



House of Representatives

General Assembly

File No. 258

January Session, 2003

Substitute House Bill No. 5099

House of Representatives, April 9, 2003

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE REGARDING SECURED TRANSACTIONS.

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

1 Section 1. Subsection (e) of section 42a-9-103a of the general statutes
2 is repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (e) (1) In a transaction other than a consumer-goods transaction, if
5 the extent to which a security interest is a purchase-money security
6 interest depends on the application of a payment to a particular
7 obligation, the payment must be applied:

8 (A) In accordance with any reasonable method of application to
9 which the parties agree;

10 (B) In the absence of the parties' agreement to a reasonable method,
11 in accordance with any intention of the obligor manifested at or before
12 the time of payment; or

13 (C) In the absence of an agreement to a reasonable method and a
14 timely manifestation of the obligor's intention, in the following order:

15 (i) To obligations that are not secured; and

16 (ii) If more than one obligation is secured, to obligations secured by
17 purchase-money security interests in the order in which those
18 obligations were incurred.

19 (2) In a consumer-goods transaction, if the extent to which a security
20 interest is a purchase-money security interest depends on the
21 application of a payment to a particular obligation:

22 (A) The payment must be applied so that the secured party retains
23 no purchase money security interest in any property as to which the
24 secured party has recovered payments aggregating the amount of the
25 sale price including any finance charges attributable thereto; and

26 (B) For the purposes of this [subsection] subdivision only, in the
27 case of items purchased on different dates, the first item purchased
28 shall be deemed the first paid for and, in the case of items purchased
29 on the same date, the lowest priced item shall be deemed the first paid
30 for.

31 Sec. 2. Subsection (a) of section 42a-9-109 of the general statutes is
32 repealed and the following is substituted in lieu thereof (*Effective*
33 *October 1, 2003*):

34
35 (a) Except as otherwise provided in subsections (c) and (d) of this
36 section, this article applies to:

37 (1) A transaction, regardless of its form, that creates a security
38 interest in personal property or fixtures by contract;

39 (2) An agricultural lien;

40 (3) A sale of accounts, chattel paper, payment intangibles or
41 promissory notes;

42 (4) A consignment;

43 (5) A security interest arising under section 42a-2-401, section 42a-2-
44 505, subsection (3) of section 42a-2-711 or subsection (d) of section 42a-
45 2A-724, as provided in section 42a-9-110; [and]

46 (6) A security interest arising under section 42a-4-210 or 42a-5-118;
47 and

48 (7) A security interest in a deposit account if (A) such deposit
49 account is of a debtor that is a statutory trust formed, or a foreign
50 statutory trust registered, under chapter 615, or (B) another statute of
51 this state so provides.

52 Sec. 3. Subsection (c) of section 42a-9-109 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective*
54 *October 1, 2003*):

55 (c) This article does not apply to the extent that:

56 (1) A statute, regulation or treaty of the United States preempts this
57 article;

58 (2) Another statute of this state expressly governs the creation,
59 perfection, priority or enforcement of a security interest created by this
60 state or a governmental unit of this state;

61 ~~[(2)]~~ (3) A statute of another state, a foreign country or a
62 governmental unit of another state or a foreign country, other than a
63 statute generally applicable to security interests, expressly governs
64 creation, perfection, priority or enforcement of a security interest
65 created by the state, country or governmental unit; or

66 ~~[(3)]~~ (4) The rights of a transferee beneficiary or nominated person
67 under a letter of credit are independent and superior under section
68 42a-5-114.

69 Sec. 4. Subsection (d) of section 42a-9-109 of the general statutes is
70 repealed and the following is substituted in lieu thereof (*Effective*

71 *October 1, 2003*):

72 (d) This article does not apply to:

73 (1) A landlord's lien, other than an agricultural lien;

74 (2) A lien, other than an agricultural lien, given by statute or other
75 rule of law for services or materials, but section 42a-9-333 applies with
76 respect to priority of the lien;

77 (3) An assignment of a claim for wages, salary or other
78 compensation of an employee;

79 (4) A sale of accounts, chattel paper, payment intangibles or
80 promissory notes as part of a sale of the business out of which they
81 arose;

82 (5) An assignment of accounts, chattel paper, payment intangibles
83 or promissory notes which is for the purpose of collection only;

84 (6) An assignment of a right to payment under a contract to an
85 assignee that is also obligated to perform under the contract;

86 (7) An assignment of a single account, payment intangible or
87 promissory note to an assignee in full or partial satisfaction of a
88 preexisting indebtedness;

89 (8) A transfer of an interest in or an assignment of a claim under a
90 policy of insurance, other than an assignment by or to a health-care
91 provider of a health-care-insurance receivable and any subsequent
92 assignment of the right to payment, but sections 42a-9-315 and 42a-9-
93 322 apply with respect to proceeds and priorities in proceeds;

94 (9) An assignment of a right represented by a judgment, other than
95 a judgment taken on a right to payment that was collateral;

96 (10) A right of recoupment or set-off, but:

97 (A) Section 42a-9-340 applies with respect to the effectiveness of

98 rights of recoupment or set-off against deposit accounts; and

99 (B) Section 42a-9-404 applies with respect to defenses or claims of an
100 account debtor;

101 (11) The creation or transfer of an interest in or lien on real property,
102 including a lease or rents thereunder, except to the extent that
103 provision is made for:

104 (A) Liens on real property in sections 42a-9-203 and 42a-9-308;

105 (B) Fixtures in section 42a-9-334;

106 (C) Fixture filings in sections 42a-9-501, 42a-9-502, 42a-9-512, 42a-9-
107 516 and 42a-9-519; and

108 (D) Security agreements covering personal and real property in
109 section 42a-9-604;

110 (12) An assignment of a claim arising in tort, other than a
111 commercial tort claim, but sections 42a-9-315 and 42a-9-322 apply with
112 respect to proceeds and priorities in proceeds;

113 (13) An assignment of a deposit account in a consumer transaction,
114 but sections 42a-9-315 and 42a-9-322 apply with respect to proceeds
115 and priorities in proceeds;

116 [(14) A transfer by a government or government subdivision or
117 agency of this state;]

118 [(15)] ~~(14)~~ An assignment of workers' compensation benefits
119 governed by section 31-320; or

120 [(16)] ~~(15)~~ A security interest in a deposit account that is a payroll
121 account or a trust account and which is titled or otherwise clearly
122 identifiable as such an account.

123 Sec. 5. Subsection (a) of section 42a-9-311 of the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective*

125 *October 1, 2003*):

126 (a) Except as otherwise provided in subsection (d) of this section,
127 the filing of a financing statement is not necessary or effective to
128 perfect a security interest in property subject to:

129 (1) A statute, regulation or treaty of the United States whose
130 requirements for a security interest's obtaining priority over the rights
131 of a lien creditor with respect to the property preempt subsection (a) of
132 section 42a-9-310;

133 (2) Any certificate-of-title statute covering automobiles, trailers,
134 mobile homes, boats, farm tractors or the like, which provides for a
135 security interest to be indicated on the certificate as a condition or
136 result of perfection, and any non-Uniform Commercial Code [central]
137 filing statute, including chapter 247, section 21-67a, section 49-5,
138 chapter 282 and chapter 283; or

139 (3) A certificate-of-title statute of another jurisdiction which
140 provides for a security interest to be indicated on the certificate as a
141 condition or result of the security interest's obtaining priority over the
142 rights of a lien creditor with respect to the property.

143 Sec. 6. Subsection (d) of section 42a-9-311 of the general statutes is
144 repealed and the following is substituted in lieu thereof (*Effective*
145 *October 1, 2003*):

146 (d) During any period in which collateral subject to a statute
147 specified in subdivision (2) of subsection (a) of this section is inventory
148 held for sale or lease by a person or leased by that person as lessor and
149 that person is in the business of selling [or leasing] goods of that kind,
150 this section does not apply to a security interest in that collateral
151 created by that person.

152 Sec. 7. Section 42a-9-406 of the general statutes is repealed and the
153 following is substituted in lieu thereof (*Effective October 1, 2003*):

154 (a) Subject to subsections (b) to [(i)] (j), inclusive, an account debtor

155 on an account, chattel paper or a payment intangible may discharge its
156 obligation by paying the assignor until, but not after, the account
157 debtor receives a notification, authenticated by the assignor or the
158 assignee, that the amount due or to become due has been assigned and
159 that payment is to be made to the assignee. After receipt of the
160 notification, the account debtor may discharge its obligation by paying
161 the assignee and may not discharge the obligation by paying the
162 assignor. An assignor who receives payment after notification is given
163 must return the payment to the account debtor or forward the
164 payment to the assignee.

165 (b) Subject to subsection (h), notification is ineffective under
166 subsection (a):

167 (1) If it does not reasonably identify the rights assigned;

168 (2) To the extent that an agreement between an account debtor and a
169 seller of a payment intangible limits the account debtor's duty to pay a
170 person other than the seller and the limitation is effective under law
171 other than this article; or

172 (3) At the option of an account debtor, if the notification notifies the
173 account debtor to make less than the full amount of any installment or
174 other periodic payment to the assignee, even if:

175 (A) Only a portion of the account, chattel paper or payment
176 intangible has been assigned to that assignee;

177 (B) A portion has been assigned to another assignee; or

178 (C) The account debtor knows that the assignment to that assignee
179 is limited.

180 (c) Subject to subsection (h), if requested by the account debtor, an
181 assignee shall seasonably furnish reasonable proof that the assignment
182 has been made. Unless the assignee complies, the account debtor may
183 discharge its obligation by paying the assignor, even if the account
184 debtor has received a notification under subsection (a).

185 (d) Except as otherwise provided in subsection (e) and in section
186 42a-2A-403 and section 42a-9-407, and subject to subsection (h), a term
187 in an agreement between an account debtor and an assignor or in a
188 promissory note is ineffective to the extent that it:

189 (1) Prohibits, restricts or requires the consent of the account debtor
190 or person obligated on the promissory note to the assignment or
191 transfer of, or the creation, attachment, perfection or enforcement of a
192 security interest in, the account, chattel paper, payment intangible or
193 promissory note; or

194 (2) Provides that the assignment or transfer or the creation,
195 attachment, perfection or enforcement of the security interest may give
196 rise to a default, breach, right of recoupment, claim, defense,
197 termination, right of termination or remedy under the account, chattel
198 paper, payment intangible or promissory note.

199 (e) Subsection (d) does not apply to the sale of a payment intangible
200 or promissory note.

201 (f) Except as otherwise provided in section 42a-2A-403 and section
202 42a-9-407, and subject to subsections (h) and (i), a rule of law, statute or
203 regulation that prohibits, restricts or requires the consent of a
204 government, governmental body or official or account debtor to the
205 assignment or transfer of, or creation of a security interest in, an
206 account or chattel paper is ineffective to the extent that the rule of law,
207 statute or regulation:

208 (1) Prohibits, restricts or requires the consent of the government,
209 governmental body or official or account debtor to the assignment or
210 transfer of, or the creation, attachment, perfection or enforcement of a
211 security interest in the account or chattel paper; or

212 (2) Provides that the assignment or transfer or the creation,
213 attachment, perfection or enforcement of the security interest may give
214 rise to a default, breach, right of recoupment, claim, defense,
215 termination, right of termination or remedy under the account or

216 chattel paper.

217 (g) Subject to subsection (h), an account debtor may not waive or
218 vary its option under subdivision (3) of subsection (b).

219 (h) This section is subject to law other than this article which
220 establishes a different rule for an account debtor who is an individual
221 and who incurred the obligation primarily for personal, family or
222 household purposes.

223 (i) Except as provided in subsection (j) of this section, this section
224 prevails over any inconsistent provision of any statute or regulation of
225 this state unless the provision is contained in a statute of this state,
226 refers expressly to this section and states that the provision prevails
227 over this section.

228 [(i)] (j) (1) This section does not apply to:

229 (A) An assignment of a health-care-insurance receivable;

230 (B) An assignment or transfer of or creation of a security interest in:

231 (i) A claim or right to receive compensation for injuries or sickness
232 as described in 26 USC 104(a)(1) or (2), as amended from time to time,
233 or

234 (ii) A claim or right to receive benefits under a special needs trust as
235 described in 42 USC 1396p(d)(4), as amended from time to time.

236 (2) Subsection (f) of this section does not apply to an assignment or
237 transfer of, or the creation, attachment, perfection or enforcement of a
238 security interest in, a right the transfer of which is prohibited or
239 restricted by any of the following statutes to the extent that the statute
240 is inconsistent with said subsection: Section 12-831, 31-320 or 52-225f.

241 Sec. 8. Section 42a-9-407 of the general statutes is repealed and the
242 following is substituted in lieu thereof (*Effective October 1, 2003*):

243 (a) Except as otherwise provided in subsection (b), a term in a lease

244 agreement is ineffective to the extent that it:

245 (1) Prohibits, restricts or requires the consent of a party to the lease
246 to the assignment or transfer of, or the creation, attachment, perfection
247 or enforcement of a security interest in, an interest of a party under the
248 lease contract or in the lessor's residual interest in the goods; or

249 (2) Provides that the assignment or transfer or the creation,
250 attachment, perfection or enforcement of the security interest may give
251 rise to a default, breach, right of recoupment, claim, defense,
252 termination, right of termination or remedy under the lease.

253 (b) Except as otherwise provided in subsection [(g)] (c) of section
254 42a-2A-403, a term described in subdivision (2) of subsection (a) is
255 effective to the extent that there is:

256 (1) A transfer by the lessee of the lessee's right of possession or use
257 of the goods in violation of the term; or

258 (2) A delegation of a material performance of either party to the
259 lease contract in violation of the term.

260 (c) The creation, attachment, perfection or enforcement of a security
261 interest in the lessor's interest under the lease contract or the lessor's
262 residual interest in the goods is not a transfer that materially impairs
263 the lessee's prospect of obtaining return performance or materially
264 changes the duty of or materially increases the burden or risk imposed
265 on the lessee within the purview of subsection [(d)] (e) of section 42a-
266 2A-403 unless, and then only to the extent that, enforcement actually
267 results in a delegation of material performance of the lessor.

268 Sec. 9. Subsection (f) of section 42a-9-408 of the general statutes is
269 repealed and the following is substituted in lieu thereof (*Effective*
270 *October 1, 2003*):

271 (f) (1) This section does not apply to an assignment or transfer of, or
272 the creation, attachment or perfection of a security interest in:

273 [(i)] (A) A claim or right to receive compensation for injuries or
274 sickness as described in 26 USC 104(a)(1) or (2), as amended from time
275 to time, or

276 [(ii)] (B) A claim or right to receive benefits under a special needs
277 trust as described in 42 USC 1396p(d)(4), as amended from time to
278 time.

279 (2) Subsection (c) of this section does not apply to an assignment or
280 transfer of, or the creation, attachment [,] or perfection [or
281 enforcement] of a security interest in, a right the transfer of which is
282 prohibited or restricted by any of the following statutes to the extent
283 that the statute is inconsistent with said subsection: Section 12-831, 31-
284 320 or 52-225f.

285 Sec. 10. Section 42a-9-501 of the general statutes is repealed and the
286 following is substituted in lieu thereof (*Effective October 1, 2003*):

287 (a) Except as otherwise provided in subsection (b), if the local law of
288 this state governs perfection of a security interest or agricultural lien,
289 the office in which to file a financing statement to perfect the security
290 interest or agricultural lien is:

291 (1) The office designated for the filing or recording of a record of a
292 mortgage on the related real property, if:

293 (A) The collateral is as-extracted collateral or timber to be cut; or

294 (B) The financing statement is filed as a fixture filing and the
295 collateral is goods that are or are to become fixtures; or

296 (2) The Office of the Secretary of the State, in all other cases,
297 including a case in which the collateral is goods that are or are to
298 become fixtures and the financing statement is not filed as a fixture
299 filing.

300 (b) The office in which to file a financing statement to perfect a
301 security interest in collateral, including fixtures, of a transmitting

302 utility is the Office of the Secretary of the State. The financing
303 statement also constitutes a fixture filing as to the collateral indicated
304 in the financing statement which is or is to become fixtures.

305 (c) Whenever there is a reference in this article to the filing of a
306 record in the filing office described in subdivision (1) of subsection (a)
307 of section 42a-9-501, it shall be deemed to refer to the recording of a
308 record in said office.

309 Sec. 11. Subsection (a) of section 42a-9-512 of the general statutes is
310 repealed and the following is substituted in lieu thereof (*Effective*
311 *October 1, 2003*):

312 (a) Subject to section 42a-9-509, a person may add or delete
313 collateral covered by, continue or terminate the effectiveness of, or,
314 subject to subsection (e), otherwise amend the information provided
315 in, a financing statement by filing an amendment that:

316 (1) Identifies, by its file number, the initial financing statement to
317 which the amendment relates; or

318 (2) If the amendment relates to an initial financing statement
319 recorded in a filing office described in subdivision (1) of subsection (a)
320 of section 42a-9-501, identifies the initial financing statement to which
321 the amendment relates by book and page number on which or the date
322 and time that the initial financing statement was recorded.

323 Sec. 12. Subsection (b) of section 42a-9-515 of the general statutes is
324 repealed and the following is substituted in lieu thereof (*Effective*
325 *October 1, 2003*):

326 (b) Except as otherwise provided in subsections (e), (f) and (g), an
327 initial financing statement filed in connection with a public finance
328 transaction or manufactured-home transaction is effective for a period
329 of thirty years after the date of filing if it indicates that it is filed in
330 connection with a public finance transaction or manufactured-home
331 transaction.

332 Sec. 13. Subsection (b) of section 42a-9-518 of the general statutes is
333 repealed and the following is substituted in lieu thereof (*Effective*
334 *October 1, 2003*):

335 (b) A correction statement must:

336 (1) Identify the record to which it relates by:

337 (A) The file number assigned to the initial financing statement to
338 which the record relates; or

339 (B) If the correction statement relates to a record recorded in a filing
340 office described in subdivision (1) of subsection (a) of section 42a-9-
341 501, the book and page number on which or the date and time that the
342 initial financing statement was recorded;

343 (2) Indicate that it is a correction statement; and

344 (3) Provide the basis for the person's belief that the record is
345 inaccurate and indicate the manner in which the person believes the
346 record should be amended to cure any inaccuracy or provide the basis
347 for the person's belief that the record was wrongfully filed.

348 Sec. 14. Subsection (d) of section 42a-9-519 of the general statutes is
349 repealed and the following is substituted in lieu thereof (*Effective*
350 *October 1, 2003*):

351 (d) (1) If a financing statement is filed as a fixture filing or covers as-
352 extracted collateral or timber to be cut, the filing office shall index an
353 assignment filed under subsection (a) of section 42a-9-514 or an
354 amendment filed under subsection (b) of section 42a-9-514:

355 [(1)] (A) In the grantor index under the name of the assignor as
356 grantor; and

357 [(2)] (B) In the grantee index under the name of the assignee as
358 grantee.

359 (2) The filing officer shall also enter upon the margin of the record

360 of such initial financing statement a notation of the record of the
361 subsequent assignment or amendment and of any continuation
362 statement, termination statement or correction statement.

363 Sec. 15. Section 42a-9-523 of the general statutes is repealed and the
364 following is substituted in lieu thereof (*Effective October 1, 2003*):

365 (a) If a person that files or records a written record requests an
366 acknowledgment of the filing or recording, the filing office, in the case
367 of a filing office described in subdivision (2) of subsection (a) of section
368 42a-9-501, shall send to the person an acknowledgment of the filing of
369 the record showing the number assigned to the record pursuant to
370 subdivision (1) of subsection (a) of section 42a-9-519 and the date and
371 time of the filing of the record and, in the case of a filing office
372 described in subdivision (1) of subsection (a) of section 42a-9-501, shall
373 send to the person an acknowledgment of the [filing] recording of the
374 record showing the book and page number and the date and time of
375 the [filing] recording of the record.

376 (b) If a person files or records a record other than a written record,
377 the filing office shall communicate to the person an acknowledgment
378 that provides:

379 (1) The information in the record;

380 (2) In the case of a filing office described in subdivision (2) of
381 subsection (a) of section 42a-9-501, the number assigned to the record
382 pursuant to subdivision (1) of subsection (a) of section 42a-9-519 or, in
383 the case of a filing office described in subdivision (1) of subsection (a)
384 of section 42a-9-501, the book and page number assigned to the record;
385 and

386 (3) The date and time of the filing or recording of the record.

387 (c) The filing office shall communicate or otherwise make available
388 in a record the following information to any person that requests it:

389 (1) Whether there is on file on a date and time specified by the filing

390 office, but not a date earlier than six business days before the filing
391 office receives the request, any financing statement that:

392 (A) Designates a particular debtor;

393 (B) Has not lapsed under section 42a-9-515 with respect to all
394 secured parties of record; and

395 (C) If the request so states, has lapsed under section 42a-9-515 and a
396 record of which is maintained by the filing office under subsection (a)
397 of section 42a-9-522;

398 (2) The date and time of filing of each financing statement; and

399 (3) The information provided in each financing statement, except
400 that the filing office is not required to transcribe information that is
401 otherwise available concerning collateral.

402 (d) In complying with its duty under subsection (c), the filing office
403 may communicate information in any medium. However, if requested,
404 the filing office shall communicate information by issuing its written
405 certificate.

406 (e) The filing office described in subdivision (2) of subsection (a) of
407 section 42a-9-501 shall perform the acts required by subsections (a) to
408 (d), inclusive, at the time and in the manner prescribed by filing-office
409 regulation, but not later than five business days after the filing office
410 receives the request.

411 (f) At least monthly, the [Secretary of the State] filing office
412 described in subdivision (2) of subsection (a) of section 42a-9-501, as
413 amended by this act, shall offer to sell or license to the public on a
414 nonexclusive basis, in bulk, copies of all records filed in it under this
415 part in every medium from time to time available to the filing office
416 described in subdivision (2) of subsection (a) of section 42a-9-501.

417 Sec. 16. Section 42a-9-525 of the general statutes is repealed and the
418 following is substituted in lieu thereof (*Effective October 1, 2003*):

419 (a) The [Secretary of the State] filing office described in subdivision
420 (2) of subsection (a) of section 42a-9-501, as amended by this act, shall
421 charge and collect the following uniform fee: For filing and indexing
422 an initial financing statement, a correction statement or an
423 amendment, twenty-five dollars. No fee shall be charged (1) to the
424 state when the initial financing statement, correction statement or
425 amendment is filed by or at the request of the Attorney General or an
426 assistant attorney general or by a duly authorized official of the state
427 or any of its agencies, boards or commissions acting in an official
428 capacity, or (2) to a municipality when the initial financing statement,
429 correction statement or amendment is filed by a tax collector or other
430 municipal officer of such municipality pursuant to the provisions of
431 sections 12-195a to 12-195g, inclusive, or (3) for any filing
432 accomplished solely by electronic means and without the physical
433 submission of any document, instrument or paper, in accordance with
434 a plan approved by the Secretary of the State.

435 (b) The uniform fee for responding to a request for information from
436 the filing office described in subdivision (2) of subsection (a) of section
437 42a-9-501, as amended by this act, including issuing a certificate
438 showing whether there is on file, on the date and [hour] time stated
439 therein, any financing statement naming a particular debtor and any
440 amendment thereof and, if there is, giving the date and hour of filing
441 such amendment and the name and address of each secured party
442 named therein, is twenty-five dollars. Upon request, the filing officer
443 shall furnish a photographic or electronic copy of any filed financing
444 statement or amendment for a uniform fee of twenty dollars regardless
445 of the number of pages and affix such filing officer's certification and
446 official seal thereto for a fee of five dollars. No fee shall be charged to
447 the state when a certificate showing whether there is on file, on the
448 date and hour stated therein, any presently effective financing
449 statement naming a particular debtor and any amendment thereof, is
450 requested by the Attorney General or an assistant attorney general or
451 by [an] a duly authorized official of the state or any of its agencies,
452 boards or commissions acting in an official capacity, and no fee shall
453 be charged to a municipality when such certificate is requested by the

454 tax collector or other municipal officer of such municipality pursuant
455 to the provisions of sections 12-195a to 12-195g, inclusive.

456 (c) This section does not require a fee with respect to a record of a
457 mortgage which is effective as a financing statement filed as a fixture
458 filing or as a financing statement covering as-extracted collateral or
459 timber to be cut under subsection (c) of section 42a-9-502. However,
460 the recording and satisfaction fees that otherwise would be applicable
461 to the record of the mortgage apply.

462 Sec. 17. Subsection (a) of section 42a-9-609 of the general statutes is
463 repealed and the following is substituted in lieu thereof (*Effective*
464 *October 1, 2003*):

465 (a) After default, a secured party:

466 (1) May take possession of the collateral; and

467 (2) Without removal, may render equipment unusable and dispose
468 of collateral on a debtor's premises under section 42a-9-610.

469 Sec. 18. Subsection (d) of section 42a-9-609 of the general statutes is
470 repealed and the following is substituted in lieu thereof (*Effective*
471 *October 1, 2003*):

472 (d) (1) In this subsection, "electronic self-help" means the use of
473 electronic means to exercise a secured party's rights pursuant to
474 subsection (a) of this section with respect to the security agreement,
475 and "electronic" means relating to technology that has electrical,
476 digital, magnetic or wireless optical electromagnetic properties or
477 similar capabilities. "Electronic self-help" includes the use of electronic
478 means to locate the collateral.

479 (2) Electronic self-help is permitted only if the debtor separately
480 agrees to a term of the security agreement authorizing electronic self-
481 help that requires notice of exercise as provided in subdivision (3) of
482 this subsection. Except in a consumer transaction, the debtor is deemed
483 to have separately agreed to a term of the security agreement

484 authorizing electronic self-help if a clause is included in the security
485 agreement that specifically states that electronic self-help is authorized.

486 (3) Before resorting to electronic self-help authorized by a term of
487 the security agreement, the secured party shall give notice to the
488 debtor stating:

489 [(i)] (A) That the secured party intends to resort to electronic self-
490 help as a remedy on or after fifteen days following communication of
491 the notice to the debtor;

492 [(ii)] (B) The nature of the claimed breach which entitled the secured
493 party to resort to self-help; and

494 [(iii)] (C) The name, title, address and telephone number of a person
495 representing the secured party with whom the debtor may
496 communicate concerning the security interest.

497 (4) A debtor may recover direct and incidental damages caused by
498 wrongful use of electronic self-help. The debtor may also recover
499 consequential damages for wrongful use of electronic self-help even if
500 such damages are excluded by the terms of the security agreement.

501 (5) Even if the secured party complies with subdivisions (2) and (3)
502 of this subsection, electronic self-help may not be used if the secured
503 party has reason to know that its use will result in substantial injury or
504 harm to the public health or safety or grave harm to the public interest
505 substantially affecting third parties not involved in the dispute.

506 Sec. 19. Section 14-167 of the general statutes is repealed and the
507 following is substituted in lieu thereof (*Effective October 1, 2003*):

508 This chapter does not apply to or affect: [(a)] (1) A lien given by
509 statute or rule of law to a supplier of services or materials for the
510 vehicle; [(b)] (2) a lien given by statute to the United States, this state or
511 any political subdivision of this state; [(c)] (3) a security interest in a
512 vehicle created by a manufacturer or dealer who holds the vehicle for
513 sale, but a buyer in the ordinary course of business, as defined in

514 subdivision (9) of section 42a-1-201, takes free of the security interest,
515 as stated in section 42a-9-320; or (4) a security interest in a vehicle that
516 is inventory held for sale or lease by a person or leased by that person
517 as lessor and that person is in the business of selling vehicles, as
518 provided in subsection (d) of section 42a-9-311, as amended by this act.

519 Sec. 20. Subsection (b) of section 16-245k of the general statutes is
520 repealed and the following is substituted in lieu thereof (*Effective*
521 *October 1, 2003*):

522 (b) A valid and enforceable security interest in transition property is
523 perfected when it has attached and when a financing statement has
524 been filed in accordance with part 5 of article 9 of title 42a naming the
525 pledgor of the transition property as "debtor" and identifying the
526 transition property. In such case, the financing statement shall be filed
527 as if the debtor were located in this state. Any description of the
528 transition property shall be sufficient if it refers to the financing order
529 creating the transition property. [In each case, the financing statement
530 shall be filed as if the debtor were located in this state.] A copy of the
531 financing statement shall be filed with the department by the electric
532 company or electric distribution company that is the pledgor or
533 transferor of the transition property, and the department may require
534 the electric company or electric distribution company to make other
535 filings with respect to the security interest in accordance with
536 procedures it may establish, provided that the filings shall not affect
537 the perfection of the security interest.

538 Sec. 21. Subsection (j) of section 16-245k of the general statutes is
539 repealed and the following is substituted in lieu thereof (*Effective*
540 *October 1, 2003*):

541 (j) As between bona fide assignees of the same right for value
542 without notice, the assignee first filing a financing statement in
543 accordance with part 5 of article 9 of title 42a naming the assignor of
544 the transition property as debtor and identifying the transition
545 property has priority. In [each] such case, the financing statement shall
546 be filed as if the debtor were located in this state. Any description of

547 the transition property shall be sufficient if it refers to the financing
548 order creating the transition property. A copy of the financing
549 statement shall be filed by the assignee with the department, and the
550 department may require the assignor or the assignee to make other
551 filings with respect to the transfer in accordance with procedures it
552 may establish, but these filings shall not affect the perfection of the
553 transfer.

554 Sec. 22. Subsection (b) of section 36a-770 of the general statutes is
555 repealed and the following is substituted in lieu thereof (*Effective*
556 *October 1, 2003*):

557 (b) Filing and recording. Section 42a-9-310 determines the need for
558 filing or recording to perfect a security interest, section 42a-9-317 [,
559 determines the persons who take subject to an unperfected security
560 interest, and sections 42a-9-311 and 42a-9-501 to [42a-9-518] 42a-9-526,
561 inclusive, as amended by this act, determine the place for such filing or
562 recording.

563 Sec. 23. Section 52-367a of the general statutes is repealed and the
564 following is substituted in lieu thereof (*Effective October 1, 2003*):

565 (a) As used in this section and section 52-367b, the term "banking
566 institution" means any bank, savings bank, savings and loan
567 association or credit union organized, chartered or licensed under the
568 laws of this state or the United States and having its main office in this
569 state, or any similar out-of-state institution having a branch office in
570 this state.

571 (b) Execution may be granted pursuant to this section against any
572 debts due from any banking institution to a judgment debtor which is
573 not a natural person. If execution is desired against any such debt, the
574 plaintiff requesting the execution shall so notify the clerk, and the clerk
575 shall issue such execution containing a direction that the officer
576 serving the same shall make demand (1) upon the main office of any
577 banking institution having its main office within the county of such
578 officer, or (2) if such main office is not within such officer's county and

579 such banking institution has one or more branch offices within such
580 county, upon an employee of such a branch office, such employee and
581 branch office having been designated by the banking institution in
582 accordance with regulations adopted by the Commissioner of Banking,
583 in accordance with chapter 54, for the payment of any debt due to the
584 judgment debtor, and, after having made such demand, shall serve a
585 true and attested copy thereof, with [his] such officer's actions thereon
586 endorsed, with the banking institution officer upon whom such
587 demand is made.

588 (c) If any such banking institution upon which such execution is
589 served and upon which such demand is made is indebted to the
590 judgment debtor, [it] the banking institution shall [pay to such officer,
591 in the manner and at the time hereinafter described,] remove from the
592 judgment debtor's account the amount of such indebtedness not
593 exceeding the amount due on such execution, [, to be received and
594 applied on such execution by such officer.] Except as provided in
595 subsection (d) of this section, the banking institution shall immediately
596 pay to such officer the amount removed from the judgment debtor's
597 account, which amount shall be received and applied on such
598 execution by such officer. Such banking institution shall act upon such
599 execution according to section 42a-4-303 before its midnight deadline,
600 as defined in section 42a-4-104. Nothing in this subsection shall be
601 construed to affect any other rights or obligations of the banking
602 institution with regard to funds in the judgment debtor's account.

603 (d) If the deposit account is subject to a security interest of a secured
604 party, other than the banking institution upon which such execution is
605 served and upon which such demand is made, pursuant to a control
606 agreement between the banking institution and such secured party
607 under article 9 of title 42a, and if any funds are removed from the
608 judgment debtor's account pursuant to subsection (c) of this section,
609 the banking institution shall forthwith mail a copy of the execution
610 when received from the serving officer, postage prepaid, to the
611 judgment debtor and to such other secured party at the last known
612 address of such parties with respect to the affected accounts on the

613 records of the banking institution. The banking institution shall hold
614 the amount removed from the judgment debtor's account pursuant to
615 subsection (c) of this section for twenty days from the date of the
616 mailing to the judgment debtor and such other secured party, and
617 during such period shall not pay the serving officer.

618 (e) To prevent the banking institution from paying the serving
619 officer, as provided in subsection (h) of this section, such other secured
620 party shall give notice of its prior perfected security interest in such
621 deposit account, by delivering to the clerk of the court that issued the
622 execution a written claim for determination of interests in property
623 pursuant to section 52-356c and by delivering a copy of such claim to
624 the banking institution upon which such execution is served.

625 (f) Upon receipt of a written claim for determination of interests in
626 property made pursuant to subsection (e) of this section, the clerk of
627 the court shall enter the appearance of the secured party with the
628 address set forth in the written claim. The clerk shall forthwith send
629 file-stamped copies of the written claim to the judgment creditor, the
630 judgment debtor and the banking institution upon which such
631 execution was served with a notice stating that the disputed funds are
632 being held until a court order is entered regarding the disposition of
633 the funds.

634 (g) If a written claim for determination of interests in property is
635 made pursuant to subsection (e) of this section, the banking institution
636 shall continue to hold the amount removed from the judgment debtor's
637 account until a court order is received regarding disposition of the
638 funds.

639 (h) If no written claim for determination of interests in property is
640 made pursuant to subsection (e) of this section, the banking institution
641 shall, upon demand, forthwith pay the serving officer the amount
642 removed from the judgment debtor's account, and the serving officer
643 shall thereupon pay such sum, less such serving officer's fees, to the
644 judgment creditor, except to the extent otherwise ordered by a court.

645 (i) If a written claim for determination of interests in property is
646 made pursuant to subsection (e) of this section, the clerk of the court,
647 after a judgment or order is entered pursuant to section 52-356c, shall
648 forthwith send a copy of such judgment or order to the banking
649 institution. Such judgment or order shall be deemed to be a final
650 judgment for the purposes of appeal. No appeal shall be taken except
651 within seven days of the rendering of the judgment or order. The
652 judgment or order of the court may be implemented during such
653 seven-day period, unless stayed by the court.

654 (j) If records or testimony are subpoenaed from a banking
655 institution in connection with a hearing conducted pursuant to section
656 52-356c on a written claim for determination of interests in property
657 made pursuant to subsection (e) of this section, the reasonable costs
658 and expenses of the banking institution in complying with the
659 subpoena shall be recoverable by the banking institution from the
660 party requiring such records or testimony, provided the banking
661 institution shall be under no obligation to attempt to obtain records or
662 documentation relating to the account executed against that are held
663 by any other banking institution. The records of a banking institution
664 as to the dates and amounts of deposits into an account in the banking
665 institution shall, if certified as true and accurate by an officer of the
666 banking institution, be admissible as evidence without the presence of
667 the officer in any hearing conducted pursuant to section 52-356c to
668 determine the legitimacy of a claim of an interest in property made
669 under subsection (e) of this section.

670 (k) If such banking institution fails or refuses to pay over to such
671 officer the amount of such debt, not exceeding the amount due on such
672 execution, such banking institution shall be liable in an action therefor
673 to the judgment creditor named in such execution, and the amount so
674 recovered by such judgment creditor shall be applied toward the
675 payment of the amount due on such execution.

676 (l) Except as provided in subsection (k) of this section, no banking
677 institution or any officer, director or employee of such banking

678 institution shall be liable to any person with respect to any act done or
679 omitted in good faith or through the commission of a bona fide error
680 that occurred despite reasonable procedures maintained by the
681 banking institution to prevent such errors in complying with the
682 provisions of this section.

683 (m) Nothing in this section shall in any way restrict the rights and
684 remedies otherwise available to a judgment debtor or to any such
685 secured party at law or in equity.

686 Sec. 24. Section 52-367b of the general statutes is repealed and the
687 following is substituted in lieu thereof (*Effective October 1, 2003*):

688 (a) Execution may be granted pursuant to this section against any
689 debts due from any banking institution to a judgment debtor who is a
690 natural person, except to the extent such debts are protected from
691 execution by sections 52-352a, 52-352b, 52-352c, of the general statutes,
692 revision of 1958, revised to 1983, 52-354 of the general statutes, revision
693 of 1958, revised to 1983, 52-361 of the general statutes, revision of 1958,
694 revised to 1983 and section 52-361a, as well as by any other laws or
695 regulations of this state or of the United States which exempt such
696 debts from execution.

697 (b) If execution is desired against any such debt, the plaintiff
698 requesting the execution shall notify the clerk of the court. In a IV-D
699 case, the request for execution shall be accompanied by an affidavit
700 signed by the serving officer attesting to an overdue support amount
701 of five hundred dollars or more which accrued after the entry of an
702 initial family support judgment. If the papers are in order, the clerk
703 shall issue such execution containing a direction that the officer
704 serving such execution shall, within seven days from the receipt by the
705 serving officer of such execution, make demand (1) upon the main
706 office of any banking institution having its main office within the
707 county of the serving officer, or (2) if such main office is not within the
708 serving officer's county and such banking institution has one or more
709 branch offices within such county, upon an employee of such a branch
710 office, such employee and branch office having been designated by the

711 banking institution in accordance with regulations adopted by the
712 Commissioner of Banking, in accordance with chapter 54, for payment
713 of any such nonexempt debt due to the judgment debtor and, after
714 having made such demand, shall serve a true and attested copy of the
715 execution, together with the affidavit and exemption claim form
716 prescribed by subsection (k) of this section, with the serving officer's
717 actions endorsed thereon, with the banking institution officer upon
718 whom such demand is made. If the officer serving such execution has
719 made an initial demand pursuant to this subsection within such seven-
720 day period, the serving officer may make additional demands upon
721 the main office of other banking institutions or employees of other
722 branch offices pursuant to subdivision (1) or (2) of this subsection,
723 provided any such additional demand is made not later than forty-five
724 days from the receipt by the serving officer of such execution.

725 (c) If any such banking institution upon which such execution is
726 served and upon which such demand is made is indebted to the
727 judgment debtor, the banking institution shall remove from the
728 judgment debtor's account the amount of such indebtedness not
729 exceeding the amount due on such execution before its midnight
730 deadline, as defined in section 42a-4-104. Notwithstanding the
731 provisions of this subsection, if electronic direct deposits that are
732 readily identifiable as exempt federal veterans' benefits, Social Security
733 benefits, including, but not limited to, retirement, survivors' and
734 disability benefits, supplemental security income benefits or child
735 support payments processed and received pursuant to Title IV-D of
736 the Social Security Act were made to the judgment debtor's account
737 during the thirty-day period preceding the date that the execution was
738 served on the banking institution, then a banking institution shall
739 leave the lesser of the account balance or one thousand dollars in the
740 judgment debtor's account, provided nothing in this subsection shall
741 be construed to limit a banking institution's right or obligation to
742 remove such funds from the judgment debtor's account if required by
743 any other provision of law or by a court order. The judgment debtor
744 shall have access to such funds left in the judgment debtor's account
745 pursuant to this subsection. The banking institution may notify the

746 judgment creditor that funds have been left in the judgment debtor's
747 account pursuant to this subsection. Nothing in this subsection shall
748 alter the exempt status of funds which are exempt from execution
749 under subsection (a) of this section or under any other provision of
750 state or federal law, or the right of a judgment debtor to claim such
751 exemption. Nothing in this subsection shall be construed to affect any
752 other rights or obligations of the banking institution with regard to the
753 funds in the judgment debtor's account.

754 (d) If any funds are removed from the judgment debtor's account
755 pursuant to subsection (c) of this section, upon receipt of the execution
756 and exemption claim form from the serving officer, the banking
757 institution shall forthwith mail copies thereof, postage prepaid, to the
758 judgment debtor and to any secured party that is party to a control
759 agreement between the banking institution and such secured party
760 under article 9 of title 42a at the [judgment debtor's] last known
761 address of the judgment debtor and of any such secured party with
762 respect to the affected accounts on the records of the banking
763 institution. The banking institution shall hold the amount removed
764 from the judgment debtor's account pursuant to subsection (c) of this
765 section for fifteen days from the date of the mailing to the judgment
766 debtor and any such secured party, and during such period shall not
767 pay the serving officer.

768 (e) To prevent the banking institution from paying the serving
769 officer, as provided in subsection (h) of this section, the judgment
770 debtor shall give notice of a claim of exemption by delivering to the
771 banking institution, by mail or other means, the exemption claim form
772 or other written notice that an exemption is being claimed and any
773 such secured party shall give notice of its claim of a prior perfected
774 security interest in such deposit account by delivering to the banking
775 institution, by mail or other means, written notice thereof. The banking
776 institution may designate an address to which the notice of a claim of
777 exemption, or a secured party claim notice, shall be delivered. Upon
778 receipt of such notice, the banking institution shall, within two
779 business days, send a copy of such notice to the clerk of the court

780 which issued the execution.

781 (f) (1) Upon receipt of an exemption claim form or a secured party
782 claim notice, the clerk of the court shall enter the appearance of the
783 judgment debtor or such secured party with the address set forth in
784 the exemption claim form or secured party claim notice. The clerk shall
785 forthwith send file-stamped copies of the exemption claim form or
786 secured party claim notice to the judgment creditor and judgment
787 debtor with a notice stating that the disputed funds are being held for
788 forty-five days from the date the exemption claim form or secured
789 party claim notice was received by the banking institution or until a
790 court order is entered regarding the disposition of the funds,
791 whichever occurs earlier, and the clerk shall automatically schedule
792 the matter for a short calendar hearing. The claim of exemption filed
793 by such judgment debtor shall be prima facie evidence at such hearing
794 of the existence of the exemption.

795 (2) Upon receipt of notice from the banking institution pursuant to
796 subsection (c) of this section, a judgment creditor may, on an ex parte
797 basis, present to a judge of the Superior Court an affidavit sworn
798 under oath by a competent party demonstrating a reasonable belief
799 that such judgment debtor's account contains funds which are not
800 exempt from execution and the amount of such nonexempt funds.
801 Such affidavit shall not be conclusory but is required to show the
802 factual basis upon which the reasonable belief is based. If such judge
803 finds that the judgment creditor has demonstrated a reasonable belief
804 that such judgment debtor's account contains funds which are not
805 exempt from execution, such judge shall authorize the judgment
806 creditor to submit a written application to the clerk of the court for a
807 hearing on the exempt status of funds left in the judgment debtor's
808 account pursuant to subsection (c) of this section. The judgment
809 creditor shall promptly send a copy of the application and the
810 supporting affidavit to the judgment debtor and to any secured party
811 shown on a secured party claim notice sent to the judgment creditor
812 pursuant to subdivision (1) of this subsection. Upon receipt of such
813 application, the clerk of the court shall automatically schedule the

814 matter for a short calendar hearing and shall give written notice to
815 [both] the judgment creditor, [and] the judgment debtor and any
816 secured party shown on a secured party claim notice received by the
817 clerk of the court. The notice to the judgment creditor pursuant to
818 subsection (c) of this section shall be prima facie evidence at such
819 hearing that the funds in the account are exempt funds. The burden of
820 proof shall be upon the judgment creditor to establish the amount of
821 funds which are not exempt.

822 (g) If an exemption claim is made or a secured party claim notice is
823 given pursuant to subsection (e) of this section, the banking institution
824 shall continue to hold the amount removed from the judgment debtor's
825 account for forty-five days or until a court order is received regarding
826 disposition of the funds, whichever occurs earlier. If no such order is
827 received within forty-five days of the date the banking institution
828 sends a copy of the exemption claim form or notice of exemption or a
829 secured party claim notice to the clerk of the court, the banking
830 institution shall return the funds to the judgment debtor's account.

831 (h) If no claim of exemption or secured party claim notice is
832 received by the banking institution within fifteen days of the mailing
833 to the judgment debtor and any secured party of the execution and
834 exemption claim form pursuant to subsection (d) of this section, the
835 banking institution shall, upon demand, forthwith pay the serving
836 officer the amount removed from the judgment debtor's account, and
837 the serving officer shall thereupon pay such sum, less such serving
838 officer's fees, to the judgment creditor, except to the extent otherwise
839 ordered by a court.

840 (i) The court, after a hearing conducted pursuant to subsection (f) of
841 this section, shall enter an order determining the issues raised by the
842 claim of exemption and claim by a secured party of a prior perfected
843 security interest in such deposit account. The clerk of the court shall
844 forthwith send a copy of such order to the banking institution. Such
845 order shall be deemed to be a final judgment for the purposes of
846 appeal. No appeal shall be taken except within seven days of the

847 rendering of the order. The order of the court may be implemented
848 during such seven-day period, unless stayed by the court.

849 (j) If both exempt and nonexempt moneys have been deposited into
850 an account, for the purposes of determining which moneys are exempt
851 under this section, the moneys most recently deposited as of the time
852 the execution is served shall be deemed to be the moneys remaining in
853 the account.

854 (k) The execution, exemption claim form and clerk's notice
855 regarding the filing of a claim of exemption shall be in such form as
856 prescribed by the judges of the Superior Court or their designee. The
857 exemption claim form shall be dated and include a checklist and
858 description of the most common exemptions, instructions on the
859 manner of claiming the exemptions and a space for the judgment
860 debtor to certify those exemptions claimed under penalty of false
861 statement.

862 (l) If records or testimony are subpoenaed from a banking
863 institution in connection with a hearing conducted pursuant to
864 subsection (f) of this section, the reasonable costs and expenses of the
865 banking institution in complying with the subpoena shall be
866 recoverable by the banking institution from the party requiring such
867 records or testimony, provided, the banking institution shall be under
868 no obligation to attempt to obtain records or documentation relating to
869 the account executed against which are held by any other banking
870 institution. The records of a banking institution as to the dates and
871 amounts of deposits into an account in the banking institution shall, if
872 certified as true and accurate by an officer of the banking institution,
873 be admissible as evidence without the presence of the officer in any
874 hearing conducted pursuant to subsection (f) of this section to
875 determine the legitimacy of a claim of exemption made under this
876 section.

877 (m) If there are moneys to be removed from the judgment debtor's
878 account, prior to the removal of such moneys pursuant to subsection
879 (c) of this section, the banking institution shall receive from the serving

880 officer as representative of the judgment creditor a fee of eight dollars
881 for the banking institution's costs in complying with the provisions of
882 this section which fee may be recoverable by the judgment creditor as
883 a taxable cost of the action.

884 (n) If the banking institution fails or refuses to pay over to the
885 serving officer the amount of such debt, not exceeding the amount due
886 on such execution, such banking institution shall be liable in an action
887 therefor to the judgment creditor named in such execution for the
888 amount of nonexempt moneys which the banking institution failed or
889 refused to pay over, excluding funds of up to one thousand dollars
890 which the banking institution in good faith allowed the judgment
891 debtor to access pursuant to subsection (c) of this section. The amount
892 so recovered by such judgment creditor shall be applied toward the
893 payment of the amount due on such execution. Thereupon, the rights
894 of the banking institution shall be subrogated to the rights of the
895 judgment creditor. If such banking institution pays exempt moneys
896 from the account of the judgment debtor over to the serving officer
897 contrary to the provisions of this section, such banking institution shall
898 be liable in an action therefor to the judgment debtor for any exempt
899 moneys so paid and such banking institution shall refund or waive any
900 charges or fees by the banking institution, including, but not limited to,
901 dishonored check fees, overdraft fees or minimum balance service
902 charges and legal process fees, which were assessed as a result of such
903 payment of exempt moneys. Thereupon, the rights of the banking
904 institution shall be subrogated to the rights of the judgment debtor.

905 (o) Except as provided in subsection (n) of this section, no banking
906 institution or any officer, director or employee of such banking
907 institution shall be liable to any person with respect to any act done or
908 omitted in good faith or through the commission of a bona fide error
909 that occurred despite reasonable procedures maintained by the
910 banking institution to prevent such errors in complying with the
911 provisions of this section.

912 (p) Nothing in this section shall in any way restrict the rights and

913 remedies otherwise available to a judgment debtor or any such secured
914 party at law or in equity.

915 (q) Nothing in this section shall in any way affect any rights of the
916 banking institution with respect to uncollected funds credited to the
917 account of the judgment debtor, which rights shall be superior to those
918 of the judgment creditor.

919 (r) For the purposes of this subsection, "exempt" shall have the same
920 meaning as provided in subsection (c) of section 52-352a. Funds
921 deposited in an account that has been established for the express
922 purpose of receiving electronic direct deposits of public assistance
923 payments from the Department of Social Services shall be exempt.

924 Sec. 25. Subsection (c) of section 52-355a of the general statutes is
925 repealed and the following is substituted in lieu thereof (*Effective*
926 *October 1, 2003*):

927 (c) Any such judgment lien shall be effective, in the same manner
928 and to the same extent as a similar security interest under the
929 provisions of title 42a, for five years from the date of filing, provided
930 the filing shall not give the judgment creditor any right to take
931 possession of the personal property on which the lien has been placed
932 other than by writ of execution or other judicial process. The lien may
933 be extended for additional five-year periods in the same manner as a
934 financing statement may be extended but shall not be extended
935 beyond the period of enforceability of the judgment. Any such
936 property on which a lien has been placed may be executed against and
937 levied on by the judgment creditor in the same manner as other
938 personal property of the judgment debtor. The fact that a judgment
939 creditor has no right under this subsection to take possession of the
940 personal property on which the lien has been placed other than by writ
941 of execution or other judicial process shall not be a defense in a
942 conversion action brought by such judgment creditor for impairment
943 of such judgment lien.

944 Sec. 26. Subsection (e) of section 42a-2A-702 of the general statutes is

945 repealed and the following is substituted in lieu thereof (*Effective*
946 *October 1, 2003*):

947 (e) (1) In this subsection, "electronic self-help" means the use of
948 electronic means to exercise a term of the lease agreement with respect
949 to the lessor's [rights] right to take possession of the leased goods or,
950 without removal, to render the leased goods unusable on the lessee's
951 premises, and includes the use of electronic means to locate leased
952 goods.

953 (2) Electronic self-help is permitted only if the lessee separately
954 agrees to a term of the lease agreement authorizing electronic self-help
955 that requires notice of exercise as provided in subdivision (3) of this
956 subsection. Except in a consumer lease, the lessee is deemed to have
957 separately agreed to a term of the lease agreement authorizing
958 electronic self-help if a clause is included in the lease agreement that
959 specifically states that electronic self-help is authorized.

960 (3) Before resorting to electronic self-help authorized by a term of
961 the lease agreement, the lessor shall give notice to the lessee stating:

962 (A) That the lessor intends to resort to electronic self-help as a
963 remedy on or after fifteen days following communication of the notice
964 to the lessee;

965 (B) The nature of the claimed breach which entitled the lessor to
966 resort to electronic self-help; and

967 (C) The name, title, address and telephone number of a person
968 representing the lessor with whom the lessee may communicate
969 concerning the lease agreement.

970 (4) A lessee may recover damages, including incidental damages,
971 caused by wrongful use of electronic self-help. The lessee may also
972 recover consequential damages for wrongful use of electronic self-help
973 even if such damages are excluded by the terms of the lease
974 agreement.

975 (5) Even if the lessor complies with subdivisions (2) and (3) of this
976 subsection, electronic self-help may not be used if the lessor has reason
977 to know that such use will result in substantial injury or harm to the
978 public health or safety or grave harm to the public interest
979 substantially affecting third parties not involved in the dispute.

980 Sec. 27. Subsection (f) of section 32-23f of the general statutes is
981 repealed and the following is substituted in lieu thereof (*Effective*
982 *October 1, 2003*):

983 (f) The principal of and interest on bonds or notes issued by the
984 authority may be secured by a pledge of any revenues and receipts of
985 the authority derived from any project and may be additionally
986 secured by a mortgage or deed of trust covering all or any part of a
987 project, including any additions, improvements, extensions to or
988 enlargements of any projects thereafter made. Such bonds or notes
989 may also be secured by a pledge or assignment of a loan agreement,
990 conditional sale agreement or agreement of sale or by an assignment of
991 the lease of any project for the construction and acquisition of which
992 said bonds or notes are issued and by an assignment of the revenues
993 and receipts derived by the authority from such project. The payments
994 of principal and interest on such bonds or notes may be additionally
995 secured by a pledge of any other property, revenues, moneys, or funds
996 available to the authority for such purpose. The resolution authorizing
997 the issuance of any such bonds or notes and any such mortgage or
998 deed of trust or lease or loan agreement, conditional sale agreement or
999 agreement of sale or credit agreement may contain agreements and
1000 provisions respecting the establishment of reserves to secure such
1001 bonds or notes, the maintenance and insurance of the projects covered
1002 thereby, the fixing and collection of rents for any portion thereof leased
1003 by the authority to others or the sums to be paid under any conditional
1004 sale agreement or agreement of sale entered into by the authority with
1005 others, the creation and maintenance of special funds from such
1006 revenues and the rights and remedies available in the event of default,
1007 the vesting in a trustee or trustees of such property, rights, powers and
1008 duties in trust as the authority may determine, which may include any

1009 or all of the rights, powers and duties of any trustee appointed by the
1010 holders of any bonds and notes and limiting or abrogating the right of
1011 the holders of any bonds and notes of the authority to appoint a trustee
1012 under this chapter, chapter 578 and subsection (a) of section 10-320b,
1013 or limiting the rights, powers and duties of such trustee; provision for
1014 a trust agreement by and between the authority and a corporate trust
1015 which may be any trust company or bank having the powers of a trust
1016 company within or without the state, which agreement may provide
1017 for the pledging or assigning of any revenues or assets or income from
1018 assets to which or in which the authority has any rights or interest, and
1019 may further provide for such other rights and remedies exercisable by
1020 the trustee as may be proper for the protection of the holders of any
1021 bonds or notes and not otherwise in violation of law, and such
1022 agreement may provide for the restriction of the rights of any
1023 individual holder of bonds or notes of the authority and may contain
1024 any further provisions which are reasonable to delineate further the
1025 respective rights, duties, safeguards, responsibilities and liabilities of
1026 the authority; persons and collective holders of bonds or notes of the
1027 authority and the trustee; and covenants to do or refrain from doing
1028 such acts and things as may be necessary or convenient or desirable in
1029 order to better secure any bonds or notes of the authority, or which, in
1030 the discretion of the authority, will tend to make any bonds or notes to
1031 be issued more marketable notwithstanding that such covenants, acts
1032 or things may not be enumerated herein; and any other matters of like
1033 or different character, which in any way affect the security or
1034 protection of the bonds or notes, all as the authority shall deem
1035 advisable and not in conflict with the provisions hereof. Each pledge,
1036 agreement, mortgage and deed of trust made for the benefit or security
1037 of any of the bonds or notes of the authority shall be in effect until the
1038 principal of and interest on the bonds or notes for the benefit of which
1039 the same were made have been fully paid, or until provision has been
1040 made for payment in the manner provided in the resolution or
1041 resolutions authorizing their issuance. Any pledge made in respect of
1042 such bonds or notes shall be valid and binding from the time when the
1043 pledge is made; the revenues, money or property so pledged and

1044 thereafter received by the authority shall immediately be subject to the
 1045 lien of such pledge without any physical delivery thereof or further
 1046 act; and the lien of any such pledge shall be valid and binding as
 1047 against all parties having claims of any kind in tort, contract or
 1048 otherwise against the authority irrespective of whether such parties
 1049 have notice thereof. Neither the resolution, trust indenture nor any
 1050 other instrument by which a pledge is created need be recorded. The
 1051 resolution authorizing the issuance of such bonds or notes may
 1052 provide for the enforcement of any such pledge or security in any
 1053 lawful manner. The authority may elect [, notwithstanding the
 1054 exclusions provided in subdivision (14) of subsection (d) of section
 1055 42a-9-109,] to have the provisions of title 42a, the Connecticut uniform
 1056 commercial code, apply to any pledge made by or to the authority to
 1057 secure its bonds or notes by filing a financing statement with respect to
 1058 the security interest created by the pledge [. In each] and, in such case,
 1059 the financing statement shall be filed as if the debtor were located in
 1060 this state.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>
Sec. 16	<i>October 1, 2003</i>
Sec. 17	<i>October 1, 2003</i>
Sec. 18	<i>October 1, 2003</i>

Sec. 19	<i>October 1, 2003</i>
Sec. 20	<i>October 1, 2003</i>
Sec. 21	<i>October 1, 2003</i>
Sec. 22	<i>October 1, 2003</i>
Sec. 23	<i>October 1, 2003</i>
Sec. 24	<i>October 1, 2003</i>
Sec. 25	<i>October 1, 2003</i>
Sec. 26	<i>October 1, 2003</i>
Sec. 27	<i>October 1, 2003</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Secretary of the State	Commercial Recording Division Account - Cost	None	None

Municipal Impact: None

Explanation

This bill, which makes numerous changes regarding secured transactions in the Uniform Commercial Code, has no fiscal impact on the Secretary of the State.

OLR Bill Analysis

sHB 5099

AN ACT CONCERNING ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE REGARDING SECURED TRANSACTIONS**SUMMARY:**

This bill makes several changes regarding secured transactions, particularly in Article 9 of the Uniform Commercial Code (UCC), which deals with security interests created by contracts in personal property that secure payment or other performance that the debtor is obligated to make. The changes include (1) making government transactions subject to Article 9 if permitted by other applicable statutes and (2) establishing new bank execution procedures to reflect Article 9 changes that allow security interests in deposit accounts. The bill also changes provisions relating to (1) use of electronic self-help in security or lease agreements, (2) security interests in deposit accounts and inventory, (3) assignments, (3) recording security interests in local land offices, (4) fees, and (5) judgment liens on personal property.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2003

GOVERNMENT TRANSACTIONS

The bill eliminates the blanket prohibition on Article 9 applying to transfers by a government subdivision or agency. Instead, it specifies that Article 9 does not apply to the extent that another statute expressly governs the creation, perfection, priority, or enforcement of a security interest created by the state or one of its government units. Thus, statutes providing other rules would prevail over Article 9, but Article 9 can apply in other circumstances.

The bill makes initial filing statements filed in public finance transactions valid for 30 years.

DEPOSIT ACCOUNTS

Under current law, Article 9 applies to a security interest in a commercial (non-consumer) deposit account, unless the deposit account is a payroll account or a trust account titled or clearly identified as one. The bill specifies that, subject to the above exception, Article 9 applies to a security interest in a deposit account (1) of a debtor that is a statutory trust or foreign statutory trust registered under state law or (2) if another statute makes it applicable.

By law, a statutory trust is an unincorporated association created by a trust instrument under which property is held, managed, controlled, invested, or operated, or business or professional activities carried on by a trustee for the benefit of those entitled to a beneficial interest in the trust property. A statutory trust can be organized to carry on any lawful business or activity, whether for profit or not, and for any lawful purpose. A foreign statutory trust is a business trust, association, or similar entity that is not organized under this state's laws.

INVENTORY

Under current law, filing a financing statement under Article 9 is not effective to perfect a security interest in property that is subject to (1) certificate of title statutes covering cars, trailers, mobile homes, boats, farm tractors, and similar items where the security interest is indicated on the certificate as a condition of perfection or (2) non-UCC filing statutes. But a financing statement is effective when the collateral is held as inventory for sale or lease by someone or leased by a person in the business of selling or leasing those kind of goods. The bill limits this provision by making it inapplicable to inventory held by people in the business of leasing the type of goods.

The bill also applies Article 9, rather than the certificate of title provisions, to a security interest in a motor vehicle that is inventory held for sale or lease by someone or leased by a person in the business of selling motor vehicles.

ASSIGNMENTS

The bill specifies that the provisions in current law restricting anti-assignment clauses in an account, chattel paper, payment intangible, or promissory note prevail over any inconsistent statute or regulation unless a statute expressly refers to these provisions and states that it

prevails over them. A similar provision in current law applies to assignments of general intangibles, health care receivables, and associated promissory notes. As under current law, the provisions are subject to other rules for (1) consumer account debtors, (2) leases, (3) health care insurance receivables, (4) lottery winnings, (5) structured settlements, (6) workers' compensation benefits, (7) Medicaid benefits, and (8) damages for physical injuries or sickness.

Similar anti-assignment provisions apply under current law to assignments of general intangibles, health care insurance receivables, and promissory notes. And they also have exceptions for lottery winnings, structured settlements, Medicaid benefits, workers' compensation benefits, and damages for physical injuries or sickness. Under current law, Article 9's provisions do not apply to the assignment, transfer, or creation of a security interest in benefits from a special needs trust and workers' compensation payments or damages received for physical injuries. The bill specifies that the provisions also do not apply to the attachment or perfection of a security interest.

RECORDING SECURITY INTERESTS ON LAND RECORDS

The law requires the filing of a financing statement to perfect a security interest in collateral. The statement is filed at the (1) secretary of the state's office or (2) local town office where mortgages are recorded on land if the collateral is "as-extracted" collateral, timber to be cut, or the collateral is or will become a fixture (goods so related to real estate that an interest in them arises under real estate law). The bill specifies that whenever Article 9 refers to filing in the local office, it means recording in that office. (Recording is the term usually used when referring to local land records rather than filing.) It also makes this change to use the term recording in a number of places.

To amend a filing statement recorded on local land records, the law requires the amendment to identify the initial filing statement by book and page or date. The bill specifies that if identifying it by book and page, it must include the page number, and if identifying by date, it must include the time as well.

FILING FEES

The bill specifies that the fees for responding to requests for information and providing copies of documents apply only to requests

to the secretary of the state's office and not to other filing offices.

ELECTRONIC SELF-HELP

The law allows a secured party to use electronic self-help to exercise his rights after default only if the debtor separately agrees to a term of the security agreement that authorizes it and requires notice. The bill specifies that, except in a consumer transaction, the debtor is considered to have separately agreed to a term if a clause is included in the security agreement that specifically states that electronic self-help is authorized.

Leasing (UCC Article 2A)

The bill limits the circumstances under which electronic self-help can be used with regard to leases under Article 2A. Under current law, electronic self-help is using electronic means to exercise a term of the lease agreement with respect to the lessor's rights. The bill instead limits its use to exercising the lessor's right to take possession of the leased goods or, without removal, to render them unusable on the lessee's premises. As under current law, electronic self-help includes using electronic means to locate leased goods.

By law, electronic self-help is permitted only if the lessee separately agrees to a term of the lease agreement authorizing it and requiring certain notices before its use. The bill provides that, except in a consumer lease, a clause in the lease agreement that specifically authorizes electronic self-help satisfies this requirement.

BANK EXECUTIONS

By law, a debtor, except in a consumer transaction, can grant a security interest in a deposit account by entering a control agreement with the secured party and the bank. A creditor who wins a court judgment can also get an execution order to collect debt from the debtor's bank account. The bill creates new procedures to account for the possibility of a security interest in an account that is also subject to an execution and to provide notice and an opportunity for a secured party to request a hearing to determine its interest in the deposit account before the funds in the account are paid under the execution. These provisions, for debtors that are not natural persons, are similar to the provisions in current law relating to natural persons requesting a

hearing to claim an exemption from execution.

When the Judgment Debtor is Not a Natural Person

Under current law, when a creditor gets a court judgment, (1) a court clerk can issue an execution to an officer to serve on a bank for payment of a debt from the debtor's deposit account, and (2) the bank pays the serving officer, who applies the funds to the execution.

Under the bill, if the account is subject to a security interest of a secured party (other than the bank) under a control agreement (an agreement between the debtor, secured party, and bank that perfects the secured party's interest in the account), the bank must:

1. mail a copy of the execution, postage paid, to the debtor and the secured party at their last known addresses for the accounts on the bank's records and
2. hold the amount for 20 days after mailing the copies without paying the serving officer.

The bill provides that it does not affect the bank's other rights or obligations with regard to funds in the judgment debtor's account.

The bill requires the secured party to notify the court clerk that issued the execution of its prior perfected security interest and make a written claim for a determination of interests in the property. (The bill references an existing procedure for a court hearing to determine the respective interests when there is a dispute between a judgment debtor or creditor and a third person over personal property subject to an execution.) The secured party must deliver a copy of the claim to the bank. The clerk must enter the appearance of the secured party with his address from the claim and send file-stamped copies of the claim to the judgment creditor, judgment debtor, and the bank with a notice that the disputed funds are held until a court order is entered for their disposition. The bank must continue to hold the amount until it receives the court order.

Under the bill, if no written claim for determination of interests is made, the bank can pay the serving officer, and the serving officer must pay the sum, minus his fees, to the judgment creditor unless a court orders otherwise.

After a hearing determines interests, the clerk must send a copy of a judgment or order to the bank. The judgment or order is a final judgment for purposes of appeal and a party can appeal within seven days. The judgment or order can be implemented during this period unless it is stayed by the court.

If records or testimony are subpoenaed from a bank for the hearing, the bank can recover the reasonable costs and expenses of complying from the party that required them. The bank does not have an obligation to attempt to obtain other banks' records or documents relating to the account. Its records of dates and deposit amounts are, if certified as true and accurate by a bank officer, admissible as evidence without the officer's presence at a hearing to determine the legitimacy of a claim of an interest in property.

Under current law, a bank that fails or refuses to pay the amount of the execution to the serving officer is liable in an action to the judgment creditor, and the amount is applied to the amount due on the execution. The bill provides that a bank and its officers, directors, and employees are not otherwise liable to anyone for a good faith act or omission or a bona fide error that occurred despite reasonable bank procedures to prevent such errors in complying with these provisions.

The bill provides that it does not restrict the rights and remedies otherwise available to a judgment debtor or secured party.

When the Judgment Debtor is a Natural Person

When a judgment debtor is a natural person, he has certain protections and exemptions from execution. The bill makes a secured party's claim part of the same hearing procedure that current law affords judgment debtors claiming an exemption.

If funds are removed from the judgment debtor's account, current law requires the bank to mail copies of the execution and exemption claim form, postage paid, to the judgment debtor at his last known address. The bill also requires the bank to mail this information to a secured party that is a party to a control agreement with the bank. Under current law, the judgment debtor must give notice of a claim of exemption by delivering the exemption claim form or other written notice of exemption to the bank. The bill allows a secured party to

give notice of a prior perfected security interest in the deposit account by delivering written notice to the bank. Under current law, the bank can designate an address for delivery of exemption notices and the bill allows the bank to do so for secured party claims.

As the law currently provides for judgment debtors, the bill provides that (1) the clerk must enter the appearance of a secured party with his address from the claim notice; (2) the clerk must send file-stamped copies of the secured party claim notice to the judgment creditor and judgment debtor with notice that the disputed funds are held until the earlier of 45 days from the date the secured party claim notice was received by the bank or until a court order is entered regarding the funds; and (3) the court must schedule a hearing.

If the judge finds that the judgment creditor demonstrated a reasonable belief that the judgment debtor's account has funds that are not exempt from execution, the judge must authorize the judgment creditor to submit a written application to the clerk for a hearing on the exempt status of funds in the account. Under current law, the judgment creditor must send a copy of the application and supporting affidavit to the judgment debtor; and the bill requires the judgment creditor also to send it to any secured party shown on a secured party claim notice sent to the judgment creditor. By law, the clerk must schedule a court hearing and notify the judgment creditor and judgment debtor. The bill requires the clerk also to notify a secured party shown on a secured party claim notice received by clerk.

The bill makes a secured party claim notice part of the following procedures that current law provides for an exemption claim.

1. The bank must hold the amount at issue for 45 days or until a court enters an order.
2. If there is no order within 45 days of sending the notice to the clerk, the bank must return the funds to the judgment debtor's account.
3. If the bank does not receive a secured party notice within 15 days of mailing notice of the execution to the judgment debtor and secured party, it must pay the serving officer, on demand, and the serving officer pays it, minus his fees, to the judgment creditor, unless a court orders otherwise.

4. If the court conducts a hearing and enters an order on the exemption or secured party's claim, the clerk sends a copy to the bank.
5. The order is a final judgment for appeal, and can be appealed within seven days of the order, and implemented during that time unless stayed by court.

Under current law, the same subpoena provisions and liability provisions described above apply for executions involving judgment debtors who are not natural persons.

As current law provides for judgment debtors, the bill provides that these provision do not restrict the rights and remedies otherwise available to a secured party.

JUDGMENT LIENS ON PERSONAL PROPERTY

Under current law, except for a consumer judgment, a judgment lien for the unpaid amount of any money judgment can be placed on nonexempt personal property that could be the subject of a security interest under Article 9. It has the same effect as a similar security interest under Article 9. By law, this does not create any right to take possession except by execution or other judicial process. The bill provides that the fact that a judgment creditor has no right to take possession does not provide a defense in a conversion action (an action against someone for depriving an owner of his property) by the judgment creditor for impairing the judgment lien.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0