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**Refunding of Overpayment of
Probate Assessments**

Refund of probate assessment overpayments 45-26-1

Refunding of Overpayment of Probate Assessments

Sec. 45-26-1. Refund of probate assessment overpayments

Each person entitled to a refund of overpayment, as provided in section 45-26 of the 1969 supplement to the general statutes to be paid from the fund provided by section 45-4h of said supplement, shall make written application for such refund to the probate court administrator specifying the amount of the assessment due, the amount paid thereon and the amount of the refund claimed. The probate court administrator, after determining the amount of the refund due, if any, shall initiate a voucher and payment list against the probate court administration fund established by section 45-4h of the 1969 supplement to the general statutes, for the amount of the refund. The payment of any such refund shall not bar the probate court administrator from a subsequent finding, as the result of any audit made after such refund, that the amount of assessment paid was incorrect and that such person is either entitled to an additional refund or is indebted to the probate court administrator.

(Effective March 25, 1969.)

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**Election of Optional Form of Retirement Allowance for
Members of the Probate Judges and Employees'
Retirement Fund**

Sec. 45-29j-1. Filing and approval of election. Revocation

(a) A member desiring to elect an optional form of retirement allowance shall file with the retirement commission, before the commencement of his retirement allowance, a written election on a form to be provided by the retirement commission.

(b) An election shall be approved immediately if the member passes a health examination satisfactory to the retirement commission. Such health examination shall be made, without expense to the state, on a form to be provided by the retirement commission, by a physician legally licensed to practice medicine in the State of Connecticut.

(c) In other cases, the option application shall automatically be deemed to have been approved by the retirement commission three years after the filing thereof.

(d) An election may be revoked, or the fraction which the spouse is to receive may be reduced, at any time at least three years before the first date on which the spouse would have been entitled to a retirement allowance if the member had died on such date, as set forth in subsection (b) of section 45-29j-2. In the event of the divorce of the member and his spouse, an election may be revoked at any time before such first date. Otherwise an election may not be revoked or the fraction reduced except upon the consent of the commission, which will consider whether the proposed revocation or change would be detrimental to the state or to the retirement fund, and may require evidence as to the health of the member or his spouse, or both, and may require the consent of the spouse, before making its decision.

(e) The member may, if he so elects, provide that the optional form shall not take effect if he is retired on account of disability.

(Effective July 22, 1969)

Sec. 45-29j-2. Allowance to spouse

(a) If a member retires after his election has been approved by the retirement commission and he is outlived by his spouse, such spouse shall be entitled to a retirement allowance commencing at the member's death. In the case of a member not participating in social security, the amount of each payment to the spouse shall be the reduced amount which would have been payable if the member were living at the time of such payment, or such fraction thereof as the member shall have specified in his election. In the case of a member participating in social security, the income payable to the spouse prior to the spouse's sixty-second birthday shall be the same as if the member were not participating in social security; and the income thereafter shall be the same as that to which the member was entitled, or to which he would have become entitled, upon his becoming eligible for social security old age insurance benefits, or such fraction thereof as the member specified in his election.

(b) If a member dies before retiring, after he has attained the age and completed the years of service necessary for retirement and after his election has been approved by the retirement commission, his spouse, if surviving, shall be entitled to receive the same retirement allowance as such spouse would have been entitled to if the member had retired just before his death.

(c) In no other case shall the spouse be entitled to a retirement allowance if the member dies before commencement of his retirement allowance. In no case shall

the spouse be entitled to a retirement allowance if the member retired before his election has been approved by the retirement commission.

(Effective July 22, 1969)

Sec. 45-29j-3. Computation of allowance

(a) The reduced retirement allowance payable to the member shall be a percentage of the retirement allowance that would have been payable if an optional form of retirement allowance had not been elected. In the case of (1) a member not participating in social security or (2) a member who retires or dies while entitled to social security benefits, as a result of service in a probate court, and whose spouse has attained the age of sixty-two, the percentage shall be uniform. Otherwise there shall be two such percentages. The first shall be the same as if the member were not participating in social security and shall apply (1) to the total retirement allowance that would have been payable to the member prior to the age at which the member would become eligible for social security old age benefits and prior to his qualifying for social security disability insurance benefits and (2) to that part of the retirement allowance that would have been payable thereafter arising from average final compensation in excess of the amount on which social security taxes were payable, if an optional form of retirement allowance had not been elected. The second percentage shall apply to the remainder of the retirement allowance that would have been so payable. The first and second percentages will be so computed that the resulting reduced retirement allowance shall be the actuarial equivalent, as determined by the retirement commission, of the retirement allowance that would be payable were it not for the election of this option. If the second percentage would otherwise exceed one hundred per cent, it will be taken as one hundred per cent, and the first percentage increased accordingly. When a second percentage has become effective, and the age of either the member or the spouse at which the second percentage becomes effective is changed by law or regulations, a new second percentage shall be appropriately calculated and shall apply after the effective date of such change. If a member, after becoming entitled to social security disability insurance benefits, ceases to be so entitled before the age at which he would become eligible for social security old age insurance benefits, the first percentage will again apply, and the second percentage shall be appropriately recalculated.

(b) If the spouse shall have died before the first date on which the spouse would have been entitled to a retirement allowance if the member had died on such date, the member, on retirement, shall be entitled to the same retirement allowance as if an optional form of retirement allowance had not been elected. If the spouse has died between such date and the commencement of the member's retirement allowance, the member's retirement allowance shall be reduced by an amount or amounts determined by the retirement commission as equivalent to the value of the protection for the amount of the retirement allowance which would have been payable to the spouse if the member had died between such date and the date of the spouse's death.

(Effective July 22, 1969)

Sec. 45-29j-4. Payment to beneficiary

If a retirement allowance becomes payable either to the member or to the spouse, the payment to the beneficiary provided for in section 45-29m and 45-266 of the 1969 supplement to the general statutes shall be made only after the death of the survivor of the member and his spouse, and shall then be made in an amount equal to the excess, if any, of the member's contributions to the retirement fund over the aggregate of the retirement allowance payments made to him and to his spouse.

The spouse shall have no right to name or change a beneficiary either before or after the death of the member. If no named beneficiary survives the member and his spouse, payments shall be made to the executor or administrator or the member, except that, if the amount is less than one thousand dollars, the refund may, at the option of the comptroller, be made in accordance with the terms of section 45-266 of the 1969 supplement to the general statutes.

(Effective July 22, 1969)

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or Located by Prospective Adoptive Parents**

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**Adoption Placement of Children Who Have Been Identified or
Located by Prospective Adoptive Parents**

Secs. 45-63-1—45-63-10.

Transferred, November 4, 1993.

Former Section Number

New Section Number

45-63-1	45a-728-1
45-63-2	45a-728-2
45-63-3	45a-728-3
45-63-4	45a-728-4
45-63-5	45a-728-5
45-63-6	45a-728-6
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45-63-10	45a-728-10

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Requirements for Appointment of the Commissioner on Aging as Conservator of the Estate for Certain Elderly Individuals

Secs. 45-70g-1—45-70g-4.

Repealed, December 10, 1990.

Sec. 45-70g-1a. Definitions

As used in Sections 45-70g-1a through 45-70g-7, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

(a) “Available Appropriations” means funds, if any, appropriated by the General Assembly to the Department on Aging to carry out the purposes of Section 45-70g of the Connecticut General Statutes.

(b) “Commissioner” means the Commissioner of the Department on Aging.

(c) “Conservator” means conservator of the estate as defined in Section 45-70a of the Connecticut General Statutes as amended.

(d) “Department” means the Department on Aging.

(e) “Designee” means any employee of the Department selected by the Commissioner to act on her or his behalf as conservator of the estate under Section 45-70g (b) of the Connecticut General Statutes.

(f) “Incapable of managing his or her affairs,” “respondent” and “ward” are defined in accordance with Section 45-70a of the Connecticut General Statutes.

(g) “Institution” means any state-operated or private residential facility including a chronic disease hospital, general hospital, psychiatric hospital, intermediate care facility for the retarded, hospice or any chronic and convalescent facility or rest home with nursing supervision as defined by Section 19a-521 of the Connecticut General Statutes.

(h) “Liquid Assets” means all resources readily convertible into cash, excluding real property, and including but not limited to cash, bank accounts, stocks, certificates of deposit, credit union shares, present interests in estates, the cash value of life insurance, and the cash value of burial insurance in an amount over \$1,500.

(i) “Real Property” means land property, the natural resources therein, and improvements thereon. For the purposes of Sections 45-70g-1a to 45-70g-4a, inclusive, real property does not include a mobile home unless the mobile home is permanently affixed to real property which is intended to be sold along with the mobile home.

(j) “Suitable Conservator” means any person, municipal or state official, or private profit or non-profit corporation, except a hospital or nursing home, as defined in Section 19a-521 of the Connecticut General Statutes found appropriate by the Probate Court.

(Effective December 10, 1990)

Sec. 45-70g-2a. Eligibility standards for the commissioner on aging to serve as conservator

The Commissioner shall accept appointment as conservator of the estate of any respondent 60 years of age or older, within available appropriations and subject to the following conditions and limitations:

(a) The Court of Probate must find that the respondent is incapable of managing his or her affairs.

(b) The Court of Probate must find that the health or welfare of the respondent is in jeopardy without such appointment, based on evidence showing

(1) That the respondent has property rights which will be wasted or dissipated unless proper management is provided, or

(2) That funds are needed for the support, care or welfare of the respondent and the respondent is unable to take the necessary steps to obtain such funds.

(c) The Court of Probate must find that, despite duly diligent efforts, no other suitable conservator can be found.

(1) The Commissioner is the conservator of last resort. The availability of family, attorneys, friends, town and state officials, town social service providers, state social service providers, the Department of Administrative Services under Section 4a-15 of the Connecticut General Statutes and any other appropriate persons, to serve as conservator must be fully explored and exhausted by the person petitioning the court for a conservator before the Commissioner is authorized to serve as conservator, within available appropriations.

(2) The Commissioner may not serve as conservator if a member of the respondent's family or another person is available, qualified and willing to serve.

(d) The respondent's liquid assets must not exceed the asset limit specified in Section 45-70g (a) of the Connecticut General Statutes as amended. In determining eligibility for the Commissioner's service as conservator, a respondent's liquid assets shall be disregarded to the extent that they are required to pay outstanding bills incurred by the respondent.

(e) The Commissioner shall not accept appointment as conservator for any respondent who is placed in a Connecticut institution by a government agency of another state.

(Effective December 10, 1990)

Sec. 45-70g-3a. Application and determination of appointment

(a) Any application for conservator which requests appointment of the Commissioner as conservator shall have attached thereto a sworn affidavit setting forth the efforts made to find a suitable conservator, conditions which place the health or welfare of the respondent in jeopardy, and a representation that the liquid assets of the respondent do not exceed the asset limit specified in Section 45-70g of the Connecticut General Statutes, as amended.

(b) Upon receiving an application for conservator which requests appointment of the Commissioner as conservator, or an application concerning which the Court of Probate determines prior to hearing that the Commissioner may be appointed as conservator, a copy of said application, including the information required by Subsection 45-70g-3a (a) above, must be sent by the Court of Probate to the Commissioner or his or her designee, within five (5) days excluding Saturday, Sunday and holidays. A notice of the hearing shall be provided to the Commissioner or the designee at least five (5) business days prior to the hearing date. The Commissioner or the designee may request such additional information as may be necessary to determine eligibility for his or her appointment either through the Court of Probate or directly from the petitioner. At the hearing the Commissioner or the designee may accept or decline the appointment in accordance with these regulations.

(c) If an application for conservator is received which does not request appointment of the Commissioner as conservator, and the Court of Probate cannot determine prior to the hearing that the Commissioner may be appointed as conservator but after a hearing makes a determination that the statutory and regulatory requirements for appointment of the Commissioner have been met, and such appointment is proposed, the Court of Probate shall give the Commissioner or the designee notice

of not less than five (5) business days of its intention to appoint. The Commissioner or designee may request additional information from the Court of Probate in order to determine whether to accept or decline the appointment in accordance with these regulations.

(d) The appointment of the Commissioner as conservator shall be effective as of the date the Commissioner or the designee accepts the appointment in writing.

(e) Service by the Commissioner as conservator is contingent upon the availability of appropriated funds. The Commissioner will suspend acceptance of appointments as conservator when he or she determines that the Department has reached its maximum capacity, and that adequate conservator services for new applicants cannot be provided within the limits of available appropriations. At that time, the Commissioner will send a notice in writing of such determination to the Probate Court Administrator requesting that all Courts of Probate be notified that the Commissioner will no longer accept conservatorship appointments. The suspension will remain in effect until the Commissioner notifies the Probate Court Administrator in writing that such appointments will again be accepted.

(Effective December 10, 1990)

Sec. 45-70g-4a. Duties of conservator

(a) Upon the Commissioner's appointment as conservator of the estate, the Commissioner or the designee shall undertake to complete an inventory of the estate which shall be filed with the Court of Probate within two months of the appointment.

(b) The Commissioner or the designee shall provide a written accounting to the Court of Probate within three years from the date of appointment or more frequently if required by the court.

(c) The Commissioner or designee is not required to engage in the sale or transfer for value of real property in connection with the duties as conservator. When such sale or transfer is necessary for the proper disposition of the estate, the Commissioner may resign as conservator and request that the Court of Probate appoint a successor conservator with payment to be made from the proceeds of the sale.

(d) The Commissioner and the designee shall be exempted from liability for any loss or depreciation of any estate or trust property provided that they have acted in good faith and with reasonable care and diligence.

(Effective December 10, 1990)

Sec. 45-70g-5. Replacement of commissioner with another suitable conservator

During the term of appointment of the Commissioner on Aging, or his or her designee as conservator, if a suitable person, corporation or municipal or state official is found to replace said Commissioner as conservator, such person, corporation, or official may be appointed successor conservator, subject to the approval of the court of probate.

(Effective March 17, 1986)

Sec. 45-70g-6. Payment for cost of services of conservator received

Subject to the approval of the probate court having jurisdiction, the estate of any person for whom the Commissioner has been appointed conservator pursuant to Conn. Gen. Stat. § 45-70g shall be liable for payment for the cost of services as conservator and, to the extent possible, payment to the Commissioner for such services shall be made from the assets of the estate.

(Effective March 17, 1986)

Sec. 45-70g-7. Payment for services received, other than services of conservator

In accordance with Section 45-75a of the Connecticut General Statutes, the preceding duties, responsibilities and powers shall be carried out within the limitations of the resources available to the ward, either through his own estate or through public or private assistance.

(Effective March 17, 1986)

Conservator of Person

Secs. 45-70g-10—45-70g-16. Transferred

Correlated Table

<u>Existing Section</u>	<u>New Section</u>
45-70g-10	45a-651-10
45-70g-11	45a-651-11
45-70g-12	45a-651-12
45-70g-13	45a-651-13
45-70g-14	45a-651-14
45-70g-15	45a-651-15
45-70g-16	45a-651-16

(Effective July 23, 1991)