

Legislative History for Connecticut Act

HB 6796	PA 202	<del>9X</del>	1989
House	6152-6159		(8)
Senate	2294-2296, 2309-2310		(5)
Judiciary	1190, 1191-1192, 1329, 1337-1340		(8)
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1989

VOL. 32  
PART 18  
6029-6382

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House of Representatives

Thursday, May 11, 1989

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, I move that this bill be recommitted to the Committee on Education.

SPEAKER BALDUCCI:

The question is on recommitment. Is there objection?  
Seeing none, so ordered.

CLERK:

Calendar 475, HB6796, AN ACT CONCERNING CLAIMS AGAINST SOLVENT AND INSOLVENT ESTATES. Favorable Report of the Committee on Education.

REP. LUBY: (82nd)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Luby of the 82nd.

REP. LUBY: (82nd)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. LUBY: (82nd)

Yes, Mr. Speaker. This bill makes several rather technical changes to the way our probate courts handle

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estate matters dealing with claims. For example, it requires that the claims against an estate be brought within two years of the person's death, as opposed to the existing law, within two years of appointment of the fiduciary.

It includes some additional language that clarifies the treatment of beneficiary designations and retirement plans to make clear that you can do this outside of a will. It also applies certain procedures relating to trustees to estates of those on or after October, 87 and I think most helpful to the courts, the probate courts, it eliminates the procedures whereby the probate court is required to notify beneficiaries of their ability to request that a fiduciary inform specific creditors of their right to present claims to the estate and I would move passage of the bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark? Will you remark?

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Krawiecki of the 78th.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. The Clerk has an

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amendment, LCO6498. Would he please call and I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO6498 designated House "A".

CLERK:

LCO6498 designated House "A" offered by Representative Krawiecki.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. Members of the House, what this amendment does is reduce the claims period in probate proceedings from a maximum 210 day period to a maximum 150 day period. I would move adoption of the amendment and ask permission to speak.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. I'll be happy to give it back to you in a second, Representative Luby.

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Members of the House, what this proposed change does, a couple of years ago we had extended our claims period, and for those of you that don't know what that means, when a person dies in the State of Connecticut, you sometimes die with outstanding debts, whether it be your Visa bill or some other expense, doctor bills, hospital, and the like.

What had been happening in a good many courts was, judges were operating with a 90 day claims period and certain courts had found that they felt at that time period might in fact be a little too short, so this Legislature had extended the claims period, the maximum claim period to 210 days.

The Bar Association had worked long and hard on that compromise figure, and I acknowledge the section of the Bar's work in that respect, but it seems to me that a 210 day waiting period when the Succession Taxes of the State of Connecticut have to be filed within 270 days of the death of the individual, seemed to be a little long to those of us who were reading the bill, and what this amendment purports to do is to reduce the claim period down to 150 day maximum.

Now, under existing law and under the laws this amendment, and the laws would state under this amendment, any beneficiary can guarantee claims and

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thereby reduce the claim period, there's a provision in our statutes for that. So, in essence, what this truly is doing is reducing the maximum claim period down to 150 days. I think it's a reasonable amendment, although I can understand how others might have a different point of view.

But, I think it's a reasonable time frame. One of the common complaints that I receive from many of my clients in estate proceedings is, why does it take so long? One of the reasons is, this claim period extension and I just don't think that we totally serve all of the people. I think it probably would satisfy any court scrutiny and I would urge adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark further?

REP. LUBY: (82nd)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Luby.

REP. LUBY: (82nd)

Thank you, Mr. Speaker. Mr. Speaker, I'd like to pose a question to the proponent of the amendment.

SPEAKER BALDUCCI:

Please proceed, Sir.

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REP. LUBY: (82nd)

Representative Krawiecki, I completely agree with the intent of the amendment, and as far as it goes, with I believe, it's appropriateness. My only question relates to whether or not we have technically changed all of the statutes we need to in order to do what you've accomplished and the question is, with regard to this section 230j, which I hope is in your hand now, the question is, in order to do this and make the statutory language consistent, whether or not we should probably change that section then, too, because it refers to that 210 day period.

REP. KRAWIECKI: (78th)

Through you, Mr. Speaker, I must admit that I hadn't remembered this one section, but I suspect that since the probate court administrator puts together a rather lengthy regulation book for each of their probate judges, to which most of the general public is not at all aware, that when the change is made, this change in this one statute might very well be accomplished under a technical revisor or something like that a little later in the Session, and I think that we could accomplish that without a great deal of difficulty.

SPEAKER BALDUCCI:



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Representative Luby.

REP. LUBY: (82nd)

Yeś, thank you, Mr. Speaker. Mr. Speaker, then I would regard this as a friendly amendment and I would ask the Chamber to support it.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed; nay: The ayes have it. The amendment is adopted.

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House Amendment Schedule "A".

In line 5, insert an opening bracket before "two" and after "ten" and insert the following: "]ONE HUNDRED FIFTY"

In line 19, insert an opening bracket before "two" and after "day" insert the following: "]ONE-HUNDRED-FIFTY-DAY"

\*\*\*\*\*

SPEAKER BALDUCCI:

Will you remark further on the bill as amended?  
Will you remark? If not, staff and guests to the well.  
Members please be seated. The machine will be opened.

CLERK:

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The House of Representatives is voting by roll.

Members to the Chamber. Members to the Chamber,  
please. The House is voting by roll.

SPEAKER BALDUCCI:

Have all the members voted and is their vote  
properly recorded? If so, the machine will be locked.  
The Clerk please take a tally.

The Clerk please announce the tally.

CLERK:

HB6796 as amended by House "A".

Total number voting	143
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Necessary for passage	72
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Those voting yea	143
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Those voting nay	0
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Those absent and not voting	8
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SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 14, Page 17, Calendar 442, Substitute for  
SB960, AN ACT ESTABLISHING THE CONNECTICUT HOUSING  
TRUST FUND. Favorable Report of the Committee on  
Finance, Revenue and Bonding.

REP. BROOKS: (95th)

Mr. Speaker.

SPEAKER BALDUCCI:

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SENATE

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SENATOR AVALLONE:

Yes. Excuse me, adoption in accordance with the action of the House.

THE CHAIR:

Thank you.

SENATOR AVALLONE:

House "B" adds that the ranking members of the Judiciary Committee be added to this Commission. The bill itself, several years ago the Federal Government required that we establish a Commission to deal with guidelines on child support issues and they indicate that we must make these mandatory unless there is a finding that it would be inequitable in a particular case and this is in accordance with that action.

If there is no objection I would move it to Consent.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 474, File 578 and 714, HB6796, AN ACT CONCERNING CLAIMS AGAINST SOLVENT AND INSOLVENT ESTATES. As amended by House Amendment Schedule "A". Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

Senator Avallone.

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SENATOR AVALLONE:

Yes, Mr. President. I would move the Joint Committee's Favorable Report and passage of the bill in accordance with the action of the House.

THE CHAIR:

Will you remark?

SENATOR AVALLONE:

Yes. House "A"...the amendment reduces the time in which creditors must present claims to an estate's fiduciary from 210 to 150 days. Also the body of the bill makes a number of changes. The first would require the claims against the estate be brought within two years of the person's death. The current law is two years with the fiduciary. The bill would amend the section in Connecticut statutes to extend the exemption from compliance with the Connecticut statute of wills to beneficiaries.

In other words, a person can name a beneficiary of his IRA without following the formalities of making a will. Also there was some action take last year that required some additional expenses to the Probate Court and to the Administration which found that it was unnecessary because representatives of State hadn't taken advantage of that.

THE CHAIR:

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Further remarks? Senator Freedman.

SENATOR FREEDMAN:

Thank you, Mr. President. A question, through you, to Senator Avallone. Having acted as a fiduciary on two estates and having to deal with out of state, will this give the parties ample time to make those notifications in out-of-state situations? We are still trying to track down some of the assets.

SENATOR AVALLONE:

Yes. There have been a number of questions over the years as they relate to claims, notifications of claims procedure. We have been changing those for the last three years in particular and yes, I do believe there is sufficient time.

SENATOR FREEDMAN:

Thank you.

THE CHAIR:

Further remarks? Senator Avallone.

SENATOR AVALLONE:

I would move it to Consent, without objection.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 12, Calendar 476, File 558, 716,  
Substitute HB7474, AN ACT CONCERNING THE AUTHORITY OF

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in Connecticut to listen and to learn. Thank you very much for your welcome. I am delighted to be here.

(Applause)

THE CHAIR:

We have a number of items on the Consent Calendar. Clerk please make an announcement for roll call on the Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

THE CHAIR:

Please give your attention to the Clerk who will read the items that have been referred to the Consent Calendar.

THE CLERK:

Beginning on Page 1, Calendar 165, Substitute SB789. Calendar 187, Substitute HB7150. Calendar Page 3, Calendar 387, Substitute SB803. Calendar Page 5, Calendar 422, Substitute HB7201.

Calendar Page 7, Calendar 446, Substitute HB7278. Calendar Page 9, Calendar 463, HB7594. Calendar Page 11, Calendar 472, Substitute HB7528. Calendar 474, HB6796.

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Calendar Page 12, Calendar 476, Substitute HB7474.  
Calendar Page 18, Calendar 268, SB760. Mr. President,  
that completes the call of the first Consent Calendar.

THE CHAIR:

Any changes or omissions? The machine is open.  
Please record your vote. Has everyone voted? The  
machine is closed. Clerk please tally the vote.

The result of the vote:

36 Yea

0 Nay

The first Consent Calendar is adopted.

Call the next item please.

THE CLERK:

Calendar 378, File 576, Substitute SB812, AN ACT  
CONCERNING AIDS RELATED TESTING AND MEDICAL INFORMATION  
AND CONFIDENTIALITY. As amended by Senate Amendment  
Schedule "A". Favorable Report of the Committee on  
INSURANCE AND REAL ESTATE. Clerk is in possession of  
two amendments.

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Yes, Mr. President, would you mark that Passed  
Temporarily, please?

THE CHAIR:



JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 4  
1174-1534

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JUDICIARY

March 18, 1989

JUDGE RALPH LUKENS: Thank you, Mr. Chairman, Members of the Committee. My name is Ralph Lukens. I am the Probate Court Administrator for the state of Connecticut.

I'd like to speak very briefly on six non-controversial but very important bills, mainly SB920,, SB921, SB922, SB926, SB957 and HB6796. I've submitted written testimony on all those bills, but I will also abbreviate my oral testimony in view of your heavy schedule today.

SB920 is AN ACT CONCERNING CERTIFICATE OF TAX PAYMENT FOR MOBILE HOMES. Due to a change in the statute on October 1, 1986, in order to transfer a title to a mobile home, we now have to put something on the land records. This bill would give the clerk permission to issue that document.

SB921, AN ACT CONCERNING THE ROLE OF COUNSEL IN CONSERVATORSHIP PROCEEDINGS. At the present time, due to case law, a counsel for conservators is allowed only in the initial proceedings, not through our subsequent sale of real estate or a subsequent accounting being filed. In order to protect our elderly, we feel that counsel that has been appointed should be able to represent these elderly people through all avenues of the conservatorship proceedings.

REP. TULISANO: Is it customary in some courts to do that anyway?

JUDGE RALPH LUKENS: Yes, we do do it, Representative Tulisano, however, Superior Court cases have found that it is not, it has no standing. And we feel that it's important and the statutory change would give that counsel standing.

SB922, AN ACT CONCERNING ADOPTION has to do with interstate contract on the placement of children. The purpose of the bill is to see that all children that come into the state of children are treated the same as children who are in the state of Connecticut, and given the same privacy and confidentiality and protection.

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JUDICIARY

March 18, 1989

SB926, AN ACT CONCERNING GUARDIANSHIP OF THE MENTALLY RETARDED. That bill would provide for certified mail return receipt notice after the subsequent hearing with respect to a mentally retarded individual. It's felt very strongly that we're spending a tremendous amount of the petitioner's money on personal service to a person who has been determined either totally incapable or capable of receiving mail. If he's totally incapable, the mail service would be adequate. If he is capable of receiving mail, the mail service will also be adequate.

SB957, AN ACT CONCERNING TRUST ACCOUNTINGS has to do with (inaudible) trust. Under the present law, the (inaudible) trust or the trustee or the donee may ask for a hearing in the probate court, but the beneficiary may not. It just seems like the beneficiary ought to have the same rights as everybody else, and have an opportunity to bring his case into the probate court for a hearing.

REP. TULISANO: Do you see any problem with the language in this bill?

JUDGE RALPH LUKENS: The last bill is HB6796, AN ACT CONCERNING CLAIMS AGAINST SOLVENT AND INSOLVENT ESTATES. This is a bill of the Connecticut Bar Association. We support every provision of that, but I'd like to speak specifically about one provision. Section 45-230FB of the statute now requires the probate court to notify beneficiaries of their ability to request that specified creditors be informed by the (inaudible) of their right to present claims. When this was submitted in 1987, it was thought it would be an option of interest to beneficiaries.

Our statistics in 1988 show that we have had 10,000 mistakes and less than 100 responses. The cost of this is tremendous. The confusion that has resulted is also tremendous, and we would like that provision deleted. I'll be glad to answer any questions if there are any.

SEN. AVALLONE: Representative Wollenberg.

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JUDICIARY

March 18, 1989

REP. WOLLENBERG: Judge Lukens, this is the one where the probate court sent, this is the one where the probate court sent notice to all beneficiaries that if they knew any creditor, they were to notify that creditor?

JUDGE RALPH LUKENS: That's correct.

REP. WOLLENBERG: And that business?

JUDGE RALPH LUKENS: That's correct.

REP. WOLLENBERG: That didn't seem very good. We did it, but . . . .

JUDGE RALPH LUKENS: Well, it did work, but . . . .

REP. WOLLENBERG: They send a notice to a charitable beneficiary asking to come with creditors of the person who's just died, he doesn't even know the person who just died.

JUDGE RALPH LUKENS: The beneficiaries are really confused on it. They sent them to the attorney who doesn't know what to do with them either. Even the 100 or less that have come back to the courts have not been correct.

REP. WOLLENBERG: So we're doing away with that?

JUDGE RALPH LUKENS: Yes.

REP. WOLLENBERG: Good effort.

JUDGE RALPH LUKENS: Thank you.

SEN. AVALONE: Any other questions? Thank you very much.

JUDGE RALPH LUKENS: Thank you very much.

SEN. AVALONE: Jack Kelly?

CHIEF STATE'S ATTY. JOHN KELLY: I'm here to testify on a number of bills. I will try to be as brief as possible. This testimony will be given on behalf of the Division of Criminal Justice.

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JO ROBERTS: One other brief, brief. HB6796, also AN ACT CONCERNING CLAIMS AGAINST SOLVENT AND INSOLVENT ESTATES. This is a bill that's being proposed by the Estates and Probate Section of the Connecticut Bar Association. Once again the probate advisory committee of the Law Revision Commission has reviewed this bill, and is in favor of it. Judge Luken spoke about one thing that this bill does which is to get rid of a rather cumbersome notice process that's in existence.

It also makes another change to Section 45-230X of the current statutes which deals with the time when the statute of limitations for creditors to bring claims begins to run, and currently that runs from the date when the court appoints an fiduciary to administer the trust. That came into question in a 1988 U. S. Supreme Court decision which ruled that kind of state action as the date for when the statute of limitations starts running to be unconstitutional.

This bill would solve that problem by having the statute of limitations period right from the date of death of the decedent, and once again we ask for your support of the bill. Thank you.

SEN. AVALLONE: Thank you very much. Robert Wilcos.

ROBERT WILCOX: Senator Avallone, members of the Committee, thank you for allowing me to speak. My name is Robert Wilcox. I'm from Milford, Connecticut, and I'm speaking for myself in opposition of HB7469, the semiauto bill.

I submit that it fails to address the correct issue. Criminals by definition do not obey laws. They buy their weapons on the black market or they steal them. The drug lords are just going to laugh at you any time you tried and passed gun legislation they're going to ignore it.

I mean, there you have the National Firearms Act in 1934, that prohibits full autos. What are these criminals carrying around? Full autos. The laws are so able the drug lords already smuggle drugs. What's going to stop them from smuggling firearms?



**State of Connecticut**  
**Probate Administration**

OFFICE OF THE  
PROBATE COURT ADMINISTRATOR

March 18, 1989

186 NEWINGTON ROAD  
WEST HARTFORD, CONNECTICUT 06110-2320  
(203) 566-7897

TO: THE JUDICIARY COMMITTEE

FROM: RALPH D. LUKENS, PROBATE COURT ADMINISTRATOR

RE: HOUSE BILL 6796, AN ACT CONCERNING CLAIMS AGAINST  
SOLVENT AND INSOLVENT ESTATES

I would like to indicate my strong support for H.B. 6796, An Act Concerning Claims Against Solvent and Insolvent Estates, which proposes a number of amendments to the Claims Statutes. As you know, the claims procedures were radically revised with the passage of Public Act 87-384, An Act Concerning Claims Against Solvent and Insolvent Estates and Liabilities of Beneficiary to Creditors and Others.

Section 45-230f(b) now requires the court of probate to notify beneficiaries of their ability to request that specified creditors be informed by the fiduciary of their right to present claims against the decedent's estate. When the claims proposal was submitted in 1987, it was thought that this option would be of interest to beneficiaries. Our experience, however, has been that the procedure is confusing and rarely used. Although over 10,000 testate and intestate estates were closed in 1988, there were less than one hundred returns submitted to the courts by beneficiaries. It is pointless for the probate courts to incur the expense and effort of notifying beneficiaries of a procedure so rarely used. The bill before you would delete this requirement.

I also support several other revisions to the 1987 Claims Statute which are proposed by H.B. 6796.

First, it would revise provisions of the 1987 statute which "bar" claims of creditors after a two year period by making the statute of limitations applicable to such claims automatic and therefore "self-executing." This change would be in compliance with the 1987 U.S. Supreme Court decision, Tulsa Professional Collection Services, inc. v. Pope, 108 S.Ct. 1340 (1988).

Second, the bill before you would re-enact the substance of section 45-213c of the General Statutes allowing trustees to receive proceeds of pension, retirement, death benefit and profit sharing plans for decedents

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dying on or after October 1, 1987. The provisions of section 45-213c were inadvertently repealed for decedents dying on or after 10/1/1987 by Public Act 87-384 (sec. 34(b)).

Third, this bill would amend section 45-203c to extend the exemption from compliance with the Connecticut Statute of Wills to beneficiary designations under Individual Retirement Accounts and similar plans. This is a logical extension of the current statute.

I urge your joint and favorable support for this bill.

Memorandum in Support of House Bill No. 6796  
Entitled An Act Concerning Claims Against  
Solvent and Insolvent Estates

House Bill 6796 has been submitted to achieve three goals: (1) to amend Public Act 87-384, (2) to enact a statute substantially similar to Section 45-213c and (3) to amend Section 45-203c. Each of these goals is explained below.

A. The amendments to Public Act 87-384 are proposed for the following reasons:

(1) The provisions of the Act requiring the Probate Court to send notices to beneficiaries of a decedent's estate informing them that they can submit names of possible creditors to the Probate Court and the Executor of the Estate will then be required to give legal notices to those persons has proved unworkable in practice. The Probate Judges have reported to the Probate Court Administrator that the notices have only served to confuse beneficiaries and make a tremendous amount of work for the Courts. Furthermore, the creditor's notice process has generally been ignored by the beneficiaries. Accordingly, at the request of the Probate Court Administrator, the proposed amendment eliminates from the statute the provisions dealing with notices to beneficiaries regarding creditors.

(2) The proposed amendment to Section 16 of the Act is to correct a cross reference error and a terminology error.

(3) Finally, an amendment to Section 23(c) of the Act is proposed to cure a Constitutional defect which arose after the passage of the Act as a result of the decision of the Supreme Court of the United States in Tulsa Professional Collection Services, Inc. v. Joanne Pope, Executrix of the Estate of Everett Pope, Jr. The proposed amendment would establish a two year self executing statute of limitations on all claims against a decedent's estate running from the date of the decedent's death as opposed to the date of the appointment of the first fiduciary (as the Act now provides).

B. Section 6 of House Bill No. 6796 would enact a new statute substantially similar to Section 45-213c effective for decedent's dying on or after October 1, 1987. Public Act 87-384 as initially submitted contained a section which would have prevented the repeal of Section 45-213c for decedent's dying on or after October 1, 1987, however, at some point during the legislative process that provision was accidentally



dropped from the Act as finally passed. Section 6 is submitted to cure the problems caused by the inadvertent repeal of Section 45-213c.

C. The final goal of House Bill No. 6796 is resolve a very important defect in Section 45-203c. It has historically been the intent of the legislature to allow individuals to execute revocable beneficiary designations under all forms of retirement plans and insurance policies. Absent specific legislative authority, however, such revocable beneficiary designations constitute a violation of statute of wills and are invalid unless executed with the formality of a will. In reviewing the existing exceptions to the statute of wills which are set forth in Section 45-203c, it was recently discovered that Individual Retirement Plans are not included among these exceptions. Since there are tens of thousands of IRA's in existence in Connecticut with beneficiary designations which do not comply with the statute of wills, this is potentially a very serious problem. The purpose of the proposed legislation is to include IRA's in the Section 45-203c exceptions to the statute of wills and thereby cure the problem.

House Bill 6796 has the support of the Connecticut Probate Assembly, the Connecticut Law Revision Commission and the Estates and Probate Section of the Connecticut Bar Association.

Respectfully submitted

Howard S. Tuthill III on behalf of the  
Executive Committee, Estates and  
Probate Section of the Connecticut  
Bar Association