

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

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

S.B. 1122 -- Possessions of deceased tenants

Judiciary Committee public hearing -- March
Testimony of Raphael L. Podolsky

Recommended Committee action: JOINT FAVORABLE

This bill corrects a technical drafting glitch in an obscure part of the eviction statutes designed to provide landlords with a “safe harbor” procedure for reclaiming an apartment if the sole occupant of the apartment dies. It was drafted by 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 my knowledge, there is no opposition to the bill. It passed the Senate unanimously in both 2013 and 2014 but each year died on the House Calendar in the end-of-the-session rush. Hopefully, this is the year that it will pass.

The underlying 2001 statute, codified as C.G.S. 47a-11d, is designed both to maximize the likelihood that the deceased occupant’s property will get to his or her heirs by involving the probate court and to give the landlord an alternative to an eviction action. 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 treat the process as the equivalent of a summary process judgment, upon which a marshal can execute, as in an eviction. C.G.S. 47a-11d incorporates 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 drafting glitch, the statute was read by the housing 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. 1122 may look lengthy, all it really does is correct the drafting error from 2001. The “new” language in lines 70-112 is not truly new but largely repeats the language of the existing summary process statute.

To clarify the 2001 language, S.B. 1122 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. Third, if the possessions are ultimately auctioned off, it escheats any surplus to the state. This should resolve the minor issue that generated the need for the bill.