

Sec. 45a-273. (Formerly Sec. 45-266). Settlement of small estates without probate of will or letters of administration. (a) The surviving spouse of any person who dies, or if there is no surviving spouse, any of the next of kin of such decedent, or if there is no next of kin or if such surviving spouse or next of kin refuses, then any suitable person whom the court deems to have a sufficient interest may, in lieu of filing an application for admission of a will to probate or letters of administration, file an affidavit or statement signed under penalty of false statement in the court of probate in the district in which the decedent resided, stating, if such is the case, that all debts of the decedent have been paid in the manner prescribed by section 45a-392, at least to the extent of the fair value of all of the decedent's assets, when (1) such decedent leaves property of the type described in subsection (b) of this section, and (2) the aggregate value of any such property as described in subsection (b) of this section does not exceed the sum of forty thousand dollars. In addition, such affidavit or statement shall state that the decedent either did, or did not, receive aid or care from the state, which shall also include aid or care from the Department of Veterans' Affairs, whichever is true.

(b) Such property includes: (1) A deposit in any bank; (2) equity in shares in any savings and loan association, federal savings and loan association or credit union, doing business in this state; (3) corporate stock or bonds; (4) any unpaid wages due from any corporation, firm, individual, association or partnership located in this state; (5) a death benefit payable from any fraternal order or shop society or payable under any insurance policy for which the decedent failed to name a beneficiary entitled under the bylaws and regulations of such order or society or under the terms of such insurance policy to receive such death benefit; (6) other personal property, tangible or intangible, including a motor vehicle or motor vehicles and a motor boat or motor boats registered in his name; or (7) an unreleased interest in a mortgage with or without value.

(c) Thereafter, except as provided in subsection (e) of this section, the judge of probate for such district shall issue a decree finding that no probate proceedings have been instituted in connection with the estate of such decedent and authorizing either the holder of such property or the registrant thereof, including the authority issuing the registration, to transfer the same or pay the amount thereof to the persons legally entitled thereto. The court of probate may issue such certificates and other documents as may be necessary to carry out the intent of this section. If the petitioner indicates in such affidavit that the assets listed in such affidavit or a portion thereof are necessary to pay the funeral director who buried such decedent or to pay debts due for the last sickness of the decedent, the court may order the payment of such assets directly to such funeral director or to those creditors to whom debts are due for the last sickness of the decedent to the extent necessary to pay their preferred claims for funeral

expenses or expenses for the decedent's last sickness, or may order such assets sold and the proceeds from such sale paid directly to the funeral director or such creditors. If the petitioner indicates in such affidavit that the decedent received public assistance or institutional care from the state of Connecticut, the court shall not issue a decree until thirty days after notification to the Department of Administrative Services. Any decree issued by the court may authorize the surviving spouse or next of kin, or some suitable person whom the court deems to have a sufficient interest, to release an interest in any mortgage reported under the provisions of this section.

(d) If there is no surviving spouse or next of kin of a person who dies leaving property as described in this section, the funeral director who buried such decedent or any creditor to whom a debt is due for the last sickness of the decedent may file in such court of probate an affidavit as described in this section that such funeral director or any creditor to whom a debt is due for the last sickness of the decedent has a lawful preferred claim for funeral expenses or expenses for the decedent's last sickness. Thereupon such court may, in its discretion, authorize either the holder of such property or the registrant thereof, as aforesaid, to transfer the property or pay from the property the amount of such claim, or to pay proceeds from the sale of any such assets ordered sold by the court, to such funeral director or any creditor to whom a debt is due for the last sickness of the decedent, in satisfaction of the amount of the claim of each.

(e) If an affidavit is filed under subsection (a) of this section in lieu of an application for admission of a will to probate or letters of administration and the fair value of the property of the decedent exceeds the total amount of claims, including any amounts allowed to the family under section 45a-320, the court shall proceed as follows: (1) If no purported last will and testament is found, the court shall order distribution of the excess in accordance with the laws of intestate succession; (2) if the decedent left a duly executed last will and testament and the will provides for a distribution which is the same as that under the laws of intestate succession, the court shall order distribution of the excess in accordance with the laws of intestate succession; (3) if the decedent left a duly executed last will and testament and the will provides for a distribution different from that under the laws of intestate succession, and the heirs at law of such decedent sign a written waiver of their right to contest the will, the court shall order the excess to be paid in accordance with the terms of the will; (4) if the will directs a distribution different from the laws of intestate succession, and the heirs at law do not waive their right to contest the admission of such will, the will shall be offered for probate in accordance with section 45a-286. In such case, the court may issue a decree under this section only if the persons entitled to take the bequests under the will consent, in writing, to the distribution of the bequests in accordance with the laws of intestate succession. If the claims against the

estate exceed the value of the property of such decedent, the claims shall be paid in accordance with the priorities set forth in section 45a-392. As used in this subsection, the term "will" includes any duly executed codicil thereto.

(f) Any such transfer or payment shall, to the extent of the amount so transferred or paid, discharge the registrant or holder of such property from liability to any person on account thereof.

(g) As a condition of such transfer or payment, the registrant or holder may require the filing of appropriate waivers, the execution of a bond of indemnity and a receipt for such transfer or payment.

(h) The authority issuing the transfer of registration shall charge a fee of three dollars for the transfer of each motor vehicle and a fee of one dollar for the transfer of each motor boat under this section.

(i) Any transfer or payment under the provisions of this section shall be exempt from taxation under the provisions of chapter 219.

(j) (1) Any person to whom such transfer or payment has been made shall be liable for the value thereof to the Commissioner of Revenue Services for any succession or transfer tax on the property transferred or payment made and to the executor or administrator of the estate of the decedent thereafter appointed.

(2) The Commissioner of Revenue Services shall be given notice by the court of probate of the issuance of any such decree upon such form as may be provided by said commissioner unless such surviving spouse or next of kin, or other suitable person whom the court deems to have a sufficient interest, files with the court of probate a sworn return provided for by chapter 216, in which event the judge of probate may incorporate in the decree a statement that the Commissioner of Revenue Services has issued a finding that no succession or transfer tax is due, or that any such tax computed by him as due has been paid. Such statement shall be conclusive evidence of the consent by the Commissioner of Revenue Services to the transfer or payment of such property as provided in this section free from any claim for such tax, notwithstanding any provision in chapter 216 to the contrary.

(1949 Rev., S. 7049; 1953, 1955, S. 2945d; 1967, P.A. 558, S. 53; P.A. 73-464, S. 1; P.A. 77-614, S. 139, 610; P.A. 78-121, S. 77, 113; P.A. 79-193, S. 1; P.A. 80-476, S. 227; P.A. 81-82, S. 1; P.A. 86-196; P.A. 88-107, S. 1; 88-285, S. 32, 35; P.A. 89-56, S. 2; P.A. 99-84, S. 18; P.A. 07-32, S. 1.)

History: 1967 act rephrased provisions, added references to death benefits payable under terms of insurance policies and to intangible personal property and increased maximum amount authorized for payment of claims of funeral director or physician from \$500 to \$1,000; P.A. 73-464 applied provisions to corporate stock or bonds and tangible personal property, including motor vehicles and motor boats, raised maximum value of estate with respect to which provisions apply from \$1,000 to \$5,000, inserted new procedure whereby court orders transfer of property, rather than the holder of property without court action, as previously was the case, removed limit on payment of physician's and funeral director's claims and rephrased provisions re pro rata payments to each, added provisions re transfer fees applied to motor vehicles and motorboats, re tax exemption, re discharge of liability and re tax commissioner's duties and rights with regard to transfers; P.A. 77-614 replaced tax commissioner with commissioner of revenue services, effective January 1, 1979; P.A. 78-121 referred to saving and loan associations rather than to "building or" savings and loan associations; P.A. 79-193 applied provisions to unreleased interests in mortgages and stated that court decree may authorize surviving spouse or next of kin to release interest in mortgage; P.A. 80-476 divided section into Subsecs., rephrased and reordered provisions but made no substantive changes; P.A. 81-82 amended Subsec. (a) to provide for filing of affidavit when there is no next of kin or next of kin refuses to file, to change maximum value of applicable estate in Subdiv. (2) from \$5,000 to \$10,000 and to require that affidavit state whether decedent received aid or care from the state, amended Subsec. (c) to allow court to order director payment of funeral director and physician and to require postponement of decree until 30 days after notification of administrative services department when decedent has received public assistance or institutional care and amended Subsec. (e) to require payment of claims in accordance with priorities in Sec. 45-204c if claims exceed value of decedent's property, replacing provision whereby claimants received pro rata share in such cases, and to require payment to those legally entitled of any excess when value of property exceeds amount of claims; P.A. 86-196 increased maximum value of estate eligible for settlement without probate of will or letters of administration from \$10,000 to \$20,000 and provided for payment to any creditor to whom debt is due for last sickness of decedent rather than to attending "physician" during last illness; P.A. 88-107 amended Subsec. (c) by adding exception for provisions of Subsec. (e), permitting probate court to issue certification and other documents necessary to carry out intent of section and permitting court to order assets sold and proceeds paid directly to funeral director or creditors and amended Subsec. (e) by adding provisions re distribution of property of decedent; P.A. 88-285 amended Subsec. (a) to replace veterans' home and hospital commission with department of veterans' affairs; P.A. 89-56 amended Subsec. (e) to condition its provisions in part on the filing of an affidavit in lieu of application for admission of a will to probate or letters of administration rather than on filing of an application; Sec. 45-266 transferred to Sec. 45a-273 in

1991; P.A. 99-84 amended Subsec. (a) by inserting "or statement signed under penalty of false statement"; P.A. 07-32 amended Subsec. (a) to make a technical change, and in Subdiv. (2), substitute \$40,000 for \$20,000 re aggregate value of property.

See Sec. 4a-16 re estates of certain public assistance beneficiaries and state institution patients.

Annotation to former section 45-266:

Cited. 3 CA 598.