



**Substitute House Bill No. 5407**

**Public Act No. 10-184**

**AN ACT CONCERNING PROBATE FEES AND THE RECORDING OF PROBATE PROCEEDINGS.**

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

Section 1. Section 45a-107 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

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

(b) For estates in which proceedings were commenced on or after January 1, 2011, costs shall be computed as follows:

(1) The basis for costs shall be (A) the greatest of (i) the gross estate for succession tax purposes, as provided in section 12-349, (ii) the inventory, including all supplements thereto, (iii) the Connecticut taxable estate, as defined in section 12-391, or (iv) the gross estate for estate tax purposes, as provided in chapters 217 and 218, except as provided in subdivisions (4) and (5) of this subsection, plus (B) all damages recovered for injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries resulting in death, minus any hospital and medical expenses for treatment of such injuries that are not reimbursable by medical insurance, and minus the

***Substitute House Bill No. 5407***

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

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

<u>Basis for Computation</u>	<u>Total Cost</u>
<u>Of Costs</u>	
<u>0 to \$500</u>	<u>\$25</u>
<u>\$501 to \$1,000</u>	<u>\$50</u>
<u>\$1,000 to \$10,000</u>	<u>\$50, plus 1% of all</u> <u>in excess of \$1,000</u>
<u>\$10,000 to \$500,000</u>	<u>\$150, plus .35% of all</u> <u>in excess of \$10,000</u>
<u>\$500,000 to \$4,754,000</u>	<u>\$1,865, plus .25% of all</u> <u>in excess of \$500,000</u>
<u>\$4,754,000 and over</u>	<u>\$12,500</u>

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

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

(5) In the case of a deceased person who was not domiciled in this

**Substitute House Bill No. 5407**

state on the date of his or her death but who owned real property or tangible personal property situated in this state on the date of his or her death, only the fair market value of such real property or tangible personal property situated in this state shall be included in the basis for costs pursuant to subdivision (1) of this subsection.

[(b)] (c) For estates in which proceedings were commenced on or after April 1, 1998, and prior to January 1, 2011, costs shall be computed as follows:

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

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

Basis for Computation Of Costs	Total Cost
0 to \$500	\$25
\$501 to \$1,000	\$50
\$1,000 to \$10,000	\$50, plus 1% of all in excess of \$1,000

**Substitute House Bill No. 5407**

\$10,000 to \$500,000	\$150, plus .35% of all in excess of \$10,000
\$500,000 to \$4,754,000	\$1,865, plus .25% of all in excess of \$500,000
\$4,754,000 and over	\$12,500

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

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

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

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

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

**Substitute House Bill No. 5407**

shall be assessed in accordance with the following table:

Basis for Computation Of Costs	Total Cost
0 to \$1,000	\$10.00
\$1,000 to \$10,000	\$10, plus 1% of all in excess of \$1,000
\$10,000 to \$500,000	\$100, plus .30% of all in excess of \$10,000
\$500,000 to \$4,715,000	\$1,570, plus .20% of all in excess of \$500,000
\$4,715,000 and over	\$10,000

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

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

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

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

Basis for Computation Of Costs	Total Cost
0 to \$1,000	\$10.00

**Substitute House Bill No. 5407**

\$1,000 to \$10,000	\$10, plus 1% of all in excess of \$1,000
\$10,000 to \$100,000	\$100, plus .30% of all in excess of \$10,000
\$100,000 to \$200,000	\$370, plus .25% of all in excess of \$100,000
\$200,000 to \$500,000	\$620, plus .2% of all in excess of \$200,000
\$500,000 to \$1,000,000	\$1,220, plus .15% of all in excess of \$500,000
\$1,000,000 to \$5,000,000	\$1,970, plus .125% of all in excess of \$1,000,000
\$5,000,000 and over	\$6,970, plus .1% of all in excess of \$5,000,000

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

With respect to any estate in which any proceedings were commenced or succession tax documents filed:

Prior to January 1, 1968

Prior to July 1, 1969, but on or after January 1, 1968

Prior to July 1, 1978, but on or after July 1, 1969

Prior to July 1, 1983, but

Costs computed under:

Section 45-17 of the 1961 supplement to the general statutes

Section 45-17a of the 1967 supplement to the general statutes

Section 45-17a of the 1969 supplement to the general statutes

Section 45-17a of the

**Substitute House Bill No. 5407**

on or after July 1, 1978

general statutes,  
revised to  
January 1, 1983

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

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

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

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

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

(k) In no event shall any fee exceed ten thousand dollars for any estate in which proceedings were commenced prior to April 1, 1998,

**Substitute House Bill No. 5407**

and twelve thousand five hundred dollars for any estate in which proceedings were commenced on or after April 1, 1998.

(1) In the case of decedents who die on or after January 1, 2011:

(1) Any costs assessed under this section that are not paid within thirty days of the date of an invoice from the court of probate shall bear interest at the rate of one-half of one per cent per month or portion thereof until paid;

(2) If a tax return or a copy of a tax return required under subparagraph (C) of subdivision (3) of subsection (b) of section 12-392 is not filed with a court of probate by the due date for such return or copy under subdivision (1) of subsection (b) of section 12-392, or by the date an extension under subdivision (4) of subsection (b) of section 12-392 expires, the costs that would have been due under this section if such return or copy had been filed by such due date or expiration date shall bear interest at the rate of one-half of one per cent per month or portion thereof from the date that is thirty days after such due date or expiration date, whichever is later, until paid. If a return or copy is filed with a court of probate on or before such due date or expiration date, whichever is later, the costs assessed shall bear interest as provided in subdivision (1) of this subsection;

(3) A court of probate may extend the time for payment of any costs under this section, including interest, if it appears to the court that requiring payment by such due date or expiration date would cause undue hardship. No additional interest shall accrue during the period of such extension. A court of probate may not waive interest outside of any extension period;

(4) The interest requirements in subdivisions (1) and (2) of this subsection shall not apply if:

(A) The basis for costs for the estate does not exceed forty thousand



**Substitute House Bill No. 5407**

dollars; or

(B) The basis for costs for the estate does not exceed five hundred thousand dollars and any portion of the property included in the basis for costs passes to a surviving spouse.

Sec. 2. Section 45a-110 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The costs, fees, charges and expenses provided for in connection with proceedings under section 45a-107, as amended by this act, with respect to a decedent's estate shall be paid for by the executor or administrator, or if there is no such fiduciary, by the transferee filing the succession tax return under section 12-359 or a tax return under section 12-392.

(b) The costs, fees, charges and expenses provided for in connection with proceedings under section 45a-108, as amended by this act, with respect to an accounting shall be paid by the trustee, guardian, conservator or other fiduciary.

(c) In the case of any proceeding under sections 45a-106 to 45a-112, inclusive, as amended by this act, commenced on motion of the court such costs, fees, charges and expenses shall be paid by the party against whom such costs are assessed by the court.

(d) In all other cases, the petitioner shall pay the costs, fees, charges and expenses provided for by sections 45a-106 to 45a-112, inclusive, as amended by this act, unless otherwise provided by law.

Sec. 3. (NEW) (*Effective January 1, 2011*) Whenever a court determines that a refund is due an applicant, petitioner, moving party or other person for any costs, fees, charges or expenses incurred under the provisions of sections 45a-106 to 45a-112, inclusive, of the general statutes, as amended by this act, the Probate Court Administrator

**Substitute House Bill No. 5407**

shall, upon receipt of certification of such overpayment by the court of probate that issued the invoice for such costs, fees, charges or expenses, cause a refund of such overpayment to be issued from the Probate Court Administration Fund.

Sec. 4. (NEW) (*Effective January 1, 2011*) A person may pay any costs, fees, charges or expenses incurred under the provisions of sections 45a-106 to 45a-112, inclusive, of the general statutes, as amended by this act, by means of a credit card, and such person may be charged a service fee for any payment made by credit card. The service fee shall be determined by the Probate Court Administrator and shall not exceed any charge by the credit card issuer, including any discount rate. Payments by credit card shall be made at such time and under such conditions as the Probate Court Administrator may prescribe.

Sec. 5. Section 45a-106 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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

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

***Substitute House Bill No. 5407***

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

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

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

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

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

**Substitute House Bill No. 5407**

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

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

Sec. 6. Section 45a-108 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

If the book value or market value or receipts, whichever is larger, is:	Cost
Less than \$25,000	\$50.00
\$25,000 to \$375,000	.20% thereof
\$375,000 and over	\$750.00

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

(b) If more than one hearing is held in any matter under this section, an additional charge of twenty-five dollars shall be payable to the court by the moving party, or, in the discretion of the court, by any

**Substitute House Bill No. 5407**

interested party against whom the court shall assess such additional charge.

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

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

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

Sec. 7. (NEW) (*Effective October 1, 2010*) Whenever, in any court of probate, a recording of the proceedings is not required to be made pursuant to any other provision of statute, upon the written request of a party or a party's attorney, the judge of probate shall cause a recording to be made of the proceedings. A proceeding in which a recording has been made pursuant to this section shall not be deemed to be a hearing on the record for the purposes of section 45a-186a of the general statutes, or a matter heard on the record for the purposes of section 45a-186b of the general statutes. The cost of any copy or transcript of such recording shall be charged against the person requesting it. Any recording under this section shall be made and retained in a manner approved by the Probate Court Administrator.

Approved June 8, 2010