



Senate

General Assembly

File No. 314

February Session, 2016

Senate Bill No. 249

Senate, March 30, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS.

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

1 Section 1. Section 47a-11d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) If the sole occupant of a dwelling unit subject to a monthly lease
4 or a lease for a term has died and the landlord has complied with any
5 provisions of any such lease permitting termination upon the death of
6 the occupant, the landlord may elect to act in accordance with the
7 provisions of this section. If the landlord elects to act in accordance
8 with the provisions of this section, such landlord shall send notice to
9 the emergency contact designated by the occupant, if any, and to the
10 next of kin of such occupant, if known, [of such occupant] at the last-
11 known address both by regular mail, postage prepaid, and by certified
12 mail, return receipt requested, stating that (1) the occupant has died,
13 (2) the landlord intends to remove any possessions and personal
14 effects remaining in the premises and to rerent the premises, [and (3) if

15 the next of kin does not reclaim] (3) the emergency contact or next of
16 kin should immediately contact the landlord or Probate Court for the
17 district in which the dwelling unit is located for information as to how
18 to reclaim such possessions and personal effects, and (4) if such
19 possessions and personal effects are not reclaimed within sixty days
20 after the date of such notice, such possessions and personal effects will
21 be disposed of as permitted by this section. The notice shall be in clear
22 and simple language and shall include a telephone number and a
23 mailing address at which the landlord can be contacted and the
24 telephone number of such Probate Court.

25 (b) (1) If notice is sent by the landlord [to the next of kin, if known,]
26 as provided in subsection (a) of this section, or (2) if the occupant did
27 not designate an emergency contact or the landlord does not know any
28 next of kin of the occupant, the landlord shall file an affidavit with the
29 [probate court] Probate Court having jurisdiction concerning the
30 possessions and personal effects of the deceased occupant. Such
31 affidavit shall include the name and address of the deceased occupant,
32 the date of death, the terms of the lease, and the names and addresses
33 of the emergency contact, if any, and the next of kin, if known.

34 (c) If the landlord acts in accordance with the provisions of this
35 section, the landlord shall not be required to serve a notice to quit as
36 provided in section 47a-23 and bring a summary process action as
37 provided in section 47a-23a to obtain possession or occupancy of the
38 dwelling unit. Nothing in this section shall relieve a landlord from
39 complying with the provisions of sections 47a-1 to 47a-20a, inclusive,
40 and sections 47a-23 to 47a-42, inclusive, if the landlord knows, or
41 reasonably should know, that the dwelling unit has not been
42 abandoned.

43 (d) On or after thirty days after the date of the filing of the affidavit
44 pursuant to subsection (b) of this section, the landlord shall inventory
45 any possessions and personal effects of the deceased occupant in the
46 premises and shall file a copy of such inventory with the [court of
47 probate] Probate Court under subsection (b) of this section. The

48 landlord may not remove [them] such possessions and personal effects
49 until fifteen days after such inventory is [taken] filed. Thereafter, the
50 landlord may remove and securely store such possessions and
51 personal effects for an additional fifteen days. [The next of kin may
52 reclaim such possessions and personal effects from the landlord within
53 such sixty-day period. If the next of kin does not reclaim] If such
54 possessions and personal effects are not reclaimed by the end of such
55 sixty-day period and the landlord has complied with the provisions of
56 this section, the landlord may [dispose of them in accordance with
57 section 47a-42.] obtain from the Probate Court having jurisdiction a
58 certificate indicating that the landlord has filed an inventory in the
59 court pursuant to this subsection and that sixty days have elapsed
60 since the landlord filed the affidavit pursuant to subsection (b) of this
61 section. The landlord may file such certificate and an application, in
62 such form as the Chief Court Administrator prescribes, in the superior
63 court having jurisdiction over the premises of the deceased occupant.
64 There shall be no fee for such filing, and the clerk of such court shall
65 open a summary process file setting forth that the right to occupy has
66 terminated due to the death of the named occupant. Such certificate
67 shall be deemed a judgment of the Superior Court pursuant to chapter
68 832 and have the same effect and be subject to the same procedures,
69 defenses and proceedings for reopening, vacating or staying a
70 judgment of the Superior Court. After the clerk opens the summary
71 process file and sends a notice of judgment, and after the appropriate
72 stay of execution expires, the landlord may obtain an execution and a
73 state marshal may remove the possessions and personal effects of such
74 deceased occupant pursuant to such execution and deliver such
75 possessions to a place of storage designated for such purposes by the
76 chief executive officer of the municipality in which the dwelling unit is
77 located.

78 (e) Before the possessions and personal effects of a deceased
79 occupant are removed pursuant to an execution issued under
80 subsection (d) of this section, the state marshal charged with carrying
81 out such removal shall give the chief executive officer of the
82 municipality in which the dwelling unit is located (1) twenty-four-

83 hours' written notice of the removal, stating the date, time and location
84 of such removal as well as a general description, if known, of the types
85 and amount of possessions and personal effects to be removed from
86 the premises and delivered to the designated place of storage, and (2) a
87 copy of the inventory prepared by the landlord pursuant to subsection
88 (d) of this section, annotated to indicate any items that have been
89 reclaimed. Before giving such notice to the chief executive officer of the
90 municipality, the state marshal shall use reasonable efforts to locate
91 and notify the occupant's emergency contact, if any, and the next of
92 kin, if known, of the date, time and location of such removal and of the
93 possibility of a sale pursuant to this subsection. At any time prior to
94 the actual sale of such possessions and personal effects, an executor or
95 administrator appointed by the Probate Court or an individual
96 designated by such court in accordance with section 45a-273 may
97 reclaim such possessions and personal effects upon payment to the
98 chief executive officer of the expense of storage. If such possessions
99 and personal effects are not reclaimed within fifteen days after such
100 removal and storage, the chief executive officer shall sell the same at
101 public auction after using reasonable efforts to locate and notify the
102 occupant's emergency contact or the next of kin, if known, of such sale
103 and after posting notice of such sale for one week (A) on the public
104 signpost nearest to the premises from which the possessions and
105 personal effects were removed, or (B) at some exterior place near the
106 office of the town clerk. The proceeds of the sale shall be applied to a
107 reasonable charge by the municipality for the storage of such
108 possessions and personal effects. Any remaining proceeds shall be
109 turned over to the estate of the deceased occupant or, if no estate
110 proceedings are commenced within thirty days after such sale, the
111 chief executive officer shall turn over the net proceeds of the sale to the
112 State Treasurer, who shall treat such proceeds as escheated property
113 pursuant to part III of chapter 32.

114 [(e)] (f) If an application for probate of a will or letters of
115 administration is filed with the [court of probate] Probate Court
116 having jurisdiction concerning the possessions and personal effects of
117 the deceased occupant within fifty-five days of the filing of the

118 affidavit of the landlord as provided in subsection (b) of this section,
 119 the [probate court] Probate Court shall immediately notify the
 120 landlord of such filing and any action of the landlord pursuant to the
 121 provisions of this section shall cease.

122 [(f)] (g) No action shall be brought under section 47a-43 against a
 123 landlord who takes action in accordance with the provisions of this
 124 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	47a-11d

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill modifies certain rental property procedures and does not result in a fiscal impact to the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 249*****AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS.*****SUMMARY:**

This bill modifies the process by which a landlord may regain possession of a rental unit, without an eviction action, after the death of the sole tenant who lived there. The modifications include (1) providing notice to the tenant's emergency contact and his or her next of kin, if known, and (2) a process for removing the tenant's belongings without a judgment.

Under the bill, a landlord who follows this removal process is protected against an action for entering a rental unit without consent. By law, when the sole tenant in a rental unit dies, and the landlord has complied with any provisions in a lease permitting termination upon the tenant's death, the landlord may take specific actions to remove the deceased tenant's belongings and reclaim possession of the unit. The bill extends this protection to landlords who follow its process when there are no such provisions in the lease.

It also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2016

NOTICE OF INTENT TO REMOVE POSSESSIONS

By law, landlords must send notice to the last-known address of the deceased tenant's next of kin, if known. The bill requires the landlord to also send a notice to the last-known address of the tenant's emergency contact, if one is designated. As under current law, the notice must (1) be sent by regular and certified mail, return receipt requested; (2) be in clear and simple language; and (3) include the

landlord's telephone number and address.

Under current law, the notice must state that the (1) tenant has died, (2) landlord intends to remove the deceased tenant's belongings from the rental unit and re-rent the premises, and (3) landlord will dispose of any belongings not reclaimed within 60 days. The bill requires the notice to also (1) state that the emergency contact or next of kin should immediately contact the landlord or probate court for information on how to reclaim the possessions and (2) include the phone number for the probate court district in which the rental unit is located.

PROBATE COURT AFFIDAVIT

By law, landlords must file an affidavit with the probate court regarding a deceased tenant and his or her personal belongings if the landlord notifies any next of kin or if none is known. Under the bill, the landlord must also file an affidavit if no emergency contact was designated. The affidavit must include the (1) deceased tenant's name and address, (2) date he or she died, (3) terms of the lease, and (4) names and addresses of any known next of kin. The bill requires the landlord to also include a designated emergency contact's name and address.

By law, if the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days after the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit.

LANDLORD'S REMOVAL OF DECEASED TENANT'S BELONGINGS

Under current law, no sooner than 30 days after filing the affidavit, the landlord must file an inventory of the deceased tenant's belongings and, 15 days after taking the inventory, may remove and store them for an additional 15 days. The bill (1) clarifies that the belongings may be moved to storage 15 days after the inventory was filed and (2) specifies that the storage must be secure.

After this 60-day period, existing law allows the landlord to dispose of unclaimed belongings in the same manner in which he or she would dispose of an evicted tenant's property. This requires a state marshal executing an eviction order to remove the possessions and deliver them to a town-designated storage facility for sale at public auction.

The bill instead allows the landlord, at the end of the 60-day period, to obtain from the probate court a certificate indicating that (1) he or she has filed the inventory and (2) 60 days have elapsed since the filing of the affidavit. The landlord may file, at no cost, the certificate and an application, prescribed by the chief court administrator, in the Superior Court for the district where the rental unit is located. The Superior Court clerk must use the probate court certificate to open a summary process file. The certificate must be treated in the same manner as a summary process judgment. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying it as the judgment.

The bill allows the landlord to enforce the Superior Court judgment after the (1) clerk opens the summary process file and sends a notice of judgment and (2) appropriate stay of execution expires. The landlord may do so by having a state marshal deliver the deceased tenant's possessions to a town-designated storage facility for sale at public auction.

The bill requires the state marshal executing the order to generally follow the same steps he or she would follow for removing an evicted tenant's possessions. This means he or she must attempt to notify the deceased tenant's emergency contact and next of kin of the date and time of the removal and possible sale of the property. He or she must give the chief executive officer (CEO) of the town where the rental unit is located 24 hours' written notice of the removal and a general description, if known, of the belongings to be removed and a copy of the filed inventory.

The deceased tenant's property may be reclaimed at any time before the auction by a probate court-appointed executor or administrator,

after he or she pays the town's storage expenses. If the property is not reclaimed within 15 days of its removal, the CEO can sell it at a public auction. He or she must make reasonable efforts to locate and notify the next of kin of the sale, including posting a notice (1) one week before the auction on a public sign post located near the deceased tenant's rental unit or (2) at some exterior place near the town clerk's office.

Within 30 days after the auction, the CEO must turn over the remaining proceeds to the (1) deceased tenant's estate or (2) if estate proceedings are not initiated during this period, state treasurer for deposit under the state's escheat laws.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/11/2016)