



General Assembly

February Session, 2022

Raised Bill No. 424

LCO No. 3150



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING REAL ESTATE AND THE PROBATE COURTS.

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

1 Section 1. Section 45a-107b of the general statutes is amended by
2 adding subsection (d) as follows (*Effective from passage*):

3 (NEW) (d) (1) A person having a title interest in real property subject
4 to a lien for probate fees under this section, may petition the Probate
5 Court for a release of such lien if: (A) Such lien arises out of a decedent's
6 retained life use or survivorship interest in the property; (B) the
7 decedent died more than ten years prior to the date of filing the petition;
8 (C) no proceeding for the settlement of the decedent's estate has been
9 commenced in a Probate Court of this state; (D) no Connecticut estate or
10 succession tax return for the decedent's estate has been filed with the
11 Probate Court or Department of Revenue Services; (E) no Connecticut
12 estate tax has been assessed by the Department of Revenue Services; and
13 (F) based on the value of all known property and taxable gifts, no
14 Connecticut estate tax could be assessed in connection with the
15 decedent's estate. The petition shall be filed with the Probate Court for
16 the district in which the decedent last resided or, if the decedent died a

17 nonresident of this state, for the district within which the real estate is
18 situated.

19 (2) The petition for release of lien shall be accompanied by an
20 affidavit or affidavits of the petitioner or the petitioner's attorney. The
21 affidavits shall include the following: (A) A statement that the petitioner
22 did not receive the title interest from the decedent as its immediate
23 successor in interest in the chain of title or as a devise or distribution
24 from the decedent's estate; (B) a statement that the affiant does not
25 possess the information required to file a complete Connecticut estate
26 tax return; (C) evidence that demonstrates a diligent search was made
27 to locate the decedent's heirs, beneficiaries and transferees and a
28 statement that any heirs, beneficiaries or transferees who were located
29 failed or refused to cooperate in completing a Connecticut estate tax
30 return; and (D) a recitation of facts known to the affiant regarding the
31 requirements of this section. Any affidavits submitted by the petitioner's
32 attorney shall be made on the basis of the attorney's own knowledge
33 and shall not be construed to be submitted on behalf of the attorney's
34 client.

35 (3) Except as provided in subdivision (2) of this subsection, the
36 petitioner shall submit an estate tax return, reporting the value of the
37 real property that is the subject of the petition for release of lien and, to
38 the best of the petitioner's knowledge, the value of all other property of
39 the decedent at the time of death and taxable gifts made by the decedent
40 on or after January 1, 2005.

41 (4) Upon receipt of the petition, any affidavits and estate tax return,
42 the Probate Court shall determine whether the petition meets the
43 requirements of this subsection. The Probate Court may hold a hearing
44 on the petition. If the Probate Court determines that the petition meets
45 the requirements of this subsection, the court shall calculate the probate
46 fees on the decedent's estate based on the value of all known property
47 and taxable gifts reported on the estate tax return, together with any
48 applicable interest, and shall issue an invoice for the fees and interest to
49 the petitioner.

50 (5) The petitioner shall pay to the Probate Court, the applicable
51 probate fees and interest.

52 (6) Not later than ten days after receipt of all applicable probate fees
53 and interest thereon, the Probate Court shall issue certificates of release
54 of the lien for probate fees, as applicable.

55 (7) Any person petitioning for a release of lien under this section shall
56 make the petition as to all known real property to which the lien applies.
57 A release of lien obtained pursuant to this section shall apply only to the
58 real property reported on the estate tax return. Any other real property
59 interest of the decedent shall continue to be subject to all applicable
60 liens.

61 (8) If the Probate Court receives an estate tax return for the decedent's
62 estate and payment of all applicable probate fees and interest thereon
63 after issuance of a certificate of release of a probate fee lien under this
64 section, the court shall, on request of the petitioner, refund the probate
65 fees paid by the petitioner under subdivision (4) of this subsection. The
66 petitioner shall not be entitled to a refund of any interest. The Probate
67 Court shall have no obligation to inform the petitioner of the receipt of
68 a tax return.

69 Sec. 2. Section 45a-113a of the 2022 supplement to the general statutes
70 is repealed and the following is substituted in lieu thereof (*Effective from*
71 *passage*):

72 (a) Whenever a Probate Court determines that a refund is due an
73 applicant, petitioner, moving party or other person for any
74 overpayment of costs, fees, charges or expenses incurred under the
75 provisions of sections 45a-106a to 45a-112, inclusive, the Probate Court
76 Administrator shall, upon receipt of certification of such overpayment
77 by the Probate Court that issued the invoice for such costs, fees, charges
78 or expenses, cause a refund of such overpayment to be issued from the
79 Probate Court Administration Fund.

80 (b) No person shall be entitled to a refund for any fee paid for the

81 settlement of a decedent's estate pursuant to section 45a-107 in which
82 the basis for the fee was the gross estate for succession tax purposes.

83 Sec. 3. (NEW) (*Effective from passage*) (a) Any lien upon real estate
84 situated in this state for either (1) the succession tax, other than for
85 estates of decedents who died on or prior to January 1, 2005, and that,
86 prior to October 1, 2018, had filed a return under section 12-359 of the
87 general statutes or been assessed a tax under section 12-367 of the
88 general statutes, or (2) the tax that was imposed under chapter 217 of
89 the general statutes, as in effect prior to January 1, 2005, and that prior
90 to the effective date of this section, had filed a return or been assessed a
91 tax under 12-392 of the general statutes, shall be deemed released.

92 (b) Notwithstanding any other provision of title 12 of the general
93 statutes, any lien upon real estate situated in this state for the tax
94 imposed under chapter 217 of the general statutes, as in effect after
95 December 31, 2004, shall be deemed released ten years from the date of
96 the death of the decedent, except for estates that have filed a return or
97 been assessed a tax under section 12-392 of the general statutes, prior to
98 ten years from the date of the death of the decedent.

99 (c) Notwithstanding the provisions of subsection (a) or (b) of this
100 section, no lien that is released under said subsection (a) or (b) shall
101 serve as either the basis for any claim for refund or result in the issuance
102 of any refund of any payments that were made or otherwise applied by
103 the Commissioner of Revenue Services against the taxes that gave rise
104 to such liens.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	45a-107b
Sec. 2	<i>from passage</i>	45a-113a
Sec. 3	<i>from passage</i>	New section

Statement of Purpose:

To clarify statutory provisions relating to a person having a title interest in real property that is subject to a lien for probate fees.

[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.]