



General Assembly

February Session, 2020

Raised Bill No. 5493

LCO No. 2810



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE PROMPT PRESENTATION OF CLAIMS
AGAINST A DECEDENT'S ESTATE.***

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

1 Section 1. Subsection (a) of section 45a-356 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2020*):

4 (a) If any claim is not presented on or before the day which is [one
5 hundred fifty] sixty days from the date of the appointment of the first
6 fiduciary, no fiduciary shall be chargeable for any assets that a fiduciary
7 may have paid or distributed in good faith in satisfaction of any lawful
8 claims, expenses or taxes or to any beneficiary before such claim was
9 presented. A payment or distribution of assets by a fiduciary shall be
10 deemed to have been made in good faith unless the creditor can prove
11 that the fiduciary had actual knowledge of such claim at the time of such
12 payment or distribution. Such [one-hundred-fifty-day] sixty-day period
13 shall not be interrupted or affected by (1) failure of publication or
14 defective publication of the newspaper notice required by section 45a-
15 354₂ or (2) the death, resignation or removal of a fiduciary, except that

16 the time during which there is no fiduciary in office shall not be counted
17 as part of such period.

18 Sec. 2. Subsection (a) of section 45a-357 of the general statutes is
19 repealed and the following is substituted in lieu thereof (*Effective October*
20 *1, 2020*):

21 (a) A fiduciary may at any time give notice to any person such
22 fiduciary has reason to believe may have a claim that, if such person fails
23 to present any such claim to the fiduciary on or before a date specified
24 in such notice which date shall not be less than [ninety] sixty days from
25 the date of such notice, such person will be forever barred from asserting
26 or recovering on any such claim from the fiduciary, the estate of the
27 decedent or any creditor or beneficiary of the estate. Such notice shall
28 contain the name and address of the fiduciary to whom such claim must
29 be presented. The fiduciary shall not be liable to any creditor,
30 beneficiary or any other person for the decision of the fiduciary to use
31 or refrain from using this optional notice procedure.

32 Sec. 3. Section 45a-361 of the general statutes is repealed and the
33 following is substituted in lieu thereof (*Effective October 1, 2020*):

34 Within sixty days following the expiration of the
35 [one-hundred-fifty-day] sixty-day period set forth in subsection (a) of
36 section 45a-356, as amended by this act, the fiduciary shall file in the
37 [Court of Probate] Probate Court a return and list of claims signed under
38 penalty of false statement by the fiduciary containing (1) a list of all
39 persons notified pursuant to section 45a-357, as amended by this act,
40 and (2) a list of all claims presented to the fiduciary within such
41 [one-hundred-fifty-day] sixty-day period stating as to each such claim
42 whether and to what extent such claim was allowed or rejected.

43 Sec. 4. Section 45a-367 of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2020*):

45 A fiduciary shall not pay any personal claim of his own until such
46 claim has been approved by the [Court of Probate] Probate Court after

47 newspaper notice and hearing, unless the court, for cause shown,
48 waives such notice and hearing. If any such claim is wholly or partly
49 secured, it may be paid out of such security at any time after such
50 approval. The unsecured portion of any such claim and any unsecured
51 claim shall not be paid until after such approval and until after the
52 expiration of the [one-hundred-fifty-day] sixty-day period provided for
53 in subsection (a) of section 45a-356, as amended by this act.

54 Sec. 5. Section 45a-378 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2020*):

56 (a) Within fourteen days after the determination of insolvency, the
57 [Court of Probate] Probate Court shall cause newspaper notice to be
58 published at least once notifying all persons having claims to present
59 such claims to the fiduciary. Such notice shall state: (1) The name of the
60 fiduciary and the address at which claims should be presented; (2) that
61 the estate has been found insolvent and any creditor who fails to present
62 his claim on or before the date specified in such notice, which date shall
63 be [one hundred fifty] sixty days from the date of the determination of
64 insolvency, shall be forever barred from asserting or recovering on any
65 such claim from the fiduciary, the estate of the decedent or any creditor
66 of the estate. In the event of a failure of publication of such notice, a
67 defective publication of such notice, or the death, resignation or removal
68 of the fiduciary, the [Court of Probate] Probate Court may, in its sole
69 discretion, order such supplemental publication of notice as it shall
70 determine.

71 (b) The fiduciary shall give notice to all creditors of which the
72 fiduciary has actual knowledge that any creditor who fails to present
73 any claim he may have to the fiduciary on or before the date specified
74 in such notice, which date shall be [one hundred fifty] sixty days from
75 and including the date of the determination of insolvency, shall be
76 forever barred from asserting or recovering on any such claim from the
77 fiduciary, the estate of the decedent or any creditor of the estate. Such
78 notice shall be given no later than thirty days prior to the expiration of
79 such [one-hundred-fifty-day] sixty-day period and shall contain the

80 name and address of the fiduciary to whom claims must be presented.

81 (c) Any creditor who fails to present his claim to the fiduciary within
82 [one hundred fifty] sixty days from the date of the determination of
83 insolvency shall be forever barred from asserting or recovering on such
84 claim from the fiduciary, the estate of the decedent or any creditor of the
85 estate. Any creditor who presents his claim within such [one-hundred-
86 fifty-day] sixty-day period may not increase such claim after the
87 expiration of such period. Such [one-hundred-fifty-day] sixty-day
88 period shall begin on the date of the determination of insolvency and
89 shall not be interrupted or affected by any failure of publication or
90 defective publication of the notice required by subsection (a) of this
91 section, or by the death, resignation or removal of a fiduciary, except
92 that the time during which there is no fiduciary in office shall not be
93 counted as part of such period.

94 (d) Any creditor who, through no fault of his own, has failed to
95 present his claim within the time set forth in the notices given to said
96 creditor pursuant to subsections (a) and (b) of this section may submit
97 an application for an extension of time to file such claim with the [Court
98 of Probate] Probate Court within sixty days after the expiration of the
99 time limited to present claims. Upon such application, the [Court of
100 Probate] Probate Court may, upon hearing after notice, for cause shown,
101 enter an order extending the time for such creditor to present his claim
102 for a period of not more than thirty days from and including the date of
103 such order, and no claim so presented shall be barred by the application
104 of subsection (c) of this section.

105 (e) Claims shall be presented in the manner set forth in section 45a-
106 358.

107 Sec. 6. Section 45a-380 of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective October 1, 2020*):

109 (a) As soon as practicable after the expiration of the [one-hundred-
110 fifty-day] sixty-day period for presentation of claims, the fiduciary shall
111 file a report in the [Court of Probate] Probate Court (1) listing all claims

112 presented; (2) specifying with respect to each claim whether such claim
 113 was allowed or rejected, in whole or in part; and (3) listing the names
 114 and addresses of all creditors given notice in accordance with section
 115 45a-378, as amended by this act.

116 (b) Within thirty days after the filing of the fiduciary's report, the
 117 [Court of Probate] Probate Court shall hold a hearing on the acceptance
 118 of [said] the report and shall give notice of the hearing to each creditor
 119 who presented a claim to the fiduciary. Following such hearing, the
 120 court shall accept, accept with modifications or reject such report, and
 121 shall order distribution of the assets or moneys as it shall find payable
 122 in accordance with section 45a-365. Any creditor aggrieved by the order
 123 of the [Court of Probate] Probate Court may either (1) appeal from the
 124 order of distribution in accordance with sections 45a-186 to 45a-193,
 125 inclusive, or (2) proceed in accordance with section 45a-364.

126 (c) In the event of an appeal or a proceeding under section 45a-364,
 127 the order of distribution shall be stayed pending resolution of such
 128 appeal or proceeding; provided the court may, if it deems appropriate,
 129 order the fiduciary to set aside assets sufficient to assure pro rata
 130 payment of any creditor who has appealed or who has proceeded under
 131 section 45a-364, and to distribute the remaining assets in accordance
 132 with the order of distribution.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	45a-356(a)
Sec. 2	<i>October 1, 2020</i>	45a-357(a)
Sec. 3	<i>October 1, 2020</i>	45a-361
Sec. 4	<i>October 1, 2020</i>	45a-367
Sec. 5	<i>October 1, 2020</i>	45a-378
Sec. 6	<i>October 1, 2020</i>	45a-380

Statement of Purpose:

To reduce the time period for a creditor to make a claim against the estate of a decedent.

[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.]