

# Legal Assistance Resource Center

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## ❖ of Connecticut, Inc. ❖

363 Main Street, Suite 301 ❖ Hartford, Connecticut 06106  
(860) 616-4472 ❖ cell (860) 836-6355 ❖ RPodolsky@LARCC.org

### S.B. 52 -- Possessions of deceased tenants

Planning and Development Committee public hearing -- March 7, 2013

Testimony of Raphael L. Podolsky

**Recommended Committee action: JOINT FAVORABLE with minor amendment**

In 2001, the General Assembly adopted legislation to provide landlords with a "safe harbor" procedure for reclaiming an apartment if the occupant of the apartment dies. The underlying purpose of the statute, now codified at C.G.S. 47a-11d, was to maximize the likelihood that the occupant's property would get to his or her heirs. The statute created a procedure by which the landlord notifies the next of kin, if known, and files the notice and then an inventory with the probate court. If the next of kin do not respond and the probate court does not open an estate, the landlord does not need to bring an eviction but can instead have a marshal transfer the property to the town, which will store and auction the property, as in an eviction. The statute incorporated those procedures by cross-reference to C.G.S. 47a-42, which is part of the eviction statutes. It turns out, however, that because of the precise wording of 47a-42, it cannot be incorporated by cross-reference but must instead be spelled out. Due to this technical drafting glitch, the statute was read by the court clerks as requiring the landlord to bring an eviction even after going through the probate court-related procedure of C.G.S. 47a-11d. Although S.B. 52 may look lengthy (the "new" language in lines 70-112 is not truly new but largely repeats the language of the existing summary process statute), all it really does is correct the drafting error from 2001.

The bill is the product of a stakeholders' working group set up by the Planning and Development Committee after the 2012 legislative session. The group included representatives of tenants, landlords, marshals, court clerks, and the probate court, who agreed upon this solution. To clarify the 2001 language, S.B. 52 requires the probate court to provide the landlord with a certificate confirming compliance with the probate filing requirements of 47a-11d. That certificate will allow the housing court to open a file and issue an execution to the marshal so that the deceased tenant's property can be removed. The process otherwise remains the same as the prior process with three exceptions. First, it requires the landlord to include notification to any person designated by the occupant as an emergency contact and to include in the notice the phone number of the probate court. Second, the notice directs the next of kin to the probate court rather than to the landlord. Third, if the possessions are ultimately auctioned off, it escheats any surplus to the state.

**Suggested minor amendment:** *I suggest that the Committee make one minor amendment by inserting the phrase "the landlord or" in line 15 after the word "contact," so as to make clear that the family or emergency contact can also contact the landlord.*

This bill clears up the ambiguity unintentionally contained in the 2001 act and thus eliminates the problem that was brought to the General Assembly's attention.