



**Senate Bill No. 424**

**Public Act No. 22-136**

**AN ACT CONCERNING REAL ESTATE AND THE PROBATE COURTS.**

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

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

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

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

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

(4) Upon receipt of the petition, any affidavits and estate tax return, the Probate Court shall determine whether the petition meets the requirements of this subsection. The Probate Court may act on the petition with or without hearing. If the Probate Court determines that the petition meets the requirements of this subsection, the court shall calculate the probate fees on the decedent's estate based on the value of all known property and taxable gifts reported on the estate tax return, together with any applicable interest, and shall issue an invoice for the fees and interest to the petitioner.

(5) The petitioner shall pay to the Probate Court the applicable

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probate fees and interest.

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

(7) Any person petitioning for a release of lien under this section shall include in the petition, to the best of the petitioner's knowledge, all known real property to which the lien applies. A release of lien obtained pursuant to this section shall apply only to the real property reported on the estate tax return. Any other real property interest of the decedent shall continue to be subject to all applicable liens.

(8) If the Probate Court receives an estate tax return for the decedent's estate and payment of all applicable probate fees and interest thereon after issuance of a certificate of release of a probate fee lien under this section, the court shall, on request of the petitioner, refund the probate fees paid by the petitioner under subdivision (4) of this subsection. The petitioner shall not be entitled to a refund of any interest.

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

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

(b) No person shall be entitled to a refund for any fee paid for the settlement of a decedent's estate pursuant to section 45a-107 in which

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the basis for the fee was the gross estate for succession tax purposes.

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

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

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

Approved May 27, 2022