



General Assembly

February Session, 2020

Raised Bill No. 5531

LCO No. 3108



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE EXECUTION OF A POWER OF ATTORNEY, THE UNIFORM TRUST CODE, THE TAKING OF AN OATH BY AN ARBITRATOR AND INTERESTS IN REAL PROPERTY.

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

1 Section 1. Subsection (a) of section 47-5 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2020*):

4 (a) All conveyances of land shall be: (1) In writing; (2) if the grantor
5 is (A) a natural person, subscribed, with or without a seal, by the grantor
6 with his own hand or with his mark with his name annexed to it or by
7 his agent authorized for that purpose by a power (i) executed,
8 acknowledged and witnessed in the manner provided for conveyances,
9 or [, if the grantor is] (ii) executed, acknowledged and witnessed in the
10 same manner provided for in section 1-350d, as amended by this act,
11 and subsection (a) of section 1-350r, or (B) a corporation, limited liability
12 company or partnership, subscribed by a duly authorized person; (3)
13 acknowledged by the grantor, his agent or such duly authorized person
14 (A) to be his free act and deed, or (B) in any manner permitted under

15 chapter 6 or chapter 8; and (4) attested to by two witnesses with their
16 own hands.

17 Sec. 2. Section 1-350d of the general statutes is repealed and the
18 following is substituted in lieu thereof (*Effective October 1, 2020*):

19 A power of attorney must be dated and signed by the principal or in
20 the principal's conscious physical presence by another individual
21 directed by the principal to sign the principal's name on the power of
22 attorney and witnessed by two witnesses. A signature on a power of
23 attorney is presumed to be genuine if the principal acknowledges the
24 signature before a notary public, a commissioner of the Superior Court
25 or other individual authorized by law to take acknowledgments.

26 Sec. 3. Subsection (a) of section 45a-499j of the 2020 supplement to the
27 general statutes is repealed and the following is substituted in lieu
28 thereof (*Effective July 1, 2020*):

29 (a) Whenever notice to qualified beneficiaries of a trust is required
30 under sections 45a-487j to 45a-487t, inclusive, and 45a-499a to 45a-500s,
31 inclusive, the trustee shall also give notice to [: (1) A representative
32 designated under section 45a-499u to receive notices on the beneficiary's
33 behalf; and (2)] any other beneficiary who sent the trustee a request for
34 notice. The trustee may send notice to a designated representative who
35 is qualified to represent a beneficiary under section 45a-499u in lieu of
36 sending notice to a beneficiary.

37 Sec. 4. Section 45a-499c of the 2020 supplement to the general statutes
38 is amended by adding subdivision (32) as follows (*Effective July 1, 2020*):

39 (NEW) (32) "Terms of a trust means" (A) Except as provided in
40 subparagraph (B) of this subdivision, the manifestation of the settlor's
41 intent regarding a trust's provisions as: (i) Expressed in the trust
42 instrument; or (ii) established by other evidence that would be
43 admissible in a judicial proceeding; or (B) the trust's provisions, as
44 established, determined or amended by: (i) A trustee or other person in
45 accordance with applicable law; (ii) a court order; (iii) a nonjudicial

46 settlement agreement under sections 45a-499k, and 45a-499ll.

47 Sec. 5. Section 45a-499gg of the 2020 supplement to the general
48 statutes is repealed and the following is substituted in lieu thereof
49 (*Effective July 1, 2020*):

50 Except as otherwise provided in section 45a-499hh, if a particular
51 charitable purpose becomes unlawful, impracticable, impossible to
52 achieve or wasteful: (1) The trust does not fail, in whole or in part; (2)
53 the trust property does not revert to the settlor or the settlor's successors
54 in interest; and (3) the court may apply cy pres to modify or terminate
55 the trust, subject to the provisions in section 45a-520, by directing that
56 the trust property be applied or distributed, in whole or in part, in a
57 manner consistent with the settlor's charitable purposes.

58 Sec. 6. Subdivision (10) of section 45a-487k of the 2020 supplement to
59 the general statutes is repealed and the following is substituted in lieu
60 thereof (*Effective July 1, 2020*):

61 (10) "Trust instrument" means an instrument, in writing, appointing
62 at least one qualified trustee for the property that is the subject of a
63 disposition, which instrument:

64 (A) Expressly provides that the laws of this state govern the validity,
65 construction and administration of the trust;

66 (B) Is irrevocable; and

67 (C) Provides that the interest of the transferor or other beneficiary in
68 the trust property or the income from the trust property may not be
69 transferred, assigned, pledged or mortgaged, whether voluntarily or
70 involuntarily, before the qualified trustee or qualified trustees actually
71 distribute the property or income from the trust property to, or for the
72 benefit of, the beneficiary, and the provision of the trust instrument shall
73 be deemed to be a restriction on the transfer of the transferor's beneficial
74 interest in the trust that is enforceable under applicable nonbankruptcy
75 law within the meaning of 11 USC 541(c)(2), as amended from time to

76 time.

77 Sec. 7. Subsection (f) of section 45a-491 of the 2020 supplement to the
78 general statutes is repealed and the following is substituted in lieu
79 thereof (*Effective from passage and applicable to any trust created on or after*
80 *January 1, 2020*):

81 (f) With respect to any trust created on or after January 1, 2020, this
82 section and sections 45a-492 to 45a-495, inclusive, shall apply to a
83 nonvested property interest or power of appointment contained in a
84 trust by substituting "eight hundred years" in place of "ninety years" in
85 each place such term appears in this section and sections 45a-492 to 45a-
86 495, inclusive, unless the terms of the trust expressly require that all
87 beneficial interests in the trust vest or terminate within a lesser period.

88 Sec. 8. (NEW) (*Effective from passage*) (a) Every instrument passing title
89 to real property abutting a right-of-way shall be construed to include
90 any fee interest of the grantor in such right-of-way, unless:

91 (1) The grantor retains other real property abutting such right-of-
92 way, in which case: (A) If the retained real property is on the same side
93 as the right-of-way, the property line between the land granted and the
94 land retained shall be continued into such right-of-way as far as the
95 grantor owns; or (B) if the retained real property is on the other side of
96 such right-of-way, the title conveyed shall be to the center of such right-
97 of-way; or

98 (2) The instrument evidences a different intent by an express
99 exception or reservation and not alone by bounding by a side line; or

100 (3) Other written evidence establishes that the right-of-way was
101 expressly dedicated by the grantor to the municipality within which the
102 right-of-way exists.

103 (b) The provisions of subsection (a) of this section shall be effective
104 on the effective date of this section and shall apply to all instruments
105 executed before, on or after the effective date of this section, except the

106 provisions of subsection (a) of this section shall not apply to any person
107 or his predecessor in title who has obtained specific rights in the right-
108 of-way as a result of a judgment of a court of competent jurisdiction.

109 Sec. 9. Section 52-414 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2020*):

111 (a) All the arbitrators to an arbitration matter shall meet and act
112 together during the hearing. A majority may determine any question.

113 (b) If any party fails to appear before the arbitrators or an umpire after
114 reasonable notice, the arbitrators or umpire may nevertheless proceed
115 to hear and determine the controversy upon the evidence which is
116 produced before them.

117 (c) If a written agreement to arbitrate provides that two or more
118 arbitrators therein designated or referred to may select or appoint a
119 person or persons as an additional arbitrator or arbitrators or as an
120 umpire, or if a person or persons are selected or appointed as a
121 substitute arbitrator or arbitrators or umpire and any such selection or
122 appointment is made after evidence has been taken in the arbitration,
123 the matters shall be reheard, unless a rehearing is waived in the written
124 agreement to arbitrate or by subsequent written consent of the parties.

125 (d) Before hearing any testimony or examining other evidence in the
126 matter, the arbitrators and umpire shall be sworn to hear and examine
127 the matter in controversy faithfully and fairly and to make a just award
128 according to the best of their understanding, unless the oath is waived
129 in writing by the parties to the arbitration agreement. Notwithstanding
130 the provisions of this subsection, if the State Board of Mediation, state
131 Employees' Review Board, American Arbitration Association,
132 American Dispute Resolution Center, Federal Mediation and
133 Conciliation Service or other arbitration organization retain on file an
134 individual arbitrator's or umpire's oath for all matters administered by
135 such organizations, a separate oath for each matter heard by such
136 arbitrator or umpire shall not be required.

137 (e) Any arbitrator or an umpire may administer oaths to witnesses.

138 Sec. 10. Section 47-33h of the general statutes is repealed and the
 139 following is substituted in lieu thereof (*Effective October 1, 2020*):

140 Sections 47-33b to 47-33l, inclusive, shall not be applied (1) to bar any
 141 lessor or successor of the lessor as a reversioner of the right to possession
 142 on the expiration of any lease, [or] (2) to bar or extinguish any easement
 143 or interest in the nature of an easement, or any rights granted, excepted
 144 or reserved by the instrument creating such easement or interest,
 145 including any right for future use, if [(1)] (A) the existence of such
 146 easement or interest is evidenced by the location beneath, upon or above
 147 any part of the land described in such instrument of any pipe, valve,
 148 road, wire, cable, conduit, duct, sewer, track, hole, tower or other
 149 physical facility and whether or not the existence of such facility is
 150 observable, or (B) such easement or interest is a conservation restriction,
 151 as defined in section 47-42a, that is held by a land trust or nonprofit
 152 organization, or (3) to bar, extinguish or otherwise affect any interest of
 153 the United States, of this state or any political subdivision thereof, of any
 154 public service company as defined in section 16-1 or of any natural gas
 155 company. [, or (2) such easement or interest is a conservation restriction,
 156 as defined in section 47-42a, that is held by a land trust or nonprofit
 157 organization.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	47-5(a)
Sec. 2	<i>October 1, 2020</i>	1-350d
Sec. 3	<i>July 1, 2020</i>	45a-499j(a)
Sec. 4	<i>July 1, 2020</i>	45a-499c
Sec. 5	<i>July 1, 2020</i>	45a-499gg
Sec. 6	<i>July 1, 2020</i>	45a-487k(10)
Sec. 7	<i>from passage and applicable to any trust created on or after January 1, 2020</i>	45a-491(f)
Sec. 8	<i>from passage</i>	New section

Sec. 9	<i>October 1, 2020</i>	52-414
Sec. 10	<i>October 1, 2020</i>	47-33h

Statement of Purpose:

To make revisions to statutes relating to: (1) The execution of a power of attorney, (2) the Uniform Trust Code, (3) the taking of an oath by an arbitrator, and (4) interests in real property.

[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.]