



Substitute House Bill No. 5408

Public Act No. 10-41

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

Section 1. Subsection (g) of section 45a-8a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

(g) (1) The Probate Court Administrator, with the advice of the participating probate judges of the districts located in the designated region, shall appoint an administrative judge for each regional children's probate court. The administrative judge shall be a probate judge at the time of such appointment. If the administrative judge ceases to serve as a probate judge after such appointment, the administrative judge may continue to serve as administrative judge at the pleasure of the Probate Court Administrator, but shall not have the powers granted to an elected probate judge and shall not hear and determine children's matters before such regional children's probate court. Subject to the approval of the Chief Court Administrator, the Probate Court Administrator shall fix the compensation of the administrative judge and such compensation shall be paid from the Probate Court Administration Fund. Such compensation, together with the administrative judge's compensation as a probate judge of the district to which he or she was elected, shall not exceed the

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compensation provided for a judge of probate under [subsection (k) of section 45a-92] subdivision (4) of subsection (a) of section 45a-95a. The administrative judge shall have such benefits as may inure to him or her as a probate judge and shall receive no additional benefits, except for compensation provided under this section.

(2) Each administrative judge shall be responsible for the management of cases, coordination of social services, staff, financial management and record keeping for the regional children's probate court for which the administrative judge is appointed. The administrative judge may, with the approval of the Probate Court Administrator, purchase furniture, office supplies, computers and other equipment and contract for services that the administrative judge may deem necessary or advisable for the expeditious conduct of the business of the regional children's probate court. Such expenses shall be paid for pursuant to section 45a-8. If a separate facility for a regional children's probate court is established pursuant to subdivision (2) of subsection (d) of this section, the participating town or city shall be reimbursed for such expenses from the Probate Court Administration Fund upon presentation of vouchers to the Probate Court Administrator.

Sec. 2. Section 45a-20 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

When a three-judge court is appointed by the Probate Court Administrator, [said] the administrator may pay from the fund authorized under section 45a-82 a per diem rate not to exceed two hundred fifty dollars for each judge that has been cited in, other than the judge in whose district the matter is being heard, provided such payment under this section, when combined with the compensation that the judge receives as a judge of probate of the district to which the judge was elected, does not exceed the compensation provided for a judge of probate under subdivision (4) of subsection (a) of section 45a-

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95a. Such payment shall be made in accordance with regulations promulgated by the Probate Court Administrator, [and shall be included as income to the receiving judge under section 45a-92.]

Sec. 3. Section 45a-79b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

(a) There shall be special assignment probate judges appointed by the Chief Justice of the Supreme Court, on nomination by the Probate Court Administrator, from among the judges of probate elected as provided in section 45a-18. A nominee of the Probate Court Administrator shall have demonstrated the special skill, experience or expertise necessary to serve as a special assignment probate judge. The Probate Court Administrator shall issue regulations pursuant to subdivision (1) of subsection (b) of section 45a-77 to establish requirements concerning the responsibilities of special assignment probate judges and the number, geographic distribution and expertise of such judges. A special assignment probate judge shall serve at the pleasure of the Chief Justice.

(b) Subject to the approval of the Chief Court Administrator, the Probate Court Administrator shall fix the compensation of special assignment probate judges appointed pursuant to this section. Such compensation shall, on the order of the Probate Court Administrator, be paid from the Probate Court Administration Fund established under section 45a-82. Such compensation, including compensation that a special assignment probate judge receives as a judge of probate of the district to which [he or she] the judge was elected, shall not exceed the compensation provided for a judge of probate under [subsection (k) of section 45a-92] subdivision (4) of subsection (a) of section 45a-95a. A special assignment probate judge shall have such benefits as may inure to him or her as a judge of probate and shall receive no additional benefits, except compensation provided under this subsection.

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Sec. 4. Section 45a-44 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

(a) Each employee shall contribute to the fund three and three-quarters per cent of that portion of [such] the employee's pay from which contributions are not to be deducted under the Federal Old Age and Survivors Insurance System as provided for in sections 7-452 to 7-459, inclusive, and one per cent of that portion of pay from which contributions are to be deducted. [Contributions are to be deducted by the employing court of probate and forwarded] The Probate Court Administrator shall deduct the employee's contributions from the employee's pay and shall forward such contributions to the Retirement Commission to be credited to the retirement fund on the employee's account. [, in four payments, payable on or before the last day of March, June, September and December of the applicable year. Any retirement contributions not paid within thirty days of such date shall incur simple interest at the rate of twenty per cent per annum.]

(b) (1) Any employee who leaves the employment of the court before becoming eligible for retirement may, on request to the Retirement Commission, withdraw the total of all contributions made by [him] the employee, without interest, provided, if [he] the employee makes no such request within ten years after leaving, [his] the employee's contributions shall revert to the fund.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if such employee's departure from probate service or withdrawal of contributions is on or after October 1, 1986, the withdrawal of contributions shall include interest credited from the later of (A) January 1, 1986, or (B) the first day of the calendar year following the date of actual contribution, to the first day of the calendar year coincident with or preceding the date the employee leaves probate service. Such interest shall be credited at the rate of five per cent per year. In addition, for the partial calendar year during

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which the employee leaves probate service or withdraws contributions, provided such date is after January 1, 1986, interest shall be credited at the rate of five-twelfths of one per cent multiplied by the full number of months completed during such calendar year, such interest rate to be applied to the value of contributions, including any prior interest credits, as of the first day of such calendar year.

(3) Any employee who withdraws [his] the employee's contributions from the fund and is subsequently reinstated shall not receive credited service for such prior employment in the computation of any benefit with respect to [him] the employee under the retirement plan unless the withdrawn contributions have been repaid with interest at a rate to be determined by the commission. Any employee who was ineligible for retirement benefits at the time of [his] the employee's employment and who has not made contributions under this section, who becomes eligible, or whose spouse becomes eligible, for any benefit under the retirement plan, shall receive credited service for any employment, provided such employee makes such contributions with interest at a rate to be determined by the commission.

Sec. 5. Section 45a-45 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

(a) Each judge of probate shall contribute to the fund three and three-quarters per cent of that portion of the judge's annual compensation with respect to which contributions are not made to the Federal Old Age and Survivors System as provided for in sections 7-452 to 7-459, inclusive, and one per cent of that portion from which such contributions are made. [Contributions are to be forwarded by the judge of probate] The Probate Court Administrator shall deduct the judge's contributions from the judge's compensation and shall forward such contributions to the Retirement Commission to be credited to the retirement fund on the judge's account.

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[(b) Retirement contributions to the fund shall be made in four installments payable on or before the last day of March, June, September and December of the applicable year, and each payment shall approximate as closely as possible one-fourth of the estimated annual contribution based upon the estimated annual net income of the office, provided, if the amount to be forwarded is less than one hundred dollars, remittances shall be made in one payment on or before December thirty-first of the applicable year.

(c) When the actual net income for a particular year becomes known, and in no event later than March first of the following year, the probate judge shall add to his next payment the amount of any deficiency, or subtract from his next payment the amount of any excess contributions for said year. If a judge has no net income in any particular year, the Probate Court Administrator shall report accordingly to the Retirement Commission. Any retirement contributions not paid within thirty days of the time prescribed in subsection (b) or this subsection shall incur simple interest at the rate of twenty per cent per annum.]

[(d)] (b) (1) Any judge [leaving] who leaves office before becoming eligible for a retirement allowance may, on request to the Retirement Commission, withdraw the total of all contributions made by [him] the judge, without interest, provided, if [he] the judge makes no such request within ten years after leaving office, [his] the judge's contributions shall revert to the fund.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if such judge's departure from office or withdrawal of contributions is on or after October 1, 1986, the withdrawal of contributions shall include interest credited from the later of (A) January 1, 1986, or (B) the first day of the calendar year following the date of actual contribution, to the first day of the calendar year coincident with or preceding the date the judge leaves office. Such

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interest shall be credited at the rate of five per cent per year. In addition, for the partial calendar year during which the judge leaves office or withdraws contributions, provided such date is after January 1, 1986, interest shall be credited at the rate of five-twelfths of one per cent multiplied by the full number of months completed during such calendar year, such interest rate to be applied to the value of contributions, including any prior interest credits, as of the first day of such calendar year.

(3) Any judge who withdraws [his] the judge's contributions from the fund and is subsequently reinstated shall not receive credited service for such prior time in office in the computation of any benefit under the retirement plan unless the withdrawn contributions have been repaid with interest at a rate to be determined by the commission. Any judge who was ineligible for retirement benefits at the time he or she became a judge and who has not made contributions under this section, who becomes eligible, or whose spouse becomes eligible, for any benefit under the retirement plan, shall receive credited service for any time in office, provided such judge makes such contributions with interest at a rate to be determined by the commission.

Sec. 6. Section 45a-74 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a Probate Court Administrator who shall be appointed from among the judges of the several courts of probate by the Chief Justice of the Supreme Court to serve at his pleasure. If the Probate Court Administrator is unable by reason of sickness, absence or other disability to perform the duties of his office, or if there is a vacancy in the office of Probate Court Administrator, the Chief Justice shall designate another judge of a court of probate to act in his stead until he resumes his duties or until a new Probate Court Administrator is appointed.

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(b) The Probate Court Administrator shall devote full time to the duties of his office except that he may serve as a judge of probate but shall not engage in the private practice of law. Any Probate Court Administrator who continues to serve as a judge of probate shall not receive compensation as a judge of probate or benefits that would ordinarily inure to him as a judge of probate while he is serving as Probate Court Administrator. Any Probate Court Administrator who ceases to serve as a judge of probate may continue to serve as Probate Court Administrator at the pleasure of the Chief Justice.

Sec. 7. Section 45a-92 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Each person who is a judge of probate at any time during any calendar year shall file with the Probate Court Administrator on or before April first of the succeeding year a statement signed under penalty of false statement showing the actual gross receipts and itemized costs of his or her office and the net income for each such calendar year. If such person ceases to hold office, he or she shall also file with the Probate Court Administrator, on or before April first of the second and third years next following, a statement signed under penalty of false statement showing his or her net income from his or her former office for the first and second calendar years next following the calendar year in which he or she ceased to hold office. At the time of filing, each such person shall pay to the State Treasurer as hereinafter provided the sum required by this section, less sums previously paid to the State Treasurer on account. Payment shall be credited by the State Treasurer to the fund established by section 45a-82. The requirement to file a statement under this subsection shall not apply with respect to any calendar year beginning on or after January 1, 2011.

(b) The personal representative of each person who holds the office

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of judge of probate, at any time during any calendar year, and dies while in office, or within twenty-four months after ceasing to hold office, shall file with the Probate Court Administrator, on or before March first next following such death, a statement signed under penalty of false statement showing the actual gross receipts and itemized costs of the decedent's office for the preceding calendar year and the decedent's net income from that office for such calendar year. The personal representative shall file with the Probate Court Administrator on or before March first of the second year following said death a statement signed under penalty of false statement showing the net income to the decedent's estate from such office for the preceding calendar year. The requirement to file a statement under this subsection shall not apply with respect to any calendar year beginning on or after January 1, 2011.

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

First 20% of the compensation assessment rate of a high volume court	\$1 nominal
Next 6.67%	5%
Next 6.66%	10%
Next 6.67%	15%
Next 6.67%	25%
Next 6.66%	35%

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Next 13.34%	50%
Next 33.33%	75%
Next 33.67%	80%
Next 66.67%	85%
Next 133.33%	95%

Excess over 333.67%, up to maximum amount computed at 97.5% by the Probate Court Administrator

All over the maximum amount computed at 100% by the Probate Court Administrator.

As used in this subsection, "maximum amount" means the amount of annual net income from such office which, when applying the percentage payments set forth above, shall result in the judge of probate retaining as net compensation, after the payment of the above amounts, no more than the product resulting from the multiplication of seventy-two dollars by the annual weighted-workload of the court, as defined in regulations issued by the Probate Court Administrator pursuant to subdivision (1) of subsection (b) of section 45a-77, but not to exceed the compensation of a high volume court as set forth in subsection (k) of this section, provided this limitation shall not apply to those courts described in subsection (k) of this section. Such payment shall be deemed to be a necessary expense of such office, but shall not be deductible from the gross income for the purpose of determining net income of such office under this section. Notwithstanding the provisions of this subsection, the annual minimum compensation of a judge of probate shall be no less than the product resulting from the multiplication of fifteen dollars by the annual weighted-workload of the court, as defined in regulations issued by the Probate Court Administrator pursuant to subdivision (1) of subsection (b) of section 45a-77, or no less than the judge's average compensation for the three-year period from January 1, 1996, to December 31, 1998, but, in no event shall that minimum compensation exceed that provided

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pursuant to subsection (k) of this section.

(d) (1) Any judge of probate who is the Probate Court Administrator shall pay to the State Treasurer, to be credited to said fund, one hundred per cent of the annual net income from his office during the period of time he serves as Probate Court Administrator. (2) For the purposes of this assessment, fees received after but earned before his appointment as Probate Court Administrator shall be subject to the assessment set forth in the table in subsection (c) of this section. Fees received after such judge of probate ceases to be the Probate Court Administrator but earned during his term as Probate Court Administrator shall be paid in full to the State Treasurer after the deduction of the expenses of his office. (3) The books and records of any judge of probate acting as Probate Court Administrator shall be audited by the Auditors of Public Accounts at the beginning of his term as Probate Court Administrator and thereafter at least annually during his term as Probate Court Administrator and upon completion of his term as Probate Court Administrator or as judge of probate whichever occurs first. (4) A judge of probate who is Probate Court Administrator shall make no expenditure in his court for salaries, equipment, or any other expenditure exceeding the sum of one hundred dollars in the aggregate, annually, without first having obtained the approval of the Chief Court Administrator.

(e) (1) On or before January thirty-first of each year, each person required to make payment under this section shall estimate such annual net income and shall advise the Probate Court Administrator thereof, upon such forms and pursuant to such regulations as said administrator shall promulgate. (2) Each person who takes office as a judge of probate after February first of any calendar year, as the result of death, retirement, resignation or removal of the immediately previous incumbent of that office, shall file his estimate of annual net income with the Probate Court Administrator and shall make the

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necessary payment to the State Treasurer in accordance therewith not later than sixty days after taking office. (3) The requirement to estimate such annual net income and advise the Probate Court Administrator thereof under subdivision (1) of this subsection, and the requirement to file an estimate with the Probate Court Administrator under subdivision (2) of this subsection, shall not apply with respect to any calendar year beginning on or after January 1, 2011.

(f) If, based upon such estimate, the amount payable shall be less than one hundred dollars, the payment thereof shall be made in one payment on or before December thirty-first of the applicable year. Otherwise, the amount payable shall be made in four substantially equal installments payable on or before the last day of March, June, September and December of the applicable year, except that in the case of an estimate filed pursuant to subdivision (2) of subsection (e) of this section, the amount payable under such estimate shall be made in substantially equal installments on such installment payment dates next following the timely filing of such estimate in such year. The estimated payment may be amended and changed at any time during the year in which it is payable by increasing or decreasing the amount. The amount of such increase or decrease shall be paid for or adjusted in the installment or payment due at the time the estimated assessment is next payable after such amendment. The Probate Court Administrator may issue regulations pursuant to subdivision (1) of subsection (b) of section 45a-77 to [carry out the intent of] implement this subsection.

(g) Upon the completion of each calendar year, and in any event on or before the first day of April of the succeeding calendar year, each person required to make payment under this section shall make a report signed under penalty of false statement to the Probate Court Administrator, upon forms prescribed by and subject to regulations promulgated by the administrator, of the following: (1) The gross

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income received by virtue of such office; (2) actual expenses incurred in connection with the office; (3) the net income of such office prior to the payment of the assessment installments hereinbefore provided; (4) the amount paid during the preceding calendar year to the State Treasurer on account of the foregoing estimate; and (5) the amount of the difference, if any, between the amount so paid and the amount actually due. [This] Such report shall be open to public inspection. The requirement to make a report under this subsection shall not apply with respect to any calendar year beginning on or after January 1, 2011.

(h) If the amount already paid was less than the amount due, such person shall, on or before March first of the succeeding calendar year, pay to the State Treasurer the entire deficiency. If the amount already paid was more than the amount due, such person shall either, at [his] such person's election and pursuant to regulations promulgated by the State Treasurer, be entitled to a refund of such excess payment to be paid from the fund provided by section 45a-82, or a credit in the amount of the overpayment to be charged against the future obligations of such person to said fund.

(i) (1) If any estimated quarterly payments required to be paid pursuant to subsection (f) of this section are less than one-fourth of seventy per cent of the total assessment due for that year or less than one-fourth of ninety-five per cent of the assessment paid for the prior year, such person shall be obligated to pay to such fund a penalty of ten per cent of the amount of the deficiency, except that the Probate Court Administrator may waive such penalty for cause in accordance with regulations issued pursuant to subdivision (1) of subsection (b) of section 45a-77. Any such penalty shall become payable upon demand by the Probate Court Administrator, and be due within thirty days after such demand, in accordance with regulations issued by the Probate Court Administrator, and shall be subject to interest under subdivision (2) of this subsection in the event of default in such

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payment. (2) Any payments required under subsection (f) or (h) of this section which are not paid at the applicable times prescribed in said subsections, and any penalty payment required under subdivision (1) of this subsection which is not timely paid, shall incur simple interest at the rate applicable under section 12-376 for delinquent payment of succession and transfer taxes where no extension has been granted, to be payable to the State Treasurer and to be added to the [fund] Probate Court Administration Fund established under section 45a-82. Any alleged delinquency of a judge of probate in making payments as required under this section shall be referred by the State Treasurer to the Attorney General for such action as the Attorney General deems necessary.

(j) (1) As used in this subsection and subsections (c) to (i), inclusive, of this section, for any calendar year, the term "actual expenses incurred in connection therewith" may include as an allowable deduction the amount of any net operating loss for a prior calendar year as provided in this section. (2) The term "net operating loss" means the excess of itemized costs and expenses of office allowed by this section over the gross income. A net operating loss may be deducted in the calendar year following the year in which the net operating loss occurred, but (A) if the net income of such subsequent year is not sufficient to pay all of such net operating loss, then the balance of such net operating loss may be deducted in the second calendar year following such net operating loss; and (B) if the net income of such second calendar year is not sufficient to pay all of the remaining net operating loss, then the balance of such net operating loss may be deducted in the third calendar year following such net operating loss. In no event shall any such net operating loss or part thereof be deductible for any report beyond the third calendar year in which it occurred.

(k) Notwithstanding the provisions of subsection (c) of this section

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concerning percentage payments, a judge of probate who is the judge in a court of probate designated as a high volume court shall be permitted to retain as net compensation, before the payment of any amounts due under sections 45a-34 to 45a-54, inclusive, and section 45a-75, the sum which shall be the greater of (1) the net compensation resulting from the application of the percentages in subsection (c) of this section or (2) the compensation earned after payment of actual expenses of the office not to exceed seventy-five per cent of the amount of the salary of a Superior Court judge as determined in accordance with subsection (a) of section 51-47 as determined on July first of the calendar year for which the assessments are being paid pursuant to this section. If a judge of probate of a high volume court leaves office during a calendar year, or if a judge of probate of a high volume court assumes office and serves during a portion of the calendar year, the minimum net compensation provided in this section shall be prorated in accordance with the number of days served during the calendar year as the numerator, and three hundred [and] sixty-five as the denominator. [provided if the business of the court in a calendar year does not produce sufficient income with which to pay the minimum net compensation, then payment for that year shall not be extended to subsequent calendar years.] For the purposes of this subsection, "high volume court" [shall mean] means a court of probate which serves a district having an estimated population of seventy thousand or more persons as reported in the State Register and Manual for the calendar year immediately preceding (A) the year for which the judge was elected, (B) the year in which such judge was elected, or (C) any year of the term of office of such judge. The amount of assessment payable to the State Treasurer under this section shall be reduced by the amount necessary to provide to the judge the minimum compensation to which such judge is entitled under this section, and the estimates of annual net income required in subsections (e) and (f) of this section may be reduced accordingly. Minimum compensation as provided [herein] in this section shall only be payable if all ordinary and necessary

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expenses of the court are paid.

(l) This section applies only to income received by the courts of probate prior to January 5, 2011, except that payments made under section 45a-93, as amended by this act, to a judge who leaves office or dies while in office shall be subject to the assessment under subsection (c) of this section regardless of when such payments are made.

(m) Notwithstanding the provisions of this section, the compensation of each probate judge in office during the period from January 1, 2011 to January 4, 2011, inclusive, shall be calculated by multiplying the judge's allowable compensation for calendar year 2010, as determined under the provisions of this section, by a fraction with the number of days served during such period as the numerator, and three hundred sixty-five as the denominator.

Sec. 8. Section 45a-93 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) If a judge of probate leaves office or dies while in office, the successor to such judge in said office shall pay to such judge or the personal representative of a deceased judge a sum representing the accounts receivable for payments due the court in accordance with section [45a-105] 45a-107, as of the date of separation from said office or the date of death in the case of a judge who dies while holding such office. Determination of the basis for such accounts receivable including computation for work in process shall be made in accordance with regulations issued by the Probate Court Administrator. Any payments made to such judge or the personal representative of a deceased judge shall be subject to the provisions of section 45a-92, as amended by this act, and no such payments shall be made unless and until the accounts receivable are collected, [by the successor judge] and no such payments shall be made [except within

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the time for filing a statement signed under penalty of false statement showing the actual gross receipts of the itemized costs of the office in accordance with section 45a-92. There] after December thirty-first of the second calendar year following the year in which the judge leaves office or dies while in office. Prior to January 5, 2011, there may be deducted from any such amounts by a successor judge the cost of collection thereof, and any expenses directly attributable to the outgoing judge's or deceased judge's term of office paid by the successor judge.

(2) On and after January 5, 2011, such payments shall include only a sum representing accounts receivable for costs, charges and fees assessed on the estates of decedents arising in a town within the judge's district as such district existed on January 4, 2011. Such payments shall be made in annual installments, payable on or before April first of the year immediately following the year in which such accounts receivable are collected. There shall be deducted from any such payment (A) any assessment, penalty or interest due pursuant to section 45a-92, as amended by this act, and applicable regulations, (B) the cost of collection of such accounts receivable, and (C) any expenses directly attributable to the outgoing judge's or deceased judge's term of office.

(3) In no event shall any such payments exceed the maximums allowable under the provisions of section 45a-92, as amended by this act, in any one calendar year, and in the aggregate in no event shall the total payments payable under this section exceed one hundred per cent of the average final compensation for such judge as defined in subdivision (1) of section 45a-34, except that such allowable maximum payment shall not include any amounts of money due and payable to the judge at the time of separation from the court or at the time of such judge's death for amounts advanced by such judge to the court for operating expenses and not previously repaid, which amounts may be

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paid to such judge or personal representative upon receipt of satisfactory proof of the existence of balances due.

(b) (1) Except as provided in subdivision (2) of this subsection, the provisions of subsection (a) of this section shall apply to any judge in office on or before January 4, 2011.

(2) The provisions of subsection (a) of this section shall not apply to a judge who is [first] elected to a term that begins on or after January 5, 2011. [, or who resumes office after a break in service on or after January 5, 2011.]

(c) On and after January 5, 2011, any payments due a judge under subsection (a) of this section shall be paid from the Probate Court Administration Fund.

Approved May 18, 2010