



General Assembly

January Session, 2021

Raised Bill No. 944

LCO No. 3674



Referred to Committee on HOUSING

Introduced by:
(HSG)

***AN ACT CONCERNING STORAGE OF A TENANT'S POSSESSIONS
AND USE AND OCCUPANCY PAYMENTS.***

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 Section 47a-11d of the general statutes is repealed and the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, 2021*):

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 with
8 the provisions of this section, such landlord shall send notice to the
9 emergency contact designated by the occupant, if any, and to the next
10 of kin of such occupant, if known, at the last-known address both by
11 regular mail, postage prepaid, and by certified mail, return receipt
12 requested, stating that (1) the occupant has died, (2) the landlord intends
13 to remove any possessions and personal effects remaining in the
14 premises and to rerent the premises, (3) the emergency contact or next
15 of kin should immediately contact the landlord or Probate Court for the

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

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

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

42 (d) On or after [thirty] fifteen days after the date of the filing of the
43 affidavit pursuant to subsection (b) of this section, the landlord shall
44 inventory any possessions and personal effects of the deceased occupant
45 in the premises and shall file a copy of such inventory with the Probate
46 Court under subsection (b) of this section. The landlord may not remove
47 such possessions and personal effects until fifteen days after such
48 inventory is filed. [Thereafter, the landlord may remove and securely

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

73 (e) [Before the possessions and personal effects of a deceased
74 occupant are removed pursuant to an execution issued under subsection
75 (d) of this section, the state marshal charged with carrying out such
76 removal shall give the chief executive officer of the municipality in
77 which the dwelling unit is located (1) twenty-four-hours' written notice
78 of the removal, stating the date, time and location of such removal as
79 well as a general description, if known, of the types and amount of
80 possessions and personal effects to be removed from the premises and
81 delivered to the designated place of storage, and (2) a copy of the
82 inventory prepared by the landlord pursuant to subsection (d) of this

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

110 (f) If an application for probate of a will or letters of administration is
111 filed with the Probate Court having jurisdiction concerning the
112 possessions and personal effects of the deceased occupant within [fifty-
113 five] thirty days of the filing of the affidavit of the landlord as provided
114 in subsection (b) of this section, the Probate Court shall immediately
115 notify the landlord of such filing and any action of the landlord
116 pursuant to the provisions of this section shall cease.

117 (g) No action shall be brought under section 47a-43 against a landlord
118 who takes action in accordance with the provisions of this section.

119 Sec. 2. Section 47a-26b of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective October 1, 2021*):

121 (a) If the defendant appears, the court shall, upon motion and without
122 hearing, unless the defendant files an objection within five days of the
123 filing of the motion, order the defendant to deposit with the court within
124 ten days of the filing of the motion payments for use and occupancy in
125 an amount equal to the last agreed-upon rent or, in the absence of a prior
126 agreed-upon rent, in an amount equal to the fair rental value of the
127 premises during the pendency of such action accruing from the date of
128 such order, as determined by the court. If the motion is served upon the
129 defendant with the complaint, the motion shall be deemed for purposes
130 of this section to have been filed on the date on which the defendant
131 appears. If all or a portion of the defendant's rent is being paid to the
132 plaintiff by a housing authority, municipality, state agency or similar
133 entity, [this requirement] the requirements of this subsection shall be
134 satisfied if the defendant deposits with the court an amount equal to
135 [his] the defendant's portion of the last agreed-upon rent. The motion
136 for use and occupancy payments shall include a statement of the
137 amount of the last agreed-upon rent. The motion shall be filed on a form
138 prescribed by the Office of the Chief Court Administrator and shall
139 contain, in clear and simple language, a notice advising the defendant
140 that, if the defendant files an objection within five days of the date the
141 motion was filed, the court will conduct a hearing on the motion prior
142 to entering an order, but, if the defendant does not file an objection
143 during such time period, the court will order use and occupancy
144 payments without a hearing. The form shall also contain a place for the
145 defendant to claim an objection to the motion and notice that the
146 defendant may file an objection at any time. The filing by the plaintiff of
147 a motion for use and occupancy payments shall not suspend the time
148 limits for pleading under section 47a-26a.

149 (b) Notice to the defendant of an order for use and occupancy

150 payments shall be given on a form prescribed by the Office of the Chief
151 Court Administrator. Such form shall state in clear and simple language
152 and in readable format (1) the amount to be paid, (2) the date by which
153 such payment must be received by the clerk, and (3) the consequences
154 of failure to make payment as ordered.

155 (c) If the defendant files an objection to the motion, a hearing on the
156 objection shall be held not more than seven days after such objection is
157 filed, after which the court shall order the defendant to deposit with the
158 court payments for use and occupancy in an amount equal to the fair
159 rental value of the premises during the pendency of such action
160 accruing from the date of such order. If all or a portion of the defendant's
161 rent is being paid to the plaintiff by a housing authority, municipality,
162 state agency or similar entity, [this requirement] the requirements of this
163 subsection shall be satisfied if the defendant deposits with the court an
164 amount equal to his portion of the fair rental value of the premises. The
165 last agreed-upon rent shall be prima facie evidence of the fair rental
166 value of the premises. The party claiming a different amount shall have
167 the burden of proving that the last agreed-upon rent is not the fair rental
168 value. Such order shall permit the payment of such amounts in monthly
169 installments, as such amounts become due. Nothing in this subsection
170 shall preclude either party from subsequently moving to modify the
171 amount of the payment order for cause shown.

172 (d) If the defendant fails to make such payments as ordered, the clerk
173 shall, immediately and without the filing of a motion, order the
174 defendant to file his answer and, if the defendant fails to do so within
175 four days of the mailing of such order, judgment shall forthwith be
176 entered for the plaintiff. If the defendant files an answer within such
177 four-day period, the clerk shall set such matter down for hearing not
178 less than three nor more than seven days after such answer and reply, if
179 any, are filed.

180 (e) During the pendency of the action, the plaintiff may seek full or
181 partial disbursement of the payments for use and occupancy deposited
182 with the court pursuant to this section upon a motion by the plaintiff

183 supported by a showing that he or she is in actual danger of loss of the
184 rental premises or of suffering some other hardship resulting from the
185 loss of rental income. Upon a finding by the court that the plaintiff has
186 made such a showing, the court shall disburse a portion or all of such
187 payments to the plaintiff.

188 Sec. 3. Section 47a-42 of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective October 1, 2021*):

190 (a) Whenever a judgment is entered against a defendant pursuant to
191 section 47a-26, 47a-26a, 47a-26b, as amended by this act, or 47a-26d for
192 the recovery of possession or occupancy of residential property, such
193 defendant and any other occupant bound by the judgment by
194 subsection (a) of section 47a-26h shall forthwith remove himself or
195 herself, such defendant's or occupant's possessions and all personal
196 effects unless execution has been stayed pursuant to sections 47a-35 to
197 47a-41, inclusive. If execution has been stayed, such defendant or
198 occupant shall forthwith remove himself or herself, such defendant's or
199 occupant's possessions and all personal effects upon the expiration of
200 any stay of execution. If the defendant or occupant has not so removed
201 himself or herself upon entry of a judgment pursuant to section 47a-26,
202 47a-26a, 47a-26b, as amended by this act, or 47a-26d, and upon
203 expiration of any stay of execution, the plaintiff may obtain an execution
204 upon such summary process judgment, and pursuant to such execution,
205 (1) the defendant or other occupant bound by the judgment by
206 subsection (a) of section 47a-26h [and the possessions and personal
207 effects of such defendant or other occupant] may be removed by a state
208 marshal, [pursuant to such execution, and delivered to the place of
209 storage designated by the chief executive officer for such purposes] and
210 (2) the possessions and personal effects of such defendant or other
211 occupant may be removed by the plaintiff under the state marshal's
212 supervision and disposed of at the plaintiff's discretion.

213 (b) [Before any such removal, the state marshal charged with
214 executing upon any such judgment of eviction shall give the chief
215 executive officer of the town twenty-four hours notice of the eviction,

216 stating the date, time and location of such eviction as well as a general
217 description, if known, of the types and amount of property to be
218 removed from the premises and delivered to the designated place of
219 storage. Before giving such notice to the chief executive officer of the
220 town, the] The state marshal shall use reasonable efforts to locate and
221 notify the defendant of the date and time such eviction is to take place
222 and of the possibility of [a sale pursuant to subsection (c) of this section]
223 disposal of the possessions and personal effects of the defendant. Such
224 notice shall include service upon each defendant and upon any other
225 person in occupancy, either personally or at the premises, of a true copy
226 of the summary process execution. Such execution shall be on a form
227 prescribed by the Judicial Department, shall be in clear and simple
228 language and in readable format, and shall contain, in addition to other
229 notices given to the defendant in the execution, a conspicuous notice, in
230 large boldface type, that a person who claims to have a right to continue
231 to occupy the premises should immediately contact an attorney, and
232 clear instructions as to how and where the defendant may reclaim any
233 possessions and personal effects [removed and stored] to be disposed of
234 pursuant to this section, including a telephone number [that] for the
235 state marshal who may be called to arrange for the release of such
236 possessions and personal effects.

237 (c) Whenever the possessions and personal effects of a defendant are
238 removed by a [state marshal] plaintiff under this section, such
239 possessions and effects shall be delivered by such [marshal] plaintiff to
240 the designated place of storage. Such removal, delivery and storage
241 shall be at the expense of the defendant. If such possessions and effects
242 are not reclaimed by the defendant and the expense of such storage is
243 not paid to the [chief executive officer] plaintiff within fifteen days after
244 such eviction, the [chief executive officer] plaintiff shall sell the same at
245 public auction, after using reasonable efforts to locate and notify the
246 defendant of such sale and after posting notice of such sale for one week
247 on the public signpost nearest to the place where the eviction was made,
248 if any, or at some exterior place near the office of the town clerk. The
249 [chief executive officer] plaintiff shall deliver to the defendant the net

250 proceeds of such sale, if any, after deducting a reasonable charge for
251 storage of such possessions and effects. If the defendant does not
252 demand the net proceeds within thirty days after such sale, the [chief
253 executive officer] plaintiff shall [turn over the net proceeds of the sale to
254 the town treasury] keep the net proceeds. In each instance where a
255 tenant or occupant in the residential property has been removed from
256 the dwelling unit and premises, yet personal property remains, the
257 plaintiff shall not dispose of such personal property for two business
258 days in order to permit the occupant to notify the state marshal of his or
259 her intent to reclaim the property. The plaintiff, in coordination with the
260 state marshal, shall permit the defendant or occupant with one
261 uninterrupted opportunity to remove such personal possessions during
262 such two-business-day period.

263 Sec. 4. Subsection (b) of section 52-261 of the general statutes is
264 repealed and the following is substituted in lieu thereof (*Effective October*
265 *1, 2021*):

266 (b) Each officer or person shall receive the following fees: (1) For
267 service of an execution on a summary process judgment, not more than
268 [fifty] seventy-five dollars; and (2) for removal under section 47a-42, as
269 amended by this act, of a defendant or other occupant bound by a
270 summary process judgment, or for supervising the disposal of [and] the
271 possessions and personal effects of such defendant or other occupant
272 under section 47a-42, as amended by this act, not more than one
273 hundred dollars per hour.

274 Sec. 5. Section 47a-26f of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective October 1, 2021*):

276 After entry of final judgment, the court shall hold a hearing to
277 determine the amount due each party from the accrued payments for
278 such use and occupancy and order distribution in accordance with its
279 determination, unless the payments have been disbursed as provided in
280 section 47a-26b, as amended by this act. Such determination shall be
281 based upon the respective claims of the parties arising during the

282 pendency of the proceedings after the date of the order for payments
283 and shall be conclusive of such claims only to the extent of the total
284 amount distributed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	47a-11d
Sec. 2	<i>October 1, 2021</i>	47a-26b
Sec. 3	<i>October 1, 2021</i>	47a-42
Sec. 4	<i>October 1, 2021</i>	52-261(b)
Sec. 5	<i>October 1, 2021</i>	47a-26f

Statement of Purpose:

To permit landlords to dispose of an evicted or deceased tenant's personal possessions and collect occupancy and use payments.

[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.]