



General Assembly

January Session, 2001

**Raised Bill No. 1178**

LCO No. 3260

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

**AN ACT CONCERNING PROPERTY TAX EXEMPTIONS FOR  
MANUFACTURING MACHINERY AND EQUIPMENT.**

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

1 Section 1. Subdivision (70) of section 12-81 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (70) New machinery and equipment used directly in the  
4 manufacturing of goods or products and acquired through purchase  
5 by any business organization or any affiliate of such business  
6 organization as part of a technological upgrading of the manufacturing  
7 process at a location in a distressed municipality, targeted investment  
8 community, as defined in section 32-222, or enterprise zone designated  
9 pursuant to section 32-70, and for which an eligibility certificate has  
10 been issued by the Department of Economic and Community  
11 Development, which business organization (A) is engaged in the  
12 manufacturing, processing or assembling of raw materials, parts or  
13 manufactured products, (B) has been in continuous operation in the  
14 state for a period not less than five years prior to claiming the  
15 exemption provided in this subdivision, (C) had gross receipts in an  
16 amount less than twenty million dollars in the year prior to claiming

17 the exemption provided in this subdivision, including receipts of any  
18 affiliates of the business organization, and (D) has incurred costs in  
19 acquiring such machinery and equipment not less than the greater of  
20 (i) two hundred thousand dollars or (ii) two hundred per cent of the  
21 business organization's and affiliate's average expenditure for the  
22 acquisition of machinery and equipment used directly in the  
23 manufacturing of goods or products at the location in the distressed  
24 municipality, targeted investment community or enterprise zone  
25 designated pursuant to section 32-70 during the three years prior to  
26 claiming the exemption provided in this subdivision, as follows: To the  
27 extent of fifty per cent of its valuation for purposes of assessment in  
28 each of the five full assessment years following the assessment year in  
29 which such machinery and equipment is acquired. Any person who  
30 desires to claim the exemption provided in this subdivision shall file  
31 annually with the assessor or board of assessors in the distressed  
32 municipality, targeted investment community or enterprise zone  
33 designated pursuant to section 32-70 in which the business  
34 organization is located, on or before the first day of November, written  
35 application claiming such exemption on a form prescribed by the  
36 Secretary of the Office of Policy and Management. Failure to file such  
37 application in this manner and form within the time limit prescribed  
38 shall constitute a waiver of the right to such exemption for such  
39 assessment year, unless an extension of time is allowed pursuant to  
40 section 12-81k, and upon payment of the required fee for late filing. No  
41 person shall be eligible to receive the exemption provided in this  
42 subdivision if such exemption is sought for machinery and equipment  
43 located in a manufacturing facility as defined in subsection (d) of  
44 section 32-9p, currently receiving assistance under subdivisions (59)  
45 and (60) of section 12-81, and no person shall receive such exemption  
46 for eligible machinery or equipment at each location in a distressed  
47 municipality, targeted investment community or enterprise zone  
48 designated pursuant to section 32-70 more than once in any continuous  
49 five-year period. The state and the municipality and district shall hold  
50 a security interest, as defined in subdivision (37) of section 42a-1-201,

51 in any machinery or equipment which is exempt from taxation  
52 pursuant to this subsection, in an amount equal to the tax revenue  
53 reimbursed or lost, as the case may be, which shall be subordinate to  
54 any purchase money security interest, as defined in section 42a-9-107.  
55 Such security interest shall be enforceable against the taxpayer for a  
56 period of five years after the last assessment year in which such  
57 exemption was received in any case in which the business organization  
58 ceases all business operations or moves its business operations entirely  
59 out of this state. The assessor of the town in which a manufacturing  
60 operation that has received the exemption under this subdivision is  
61 located shall provide written notification to said secretary of the  
62 cessation of such business operations or the move of such operations  
63 entirely out of the state. Such notification may be made at any time  
64 after the October first of the last assessment year in which such  
65 exemption is received and before the September thirtieth that is five  
66 years after the conclusion of said assessment year. Upon receiving such  
67 a notification, the secretary shall promptly file a notice of lien upon  
68 personal property, under part 4 of article 9 of title 42a, to recapture the  
69 amount of tax revenue reimbursed. Such notice of lien, once perfected,  
70 shall have priority over all previously perfected liens and security  
71 interests and other encumbrances of record under the Connecticut  
72 Uniform Commercial Code. If more than one agency of the state  
73 perfects such a notice of lien on the same day, the priority of such liens  
74 shall be determined by the time of day such liens were perfected, and  
75 if perfected at the same time, the lien for the highest amount shall take  
76 precedence. In addition to the other remedies herein provided, the  
77 Attorney General, upon request of the secretary, may bring a civil  
78 action in a court of competent jurisdiction to recover the amount of tax  
79 revenue reimbursed by the state from any person who received an  
80 exemption under this subdivision.

81 Sec. 2. Subparagraph (B) of subdivision (72) of section 12-81 of the  
82 general statutes is repealed and the following is substituted in lieu  
83 thereof:

84 (B) Any person who on October first in any year holds title to  
85 machinery and equipment for which [he] such person desires to claim  
86 the exemption provided in this subdivision shall file with the assessor  
87 or board of assessors in the municipality in which the machinery or  
88 equipment is located, on or before the first day of November in such  
89 year, a list of such machinery or equipment together with written  
90 application claiming such exemption on a form prescribed by the  
91 Secretary of the Office of Policy and Management. Such application  
92 shall include the taxpayer identification number assigned to the  
93 claimant by the Commissioner of Revenue Services and the federal  
94 employer identification number assigned to the claimant by the  
95 Secretary of the Treasury. If title to such equipment is held by a person  
96 other than the person claiming the exemption, the claimant shall  
97 include on [his] such person's application information as to the portion  
98 of the total acquisition cost incurred by [him] such person, and on or  
99 before the first day of November in such year, the person holding title  
100 to such machinery and equipment shall file a list of such machinery  
101 with the assessor of the municipality in which the manufacturing  
102 facility of the claimant is located. Such person shall include on the list  
103 information as to the portion of the total acquisition cost incurred by  
104 [him] such person. Commercial or financial information in any  
105 application or list filed under this section shall not be open for public  
106 inspection, provided such information is given in confidence and is not  
107 available to the public from any other source. The provisions of this  
108 subdivision regarding the filing of lists and information shall not  
109 supersede the requirements to file tax lists under sections 12-42, 12-43,  
110 12-57a and 12-59. In substantiation of such claim, the claimant and the  
111 person holding title to machinery and equipment for which exemption  
112 is claimed shall present to the assessor or board of assessors such  
113 supporting documentation as said secretary may require, including,  
114 but not limited to, invoices, bills of sale, contracts for lease and bills of  
115 lading. Failure to file such application in this manner and form within  
116 the time limit prescribed shall constitute a waiver of the right to such  
117 exemption for such assessment year, unless an extension of time is

118 allowed pursuant to section 12-81k. If title to exempt machinery is  
119 conveyed subsequent to October first in any assessment year,  
120 entitlement to such exemption shall terminate for the next assessment  
121 year and there shall be no pro rata application of the exemption unless  
122 such machinery or equipment continues to be leased by the  
123 manufacturer who claimed and was approved for the exemption in the  
124 previous assessment year. Machinery or equipment shall not be  
125 eligible for exemption upon transfer from a seller to a related business  
126 [organization related to or affiliated with the seller] or from a lessor to  
127 a lessee except to the extent it would have been eligible for exemption  
128 by the seller or the lessor, as the case may be. For the purposes of this  
129 subdivision "related business" means: (i) A corporation, limited  
130 liability company, partnership, association or trust controlled by the  
131 taxpayer; (ii) an individual, corporation, limited liability company,  
132 partnership, association or trust that is in control of the taxpayer; (iii) a  
133 corporation, limited liability company, partnership, association or trust  
134 controlled by an individual, corporation, limited liability company,  
135 partnership, association or trust that is in control of the taxpayer; or  
136 (iv) a member of the same controlled group as the taxpayer. For  
137 purposes of this subdivision, "control", with respect to a corporation,  
138 means ownership, directly or indirectly, of stock possessing fifty per  
139 cent or more of the total combined voting power of all classes of the  
140 stock of such corporation entitled to vote. "Control", with respect to a  
141 trust, means ownership, directly or indirectly, of fifty per cent or more  
142 of the beneficial interest in the principal or income of such trust. The  
143 ownership of stock in a corporation, of a capital or profits interest in a  
144 partnership or association or of a beneficial interest in a trust shall be  
145 determined in accordance with the rules for constructive ownership of  
146 stock provided in Section 267(c) of the Internal Revenue Code of 1986,  
147 or any subsequent corresponding internal revenue code of the United  
148 States, as from time to time amended, other than paragraph (3) of said  
149 Section 267(c).

150 Sec. 3. Subparagraph (C) of subdivision (72) of section 12-81 of the  
151 general statutes is repealed and the following is substituted in lieu

152 thereof:

153 (C) Any person claiming the exemption provided under this  
154 subdivision for machinery or equipment shall not be eligible to claim  
155 the exemption provided under subdivision (60) of this section or  
156 subdivision (70) of this section for the same machinery or equipment.  
157 The state and the municipality and district shall hold a security  
158 interest, as defined in subdivision (37) of section 42a-1-201, in any  
159 machinery or equipment which is exempt from taxation pursuant to  
160 this subdivision, in an amount equal to the tax revenue reimbursed or  
161 lost, as the case may be, which shall be subordinate to any purchase  
162 money security interest, as defined in section 42a-9-107. Such security  
163 interest shall be enforceable against the claimant for a period of five  
164 years after the last assessment year in which such exemption was  
165 received in any case in which said [manufacturer] person ceases all  
166 manufacturing or biotechnology operations or moves [its] such  
167 manufacturing or biotechnology operations entirely out of this state.  
168 The assessor of the town in which a manufacturing operation that has  
169 received the exemption under this subdivision is located shall provide  
170 written notification to said secretary of the cessation of such business  
171 operations or the move of such operations entirely out of the state.  
172 Such notification may be made at any time after the October first of the  
173 last assessment year in which such exemption is received and before  
174 the September thirtieth that is five years after the conclusion of said  
175 assessment year. Upon receiving such a notification, the secretary shall  
176 promptly file a notice of lien upon personal property, under part 4 of  
177 article 9 of title 42a, to recapture the amount of tax revenue  
178 reimbursed. Such notice of lien, once perfected, shall have priority  
179 over all previously perfected liens and security interests and other  
180 encumbrances of record under the Connecticut Uniform Commercial  
181 Code. If more than one agency of the state perfects such a notice of lien  
182 on the same day, the priority of such liens shall be determined by the  
183 time of day such liens were perfected, and if perfected at the same  
184 time, the lien for the highest amount shall take precedence. In addition  
185 to the other remedies herein provided, the Attorney General, upon

186 request of the secretary, may bring a civil action in a court of  
187 competent jurisdiction to recover the amount of tax revenue  
188 reimbursed by the state from any person who received an exemption  
189 under this subdivision. The following shall not be eligible for the  
190 exemption provided under this subdivision: (i) A public service  
191 company, as defined in section 16-1; and (ii) any provider, directly or  
192 indirectly, of electricity, oil, water or gas.

193       Sec. 4. This act shall take effect July 1, 2001, and shall be applicable  
194 with respect to property tax exemptions for the October 1, 2000,  
195 assessment year and each subsequent assessment year.

***Statement of Purpose:***

To provide a definition of a "related business" for purposes of administering the property tax exemption program for newly acquired manufacturing machinery and equipment, to clarify provisions related to the security interest in such property and in machinery that is exempt from taxation under subdivision (70) of section 12-81, and to allow the Attorney General to commence a legal action to recapture the amount of state reimbursement issued with respect to such exempt property in the event the exemption recipient ceases all business operations or moves such operations entirely out of Connecticut within five years of receiving such exemption.

*[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.]*