



Dear Stewart Partners,

One week closer to Thanksgiving, turkey and pumpkin pie. In this Mid-Week Update, we are providing a discussion of The Marketable Record Title Act in Connecticut, and also *Maefair Health Care Ctr., Inc. v. Noka*, 236 Conn. App. 1 (2025), a case concerning the attachment of contingent or defeasible property interests as a prejudgment remedy under C.G.S. § 52-278a.

Additionally, we want to remind you that Stewart's online resource, known as Virtual Underwriter (VU), which provides access to general underwriting guidance, specific underwriting guidelines, bulletins and so much more will move behind a login, providing exclusive, premier access to our customers and partners. Along with this secure access, the improved VU will also introduce enhanced search functionality powered by Google. For more information, please read more below.

We hope this information proves useful and, as always, we are happy to answer any questions you may have on these topics.



**Introduction to the Connecticut Marketable Record Title Act: Connecticut General Statutes Section 47-33b through 47-33l** By: David M. Piechota, Esq., Connecticut Underwriting Counsel

Connecticut enacted the **Marketable Record Title Act (MRTA)**, codified in **Connecticut General Statutes (C.G.S.) Sections 47-33b through 47-33l**, in 1967. The Act was established to improve and simplify the conveyancing of real property by setting a clear standard for title marketability.

In this introductory article, we focus on **C.G.S. Sections 47-33b and 47-33c**. Future articles will provide more insights covering Sections 47-33d through 47-33l.

### **Understanding the Act's Purpose**

The MRTA (the "Act") is a comprehensive approach to eliminating old and stale title claims and defects. It permits the marketability of a title to be determined, to the greatest extent possible, by an examination of the land records.

The Act works by extinguishing defects, claims, and interests that arose prior to a designated forty-year period, except for those specific interests preserved under the terms of the Act. The net result is that title examination has been simplified, the marketability of

titles is promoted, and land titles are progressively cleansed of ancient claims that are not specifically preserved by the Act.

**Sec. 47-33b. Marketable record title. Definitions.** As used in sections [47-33b](#) to [47-33l](#), inclusive:

- (a) "Marketable record title" means a title of record which operates to extinguish such interests and claims, existing prior to the effective date of the root of title, as are stated in section [47-33e](#);
- (b) "Records" means the land records of the town where the particular land is located;
- (c) "Recorded" means recorded as provided by section [47-10](#) or section [49-5](#), as the case may be;
- (d) "Person dealing with land" includes a purchaser of any estate or interest therein, a mortgagee, an attaching or judgment creditor, a land contract vendee, or any other person seeking to acquire an estate or interest therein, or impose a lien thereon;
- (e) "Root of title" means that conveyance or other title transaction in the chain of title of a person, purporting to create or containing language sufficient to transfer the interest claimed by such person, upon which he relies as a basis for the marketability of his title, and which was the most recent to be recorded as of a date forty years prior to the time when marketability is being determined. The effective date of the root of title is the date on which it is recorded;
- (f) "Title transaction" means any transaction affecting title to any interest in land, including, but not limited to, title by will or descent, by public sale, by trustee's, referee's, guardian's, executor's, administrator's, conservator's or committee deed, by warranty or quitclaim deed, by mortgage or by decree of any court.

#### **Creating Marketable Record Title (C.G.S. § 47-33c)**

C.G.S. Section 47-33c outlines the requirements for a marketable record title to exist. Any person with the legal capacity to own land in Connecticut is deemed to have a marketable record title to an interest if they have:

- **An unbroken chain of title for at least forty years.**
- **Nothing appearing of record in the chain of title purporting to divest the claimant of the purported interest.**

**Sec. 47-33c. Chain of title for not less than forty years creates marketable record title.** Any person having the legal capacity to own land in this state, who has an unbroken chain of title to any interest in land for forty years or more, shall be deemed to have a marketable record title to that interest, subject only to the matters stated in section [47-33d](#). A person has such an unbroken chain of title when the land records of the town in which the land is located disclose a conveyance or other title transaction, of record not less than forty years at the time the marketability is to be determined, which conveyance or other title transaction purports to create such interest in land, or which contains language sufficient to transfer the interest, either in (1) the person claiming that interest, or (2) some other person from whom, by one or more conveyances or other title transactions of record, the purported

interest has become vested in the person claiming the interest; with nothing appearing of record, in either case, purporting to divest the claimant of the purported interest.

This unbroken chain must be established by a conveyance or title transaction recorded not less than forty years prior that purports to create or transfer the interest. When this forty-year period subsequent to the recording of a root of title is met, inconsistent claims and interests that arose before the root of title are automatically extinguished unless preserved by the Act.

This overview highlights the key foundational aspects of the Marketable Record Title Act in Sections 47-33b through 47-33c. Stay tuned for upcoming articles where we will delve deeper into related statutes of the Act and what they mean for property owners and practitioners alike.



**Attachment of Contingent Property Interest as a Prejudgment Remedy under Connecticut Law – Maefair Health Care Ctr., Inc. v. Noka, 236 Conn. App. 1 (2025)** By: Frank Cammarano, Esq.,  
Connecticut Underwriting Counsel

Argued April 22, 2025; officially released October 21, 2025.

### **Facts**

Maefair Health Care Center, Inc. (“Maefair”), a licensed chronic care and convalescent facility in Trumbull, Connecticut, provided medical care and services to Patricia N. Ertz (“the decedent”) beginning in January 2021. The decedent was the sole surviving child of Marguerite Ertz, who died in 2018 owning real property located in Easton, Connecticut. That property was listed as part of Marguerite’s estate, which remained pending in the Trumbull Probate Court. The decedent was the sole heir to the estate. Maefair alleged that \$310,386 in unpaid charges remained for services rendered to the decedent. Susan Noka, appointed conservator of the decedent’s person and estate in 2021, managed the decedent’s assets but did not pay the outstanding charges. The plaintiff sought to secure payment by attaching the decedent’s interest in the Easton property.

### **Procedural History**

On July 1, 2022, Maefair filed an application for a prejudgment remedy under C.G.S. §§ 52-278a and 52-278c, supported by affidavits and testimony, in the Superior Court, Fairfield Judicial District. The trial court denied the application on March 2, 2023, concluding that the decedent’s interest in the property was not subject to attachment because it remained part of Marguerite’s estate pending probate.

Maefair appealed, arguing that the trial court erred in concluding that contingent property interests could not be attached under § 52-278a. During the pendency of the appeal, the decedent died (2023), and the administrator of her estate was substituted as defendant.

### **Issues**

1. Whether the decedent's interest in real property inherited from her mother, though subject to probate administration, constituted "property" under C.G.S. § 52-278a for purposes of attachment in a prejudgment remedy proceeding.
2. Whether the trial court erred in denying Maefair's application for a prejudgment remedy on the ground that the decedent lacked control over the property during probate administration.

### **Holding**

The Appellate Court held that the trial court improperly denied the plaintiff's application. Contingent interests in real property fall within the broad statutory definition of "property" under C.G.S. § 52-278a. Accordingly, the decedent's vested but defeasible interest in the Easton property was subject to attachment. The judgment was reversed, and the case remanded for a new hearing on the application.

### **Reasoning**

C.G.S. § 52-278a(e) defines "property" as "any present or future interest in real or personal property, goods, chattels or choses in action, whether such is vested or contingent." The court emphasized that the legislature intended a broad definition encompassing contingent interests.

Connecticut caselaw establishes that an heir's right of inheritance vests at the decedent's death, even though distribution may occur later. See *Bartlett v. Bartlett*, 220 Conn. 372 (1991). Although probate administration may defeat or alter the interest, it remains a presently existing property interest.

The court relied on *Zanoni v. Lynch*, 79 Conn. App. 309 (2003) and *O'Connor v. Chiascione*, 130 Conn. 304 (1943) to explain that heirs hold title subject to probate administration, but such interests are not mere expectancies. Similarly, in *Gaynor v. Payne*, 261 Conn. 585 (2002), contingent remainder interests were held to be enforceable property interests reachable by creditors. The Appellate Court agreed with the plaintiff that the trial court conflated "control" or "possession" with "interest" and clarified that control is not required for an interest to qualify as property under § 52-278a. Thus, the decedent's contingent interest was attachable.

### **Significance**

This case clarifies that under Connecticut law, contingent or defeasible property interests, including inheritance rights subject to probate administration, fall within the statutory definition of "property" for prejudgment remedies. Creditors may attach such interests to secure potential judgments, even though the debtor lacks present control or marketable title.



### **Virtual Underwriter Changes Are Coming**

Exciting and important changes are coming for Virtual Underwriter beginning in December. As mentioned above, the Virtual Underwriter website will move behind a login. For those of

you who have Stewart Connect login credentials, you will be able to access VU with those same credentials. For those who do not have Stewart Connect credentials, reach out to your Stewart Account Service Representative for information and assistance on pre-registering for access.



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