or after July 1, 2009, the bill (1) eliminates the gross estate for succession tax purposes from the calculation (the succession tax was repealed on July 1, 2005), (2)

increases the minimum fee for an estate under \$10,000 to \$190, and (3) increases the scale of fees as shown in Table 2.

TABLE 2: PROBATE FEES FOR SETTLING ESTATES

Basis of Computation	Current Law	The Bill
0 - \$500	\$25	\$35
501 - 1,000	\$50	\$65
1,000 - 10,000	\$50 plus 1% of the excess over \$1,000	\$65 plus 1.25% of the excess over \$1,000
10,000 - 500,000	\$150 plus .35% of the excess over \$10,000	\$190 plus 0.44% of the excess over \$10,000
500,000 - \$4,754,000	\$1,865 plus .25% of the excess over \$500,000	\$2,335 plus 0.31% of the excess over \$500,000
\$4,754,000 and over	\$12,500	\$15,625

Additional Fee for Certain Estates Under \$600,000

Under current law, for gross taxable estates under \$600,000 that do not require a succession tax return to be filed, there is an additional fee of 0.1% charged against non-solely owned real estate. The bill increases this additional fee to 0.125% and eliminates the reference to the succession tax return. Thus, the additional fee must be charged on non-solely-owned real estate whenever the gross taxable estate is less than \$600,000.

FIDUCIARY ACCOUNTING

By law, costs for proceedings concerning the allowance and settlement of an account by a trustee, guardian, conservator, or fiduciary, other than those dealing with a decedent's estate, are based on the greater of the book value, market value, or receipts involved. The bill increases these costs as shown in Table 3.

TABLE 3: PROBATE COSTS FOR FIDUCIARY ACCOUNTING

Book Value, Market Value, or Receipts	Current Law	The Bill
Less than \$25,000	\$50	\$65
\$25,000 - \$375,000	.20% of value	.25% of value
\$375,000 and over	\$750	\$940

BACKGROUND

Related Bill

SB 1005 (File 695) changes the calculation of a gross estate for probate purposes to (1) exclude the value of real or tangible personal property located outside Connecticut from the gross estates of decedents who were domiciled in Connecticut when they died and (2) include any such property located in Connecticut in the gross estates of decedents not domiciled in Connecticut when they died.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 39 Nay 15 (04/16/2009)