

Legislative History for Connecticut Act

<i>HB 3728</i>	<i>PA 230</i>	<i>1965</i>
<i>Judiciary - 306 - 308</i>		<i>3</i>
<i>Senate - 1905</i>		<i>1</i>
<i>House - 2479 - 2480</i>		<i>2</i>

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**JOINT
STANDING
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HEARINGS**

**JUDICIARY
AND
GOVERNMENTAL
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PART 1

1 - 310

**CONN.
GENERAL
ASSEMBLY
1965**

intensified by the imposition of interest at the rate of 9 per cent per annum on the unpaid Succession Tax is only in some cases, and the substantial amounts of interest. The problem most frequently occurs, I would guess, in areas where the after-discovered property consists of an interest in a trust or estate which was vested in a decedent but which does not become possessory until many years after his death. Where there is such after-discovered property the fiduciary must reopen the estate and incur additional probate and attorney's fees and pay Succession Tax interest all to satisfy the personal liability under the present Statutes. If the proposed amendment is enacted the State is amply protected in the settlement and the collection of the tax during the settlement of the estate and would--and with respect to property within the knowledge of the fiduciary before the final determination of tax by the Probate Court. Of course, this may take some time, it may be two or three years after death before there is such final determination. The property of which the fiduciary had no knowledge before final determination of the tax would not, under the amendment, give rise to additional personal liability for the tax. The State would further be protected in the case of real estate under provisions of Section 12-366 which impose a lien on real property passing from a decedent. Accordingly, our committee favors adoption of this bill.

Chr. Boyd: May I ask one question with respect to the new language here which I will read, "and except that no administrator, executor, trustee or transferee shall be liable for any tax in respect of property includable" and I'm paraphrasing that, does that--is that intended to mean personal liability?

Mr. John Barnett: Yes, I believe so, because it is an exception to the first sentence which says that they shall be personally liable, so I think it would be exception to that.

Chr. Boyd: I suspected that, but don't you think it would be required, the repetition of the word "personally"?

Mr. John Barnett: I, personally, would have no objection to that, to clarify it.

Chr. Boyd: Thank you. Anybody else wish to speak in favor of 3719? In opposition? If not, 3728.

H. B. 3728 (Reps. O'Brien and Brinckerhoff) AN ACT CONCERNING PAYMENT OF LIFE INSURANCE PROCEEDS TO A TESTAMENTARY TRUSTEE

Mr. John Barnett: This is another bill favored by our committee

on Probate and Trust Matters. The insurer under a policy of life insurance often finds it convenient to designate his beneficiary of the insurance a trustee appointed under his Will. The trustee administers the property for the benefit of the wife and children or other beneficiaries. The same purpose can, of course, be accomplished and frequently is, by means of an intervivos trust agreement, but the designation of a testamentary trustee as insurance trustee, when appropriate, is much simpler. Less documents and less complications, particularly where the estate is relatively small and where a trust is planned only if the wife of the insured does not survive. The 1963 General Assembly provided that insurance proceeds payable to a trustee under a testamentary trust shall enjoy exemptions from Succession Tax available to named beneficiaries of life insurance--that's Section 12-342. However, some life insurance companies and attorneys have questioned the validity of the designation of a testamentary trustee as beneficiary and it is in order to eliminate such doubt and to make the 1963 legislation fully effective that Bill 3728 is proposed. Since the submission of this bill, we have somewhat refined the bill and I would like the opportunity of leaving with the chairman a substitute bill as well as a copy of this statement.

Chr. ^Doyd: I have serious doubts on this one, the present law, that is, and I know that it's intent was to do this, at least, as it was expressed to this committee at the time, and I'd be happy to have your substitute bill on this. I also would like to ask you a philosophical question, if I may. What would be the objection to eliminating life insurance trustees from taxation completely? Only if they fall into the true estate. It doesn't seem to me, offhand, as a valid distinction.

Mr. John Barnett: Well, I think you're entirely right. The distinction that now exists is a trap for the unwary and it seems to me that perhaps it would be desirable to exempt the proceeds of life insurance entirely whether paid to the decedent's executor or to a named beneficiary. That would seem to make sense.

Rep. Brinckerhoff: May I ask a question, please? With reference to this bill, was there any objection as you would see it to including not only a trustee under a testamentary trust but again a trustee to be created under an intervivos trust, perhaps the endorsement or the designation on the policy itself would just say payable to a trustee under an intervivos or testamentary trust of the insured which trustee may not at that particular time have been designated.

Mr. John Barnett: Well I think that the present, so-called, pourover Statute covers the payment of life insurance proceeds to the trustee of an intervivos trust and that has been tinkered with from time to time and I think now is in satisfactory form. I hate to do much more to it at this point.

Rep. Brinchkerhoff: Well, some of us still have a little concern with reference to the exemption from Succession Tax of insurance proceeds payable to a named beneficiary whether an endorsement on insurance policy, say that the beneficiary of the proceeds is the trustee under the last Will and Testament of the deceased without any date as to the Will, it may not even have been executed at that time, whether that might be interpreted as not being a named beneficiary and is therefore subjected to Succession Tax. I think part of the purpose of this bill which is drafted by Mr. O'Brien was to overcome that implication as well.

MR. John Barnett: Well, I think it would, as I see it.

Chr. Boyd: Thank you. Anybody else wish to speak. If not, we will go on to 3733.

H. B. 3733 (Rep. O'Brien) AN ACT CONCERNING ASCERTAINMENT OF PRINCIPAL AND INCOME AND APPORTIONMENT OF RECEIPTS AND EXPENSES AMONG INCOME BENEFICIARIES

Mr. John Barnett: I'd like to make a brief statement on this not with respect to the merits of this act which is long and complex, but with respect to the committee's proposed action on this. Our committee is now understood that the bankers Association questions certain points in the bill as it has been proposed and it may well be that these are highly technical matters which can be worked out between the lawyers and bankers some time during this session. We hope that we might meet with the bankers, work out what we can and be in touch further with this committee when we have reached a consensus.

Chr. Boyd: That's your understanding, Mr. Read?

Mr. Harold Read, Jr.: Yes, Mr. Boyd. I think, I'm very sorry. Usually we keep in touch with the Bar Association but communications broke down and it was just yesterday we discovered that they were sponsoring the bill and they discovered that we didn't like it and it is technical and we've already arranged to get a couple of groups to sit down and go over the thing in detail and I think that we will certainly be in a position to give you a definite report in plenty of time in this session.