



# Senate

General Assembly

**File No. 695**

January Session, 2009

Senate Bill No. 1005

*Senate, April 20, 2009*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE ASSESSMENT OF CERTAIN PROPERTY  
IN THE CALCULATION OF PROBATE FEES.***

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 Section 45a-107 of the general statutes is repealed and the  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, 2009*):

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 July 1, 2009, 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, except as

13 provided in subdivisions (5) and (6) of this subsection, plus (B) all  
 14 damages recovered for injuries resulting in death, minus any hospital  
 15 and medical expenses for treatment of such injuries resulting in death  
 16 minus any hospital and medical expenses for treatment of such injuries  
 17 that are not reimbursable by medical insurance, and minus the  
 18 attorney's fees and other costs and expenses of recovering such  
 19 damages. Any portion of the basis for costs that is determined by  
 20 property passing to the surviving spouse shall be reduced by fifty per  
 21 cent. Except as provided in subdivision (3) of this subsection, in no  
 22 case shall the minimum cost be less than twenty-five dollars.

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

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

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

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

34 section.

35 (5) In the case of a deceased person who was domiciled in this state  
36 on the date of his or her death, the gross estate for estate tax purposes  
37 shall, for the purpose of determining the basis for costs pursuant to  
38 subdivision (1) of this subsection, be reduced by the fair market value  
39 of any real property or tangible personal property of the deceased  
40 person situated outside of this state.

41 (6) In the case of a deceased person who was not domiciled in this  
42 state on the date of his or her death but who owned real property or  
43 tangible personal property situated in this state on the date of his or  
44 her death, only the fair market value of such real property or tangible  
45 personal property situated in this state shall be included in the gross  
46 estate for estate tax purposes for the purpose of determining the basis  
47 for costs pursuant to subdivision (1) of this subsection.

48 [(b)] (c) For estates in which proceedings were commenced on or  
49 after April 1, 1998, and prior to July 1, 2009, costs shall be computed as  
50 follows:

51 (1) The basis for costs shall be (A) the gross estate for succession tax  
52 purposes, as provided in section 12-349, the inventory, including all  
53 supplements thereto, the Connecticut taxable estate, as defined in  
54 section 12-391, or the gross estate for estate tax purposes, as provided  
55 in chapters 217 and 218, whichever is greater, plus (B) all damages  
56 recovered for injuries resulting in death, minus any hospital and  
57 medical expenses for treatment of such injuries resulting in death  
58 minus any hospital and medical expenses for treatment of such injuries  
59 that are not reimbursable by medical insurance, and minus the  
60 attorney's fees and other costs and expenses of recovering such  
61 damages. Any portion of the basis for costs that is determined by  
62 property passing to the surviving spouse shall be reduced by fifty per  
63 cent. Except as provided in subdivision (3) of this subsection, in no  
64 case shall the minimum cost be less than twenty-five dollars.

65 (2) Except as provided in subdivisions (3) and (4) of this subsection,

66 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

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

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

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

79 (1) The basis for costs shall be: (A) The gross estate for succession  
 80 tax purposes, as provided in section 12-349, or the inventory, including  
 81 all supplements thereto, whichever is greater, plus (B) all damages  
 82 recovered for injuries resulting in death, minus any hospital and  
 83 medical expenses for treatment of such injuries that are not  
 84 reimbursable by medical insurance, and minus the attorney's fees and  
 85 other costs and expenses of recovering such damages. Any portion of

86 the basis for costs that is determined by property passing to the  
 87 surviving spouse shall be reduced by fifty per cent. Except as provided  
 88 in subdivision (3) of this subsection, in no case shall the minimum cost  
 89 be less than ten dollars.

90 (2) Except as provided in subdivision (3) of this subsection, costs  
 91 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

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

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

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

105 (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

106 [(e)] (f) For estates in which proceedings were commenced prior to  
 107 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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	45a-107

**JUD**      *Joint Favorable*

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:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Probate Court	PCAF - Revenue Loss	Less than \$200,000	Less than \$200,000

Note: PCAF=Probate Court Administration Fund

**Municipal Impact:** None

**Explanation**

The bill excludes out-of-state property for the purposes of calculating estate settlements in the case of both residents and non-residents. This is anticipated to result in a revenue loss of no more than \$200,000 to the Probate Court Administration Fund (PCAF). 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 PCAF is projected to run a deficit of \$3.9 million in FY 10. It is estimated that this bill could increase that deficiency to no more than \$4.1 million.

**The Out Years**

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

**OLR Bill Analysis****SB 1005*****AN ACT CONCERNING THE ASSESSMENT OF CERTAIN  
PROPERTY IN THE CALCULATION OF PROBATE FEES.*****SUMMARY:**

Under current law, probate court fees in probate proceedings that began on or after April 1, 1998 are calculated based on 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.

For probate proceedings that begin on or after July 1, 2009, this bill:

1. excludes from the gross estate of decedents domiciled in Connecticut when they died, the fair market value of any real property or tangible personal property located outside Connecticut; and
2. includes in the gross estate of decedents not domiciled in Connecticut when they die, the fair market value of any real property and tangible personal property located inside of Connecticut.

EFFECTIVE DATE: July 1, 2009

**BACKGROUND*****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**

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (04/01/2009)