House of Representatives

General Assembly

File No. 343

February Session, 2016

House Bill No. 5345

House of Representatives, March 31, 2016

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE IMPOSITION OF FEE LIENS IN CERTAIN PROBATE COURT MATTERS.

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

Section 1. Section 45a-107b of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) As used in this section: (1) "Bona fide purchaser" means a party who takes a conveyance of real property in good faith and pays valuable consideration, without actual, implied or constructive notice that (A) a holder or former holder of a title interest in the real property died on or after January 1, 2015, while continuing to hold an interest in the real property at the time of death, or (B) a former holder of title in the real property died on or after January 1, 2015, and after making a lifetime transfer of an interest in the real property to a trustee who continued to hold the interest at the time of the former holder's death; and (2) "qualified encumbrancer" means a party who places a burden, charge or lien on real property, in good faith, without actual, implied

15 or constructive notice that (A) a holder or former holder of a title
16 interest in the real property died on or after January 1, 2015, while
17 continuing to hold an interest in the real property at the time of death,
18 or (B) a former holder of a title interest in the real property died on or
19 after January 1, 2015, after making a lifetime transfer of an interest in
20 the real property to a trustee who continued to hold the interest at the
21 time of the former holder's death.

22 [(a)] (b) The fees imposed under [subsections (b), (c) and (d)]
23 subsection (b) of section 45a-107 shall be a lien in favor of the state of
24 Connecticut upon any real property located in this state that is
25 included in the basis for fees of the estate of a deceased person, from
26 the due date until paid, with interest that may accrue in addition
27 thereto, except that such lien shall not be valid as against any [lienor,
28 mortgagee, judgment creditor or] bona fide purchaser or qualified
29 encumbrancer until notice of such lien is filed or recorded in the town
30 clerk's office or place where mortgages, liens and conveyances of such
31 property are required by statute to be filed or recorded.

32 [(b)] (c) The Probate Court for the district in which the decedent
33 resided on the date of his or her death or, if the decedent died a
34 nonresident of this state, for the district within which real estate or
35 tangible personal property of the decedent is situated, shall issue a
36 certificate of release of lien for any such real property not later than ten
37 days after receipt of payment in full of such fee and interest thereon.
38 The court may issue a certificate of release of lien for any such real
39 property, or portion thereof, if the court finds that the fee and interest
40 thereon has not been fully paid but that payment is adequately
41 assured. A certificate of release of lien may be recorded in the office of
42 the town clerk within which such real property is situated, and such
43 certificate shall be conclusive proof that the fees have been paid and
44 such lien discharged.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2016*	45a-107b

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:

Agency Affected	Fund-Effect	FY 17 $	FY 18 $
Probate Court	PCAF - Potential Revenue Loss	Minimal	Minimal

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill results in a potential revenue loss to the Probate Court Administration Fund by specifying liens that are unenforceable against a third party. It is anticipated that any revenue loss due to this clarifying language will be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
HB 5345

AN ACT CONCERNING THE IMPOSITION OF FEE LIENS IN CERTAIN PROBATE COURT MATTERS.

SUMMARY:

PA 15-5, June Special Session, made unpaid estate settlement probate fees a lien in favor of the state on any in-state real property included in the basis for fees. This bill specifies that the lien only applies to estates of individuals who died on or after January 1, 2015.

The bill also specifies the circumstances in which the lien is unenforceable against a third party. Under current law, the lien is not valid against a lienor, mortgagee, judgment creditor, or bona fide purchaser until notice of the lien is properly filed or recorded (e.g., in the town clerk's office). The bill refers instead to a bona fine purchaser or "qualified encumbrancer" and defines both terms, thus specifying the conditions in which a person can claim this status.

Under the bill, a bona fide purchaser is a party who takes a conveyance of real property in good faith, pays valuable consideration for it, and had no actual, implied, or constructive notice, that:

1. a holder or former holder of a title interest in the property died while still holding an interest in the property, or

2. a former holder of title in the property died after transferring an interest in the property to a trustee during the holder's lifetime, and the trustee still held the interest when the former holder died.

A "qualified encumbrancer" is a party who places a burden, charge, or lien on real property, in good faith, without actual, implied, or constructive notice as described above.

EFFECTIVE DATE: July 1, 2016

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 42 Nay 0 (03/16/2016)