



General Assembly

February Session, 2010

Raised Bill No. 5407

LCO No. 1774

01774_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING 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 Section 45a-107 of the general statutes is repealed and the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, 2010*):

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, 2010, 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 (4) and (5) 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 subdivision (3) of this subsection, costs
 24 shall be assessed in accordance with the following table:

T1	<u>Basis for Computation</u>		<u>Total Cost</u>
T2	<u>Of Costs</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>

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

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

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

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

41 [(b)] (c) For estates in which proceedings were commenced on or
42 after April 1, 1998, and prior to July 1, 2010, costs shall be computed as
43 follows:

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

58 (2) Except as provided in subdivisions (3) and (4) of this subsection,
59 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

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

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

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

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

83 (2) Except as provided in subdivision (3) of this subsection, costs
84 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

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

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

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

98 (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

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

T50	With respect to any	Costs computed under:
T51	estate in which any	
T52	proceedings were	
T53	commenced or succession	
T54	tax documents filed:	
T55	Prior to January 1, 1968	Section 45-17 of the
T56		1961 supplement to
T57		the general statutes
T58	Prior to July 1, 1969, but	Section 45-17a of the
T59	on or after January 1, 1968	1967 supplement to
T60		the general statutes
T61	Prior to July 1, 1978, but	Section 45-17a of the
T62	on or after July 1, 1969	1969 supplement to
T63		the general statutes
T64	Prior to July 1, 1983, but	Section 45-17a of the
T65	on or after July 1, 1978	general statutes,
T66		revised to
T67		January 1, 1983

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

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

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

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

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

124 (k) In no event shall any fee exceed ten thousand dollars for any
125 estate in which proceedings were commenced prior to April 1, 1998,
126 and twelve thousand five hundred dollars for any estate in which
127 proceedings were commenced on or after April 1, 1998.

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

129 (1) Any costs assessed under this section that are not paid within
130 thirty days of the date of the invoice from the court of probate shall

131 bear interest at the rate of one-half of one per cent per month or
132 portion thereof until paid;

133 (2) If a tax return or a copy of a tax return required under
134 subparagraph (B) of subdivision (3) of subsection (b) of section 12-392
135 is not filed with a court of probate by the due date for such return or
136 copy under subdivision (1) of subsection (a) of section 12-392, the costs
137 that would have been due under this section if the return had been
138 filed shall bear interest at the rate of one-half of one per cent per month
139 or portion thereof from the date that is thirty days after such due date
140 until paid; and

141 (3) A court of probate may, for reasonable cause shown, extend the
142 time for payment of any costs, including interest, under this section.
143 No additional interest shall accrue during the period of such extension.
144 A court of probate may not waive interest outside of any extension
145 period.

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

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

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

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

161 against whom such costs are assessed by the court.

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

165 Sec. 3. (NEW) (*Effective January 1, 2011*) Whenever a court
166 determines that a refund is due an applicant, petitioner, moving party
167 or other person for any costs, fees, charges or expenses incurred under
168 the provisions of sections 45a-106 to 45a-112, inclusive, of the general
169 statutes, as amended by this act, the Probate Court Administrator
170 shall, upon receipt of certification of such overpayment by the court of
171 probate that issued the invoice for such costs, fees, charges or
172 expenses, cause a refund of such overpayment to be issued from the
173 Probate Court Administration Fund.

174 Sec. 4. (NEW) (*Effective January 1, 2011*) A person may pay any costs,
175 fees, charges or expenses incurred under the provisions of sections
176 45a-106 to 45a-112, inclusive, of the general statutes, as amended by
177 this act, by means of a credit card, and such person may be charged a
178 service fee for any payment made by credit card. The service fee shall
179 be determined by the Probate Court Administrator and shall not
180 exceed any charge by the credit card issuer, including any discount
181 rate. Payments by credit card shall be made at such time and under
182 such conditions as the Probate Court Administrator may prescribe.

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

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

189 (1) Except for such proceedings for which basic costs are specified in
190 subdivision (7) or (8) of this section or are otherwise specified or

191 exempted in section 45a-111 or elsewhere in the general statutes, there
192 shall be payable to the Court of Probate with respect to each
193 application, petition or motion filed with the court to commence a
194 matter before it, an entry fee of one hundred fifty dollars which shall
195 be paid by the person making the application, petition or motion.

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

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

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

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

223 matter hereunder.

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

227 [(7) (6) For proceedings brought under section 46b-30, the cost shall
228 be twenty-five dollars.

229 [(8) (7) For filing a will in the Probate Court, the cost shall be five
230 dollars. For filing any other document in the probate court under the
231 provisions of any statute if the court is not required to take any action,
232 the cost shall be twenty-five dollars, in addition to any applicable
233 recording charge. The cost shall be payable by the person filing such
234 document.

235 [(9) (8) A charge of fifty dollars plus the actual costs of rescheduling
236 the adjourned hearing shall be payable to the court by any party who
237 requests an adjournment of a scheduled hearing or whose failure to
238 appear necessitates an adjournment, provided the court, for cause
239 shown, may waive either the charge or the costs, or both.

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

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

T68	If the book value or market value or	Cost
T69	receipts, whichever is larger, is:	
T70	Less than \$25,000	\$50.00
T71	\$25,000 to \$375,000	.20% thereof
T72	\$375,000 and over	\$750.00

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

249 (b) If more than one hearing is held in any matter under this section,
250 an additional charge of twenty-five dollars shall be payable to the
251 court by the moving party, or, in the discretion of the court, by any
252 interested party against whom the court shall assess such additional
253 charge.

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	45a-107
Sec. 2	<i>from passage</i>	45a-110
Sec. 3	<i>January 1, 2011</i>	New section
Sec. 4	<i>January 1, 2011</i>	New section
Sec. 5	<i>from passage</i>	45a-106
Sec. 6	<i>from passage</i>	45a-108

Statement of Purpose:

To revise provisions concerning probate court fees and payment methods for such fees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]