



House of Representatives

File No. 623

General Assembly

January Session, 2003

(Reprint of File No. 258)

Substitute House Bill No. 5099
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 2, 2003

**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2 is repealed and the following is substituted in lieu thereof (*Effective*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 (c) 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32 repealed and the following is substituted in lieu thereof (*Effective*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 (c) This article does not apply to the extent that:

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

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

40 [(2)] (3) A statute of another state, a foreign country or a
41 governmental unit of another state or a foreign country, other than a

42 statute generally applicable to security interests, expressly governs
43 creation, perfection, priority or enforcement of a security interest
44 created by the state, country or governmental unit; or

45 [(3)] (4) The rights of a transferee beneficiary or nominated person
46 under a letter of credit are independent and superior under section
47 42a-5-114.

48 Sec. 3. Subsection (d) of section 42a-9-109 of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2003*):

51 (d) This article does not apply to:

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

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

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

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

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

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

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

68 (8) A transfer of an interest in or an assignment of a claim under a

69 policy of insurance, other than an assignment by or to a health-care
70 provider of a health-care-insurance receivable and any subsequent
71 assignment of the right to payment, but sections 42a-9-315 and 42a-9-
72 322 apply with respect to proceeds and priorities in proceeds;

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

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

76 (A) Section 42a-9-340 applies with respect to the effectiveness of
77 rights of recoupment or set-off against deposit accounts; and

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

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

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

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

85 (C) Fixture filings in sections 42a-9-501, 42a-9-502, 42a-9-512, 42a-9-
86 516 and 42a-9-519; and

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

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

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

95 [(14) A transfer by a government or government subdivision or

96 agency of this state;]

97 [(15)] (14) An assignment of workers' compensation benefits
98 governed by section 31-320; or

99 [(16)] (15) A security interest in a deposit account that is a payroll
100 account or a trust account and which is titled or otherwise clearly
101 identifiable as such an account, except that this article does apply to a
102 security interest in (A) such an account if another statute of this state
103 expressly so provides, or (B) a deposit account of a debtor that is a
104 statutory trust formed or a foreign statutory trust registered under
105 chapter 615, provided such deposit account is not a payroll account or
106 a trust account which is titled or otherwise clearly identifiable as such
107 an account.

108 Sec. 4. Subsection (a) of section 42a-9-311 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2003*):

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

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

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

124 (3) A certificate-of-title statute of another jurisdiction which
125 provides for a security interest to be indicated on the certificate as a

126 condition or result of the security interest's obtaining priority over the
127 rights of a lien creditor with respect to the property.

128 Sec. 5. Subsection (d) of section 42a-9-311 of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective*
130 *October 1, 2003*):

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

137 Sec. 6. Section 42a-9-406 of the general statutes is repealed and the
138 following is substituted in lieu thereof (*Effective October 1, 2003*):

139 (a) Subject to subsections (b) to [(i)] (j), inclusive, an account debtor
140 on an account, chattel paper or a payment intangible may discharge its
141 obligation by paying the assignor until, but not after, the account
142 debtor receives a notification, authenticated by the assignor or the
143 assignee, that the amount due or to become due has been assigned and
144 that payment is to be made to the assignee. After receipt of the
145 notification, the account debtor may discharge its obligation by paying
146 the assignee and may not discharge the obligation by paying the
147 assignor. An assignor who receives payment after notification is given
148 must return the payment to the account debtor or forward the
149 payment to the assignee.

150 (b) Subject to subsection (h), notification is ineffective under
151 subsection (a):

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

153 (2) To the extent that an agreement between an account debtor and a
154 seller of a payment intangible limits the account debtor's duty to pay a
155 person other than the seller and the limitation is effective under law

156 other than this article; or

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

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

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

163 (C) The account debtor knows that the assignment to that assignee
164 is limited.

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

170 (d) Except as otherwise provided in subsection (e) and in section
171 42a-2A-403 and section 42a-9-407, and subject to subsection (h), a term
172 in an agreement between an account debtor and an assignor or in a
173 promissory note is ineffective to the extent that it:

174 (1) Prohibits, restricts or requires the consent of the account debtor
175 or person obligated on the promissory note to the assignment or
176 transfer of, or the creation, attachment, perfection or enforcement of a
177 security interest in, the account, chattel paper, payment intangible or
178 promissory note; or

179 (2) Provides that the assignment or transfer or the creation,
180 attachment, perfection or enforcement of the security interest may give
181 rise to a default, breach, right of recoupment, claim, defense,
182 termination, right of termination or remedy under the account, chattel
183 paper, payment intangible or promissory note.

184 (e) Subsection (d) does not apply to the sale of a payment intangible

185 or promissory note.

186 (f) Except as otherwise provided in section 42a-2A-403 and section
187 42a-9-407, and subject to subsections (h) and (i), a rule of law, statute or
188 regulation that prohibits, restricts or requires the consent of a
189 government, governmental body or official or account debtor to the
190 assignment or transfer of, or creation of a security interest in, an
191 account or chattel paper is ineffective to the extent that the rule of law,
192 statute or regulation:

193 (1) Prohibits, restricts or requires the consent of the government,
194 governmental body or official or account debtor to the assignment or
195 transfer of, or the creation, attachment, perfection or enforcement of a
196 security interest in the account or chattel paper; or

197 (2) Provides that the assignment or transfer or the creation,
198 attachment, perfection or enforcement of the security interest may give
199 rise to a default, breach, right of recoupment, claim, defense,
200 termination, right of termination or remedy under the account or
201 chattel paper.

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

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

208 (i) Except as provided in subsection (j) of this section, this section
209 prevails over any inconsistent provision of any statute or regulation of
210 this state unless the provision is contained in a statute of this state,
211 refers expressly to this section and states that the provision prevails
212 over this section.

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

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

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

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

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

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

226 Sec. 7. Section 42a-9-407 of the general statutes is repealed and the
227 following is substituted in lieu thereof (*Effective October 1, 2003*):

228 (a) Except as otherwise provided in subsection (b), a term in a lease
229 agreement is ineffective to the extent that it:

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

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

238 (b) Except as otherwise provided in subsection [(g)] (c) of section
239 42a-2A-403, a term described in subdivision (2) of subsection (a) is
240 effective to the extent that there is:

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

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

245 (c) The creation, attachment, perfection or enforcement of a security
246 interest in the lessor's interest under the lease contract or the lessor's
247 residual interest in the goods is not a transfer that materially impairs
248 the lessee's prospect of obtaining return performance or materially
249 changes the duty of or materially increases the burden or risk imposed
250 on the lessee within the purview of subsection [(d)] (e) of section 42a-
251 2A-403 unless, and then only to the extent that, enforcement actually
252 results in a delegation of material performance of the lessor.

253 Sec. 8. Subsection (f) of section 42a-9-408 of the general statutes is
254 repealed and the following is substituted in lieu thereof (*Effective*
255 *October 1, 2003*):

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

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

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

264 (2) Subsection (c) of this section does not apply to an assignment or
265 transfer of, or the creation, attachment [,] or perfection [or
266 enforcement] of a security interest in, a right the transfer of which is
267 prohibited or restricted by any of the following statutes to the extent
268 that the statute is inconsistent with said subsection: Section 12-831, 31-
269 320 or 52-225f.

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

272 (a) Except as otherwise provided in subsection (b), if the local law of

273 this state governs perfection of a security interest or agricultural lien,
274 the office in which to file a financing statement to perfect the security
275 interest or agricultural lien is:

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

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

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

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

285 (b) The office in which to file a financing statement to perfect a
286 security interest in collateral, including fixtures, of a transmitting
287 utility is the Office of the Secretary of the State. The financing
288 statement also constitutes a fixture filing as to the collateral indicated
289 in the financing statement which is or is to become fixtures.

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

294 Sec. 10. Subsection (a) of section 42a-9-512 of the general statutes is
295 repealed and the following is substituted in lieu thereof (*Effective*
296 *October 1, 2003*):

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

301 (1) Identifies, by its file number, the initial financing statement to

302 which the amendment relates; or

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

308 Sec. 11. Subsection (b) of section 42a-9-515 of the general statutes is
309 repealed and the following is substituted in lieu thereof (*Effective*
310 *October 1, 2003*):

311 (b) Except as otherwise provided in subsections (e), (f) and (g), an
312 initial financing statement filed in connection with a public finance
313 transaction or manufactured-home transaction is effective for a period
314 of thirty years after the date of filing if it indicates that it is filed in
315 connection with a public finance transaction or manufactured-home
316 transaction.

317 Sec. 12. Subsection (b) of section 42a-9-518 of the general statutes is
318 repealed and the following is substituted in lieu thereof (*Effective*
319 *October 1, 2003*):

320 (b) A correction statement must:

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

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

324 (B) If the correction statement relates to a record recorded in a filing
325 office described in subdivision (1) of subsection (a) of section 42a-9-
326 501, the book and page number on which or the date and time that the
327 initial financing statement was recorded;

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

329 (3) Provide the basis for the person's belief that the record is

330 inaccurate and indicate the manner in which the person believes the
331 record should be amended to cure any inaccuracy or provide the basis
332 for the person's belief that the record was wrongfully filed.

333 Sec. 13. Subsection (d) of section 42a-9-519 of the general statutes is
334 repealed and the following is substituted in lieu thereof (*Effective*
335 *October 1, 2003*):

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

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

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

344 (2) The filing officer shall also enter upon the margin of the record
345 of such initial financing statement a notation of the record of the
346 subsequent assignment or amendment and of any continuation
347 statement, termination statement or correction statement.

348 Sec. 14. Section 42a-9-523 of the general statutes is repealed and the
349 following is substituted in lieu thereof (*Effective October 1, 2003*):

350 (a) If a person that files or records a written record requests an
351 acknowledgment of the filing or recording, the filing office, in the case
352 of a filing office described in subdivision (2) of subsection (a) of section
353 42a-9-501, shall send to the person an acknowledgment of the filing of
354 the record showing the number assigned to the record pursuant to
355 subdivision (1) of subsection (a) of section 42a-9-519 and the date and
356 time of the filing of the record and, in the case of a filing office
357 described in subdivision (1) of subsection (a) of section 42a-9-501, shall
358 send to the person an acknowledgment of the [filing] recording of the
359 record showing the book and page number and the date and time of

360 the [filing] recording of the record.

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

364 (1) The information in the record;

365 (2) In the case of a filing office described in subdivision (2) of
366 subsection (a) of section 42a-9-501, the number assigned to the record
367 pursuant to subdivision (1) of subsection (a) of section 42a-9-519 or, in
368 the case of a filing office described in subdivision (1) of subsection (a)
369 of section 42a-9-501, the book and page number assigned to the record;
370 and

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

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

374 (1) Whether there is on file on a date and time specified by the filing
375 office, but not a date earlier than six business days before the filing
376 office receives the request, any financing statement that:

377 (A) Designates a particular debtor;

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

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

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

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

387 (d) In complying with its duty under subsection (c), the filing office
388 may communicate information in any medium. However, if requested,
389 the filing office shall communicate information by issuing its written
390 certificate.

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

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

402 Sec. 15. Section 42a-9-525 of the general statutes is repealed and the
403 following is substituted in lieu thereof (*Effective October 1, 2003*):

404 (a) The [Secretary of the State] filing office described in subdivision
405 (2) of subsection (a) of section 42a-9-501, as amended by this act, shall
406 charge and collect the following uniform fee: For filing and indexing
407 an initial financing statement, a correction statement or an
408 amendment, twenty-five dollars. No fee shall be charged (1) to the
409 state when the initial financing statement, correction statement or
410 amendment is filed by or at the request of the Attorney General or an
411 assistant attorney general or by a duly authorized official of the state
412 or any of its agencies, boards or commissions acting in an official
413 capacity, or (2) to a municipality when the initial financing statement,
414 correction statement or amendment is filed by a tax collector or other
415 municipal officer of such municipality pursuant to the provisions of
416 sections 12-195a to 12-195g, inclusive, or (3) for any filing
417 accomplished solely by electronic means and without the physical
418 submission of any document, instrument or paper, in accordance with

419 a plan approved by the Secretary of the State.

420 (b) The uniform fee for responding to a request for information from
421 the filing office described in subdivision (2) of subsection (a) of section
422 42a-9-501, as amended by this act, including issuing a certificate
423 showing whether there is on file, on the date and [hour] time stated
424 therein, any financing statement naming a particular debtor and any
425 amendment thereof and, if there is, giving the date and hour of filing
426 such amendment and the name and address of each secured party
427 named therein, is twenty-five dollars. Upon request, the filing officer
428 shall furnish a photographic or electronic copy of any filed financing
429 statement or amendment for a uniform fee of twenty dollars regardless
430 of the number of pages and affix such filing officer's certification and
431 official seal thereto for a fee of five dollars. No fee shall be charged to
432 the state when a certificate showing whether there is on file, on the
433 date and hour stated therein, any presently effective financing
434 statement naming a particular debtor and any amendment thereof, is
435 requested by the Attorney General or an assistant attorney general or
436 by [an] a duly authorized official of the state or any of its agencies,
437 boards or commissions acting in an official capacity, and no fee shall
438 be charged to a municipality when such certificate is requested by the
439 tax collector or other municipal officer of such municipality pursuant
440 to the provisions of sections 12-195a to 12-195g, inclusive.

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

447 Sec. 16. Subsection (a) of section 42a-9-609 of the general statutes is
448 repealed and the following is substituted in lieu thereof (*Effective*
449 *October 1, 2003*):

450 (a) After default, a secured party:

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

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

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

457 (d) (1) In this subsection, "electronic self-help" means the use of
458 electronic means to exercise a secured party's rights pursuant to
459 subsection (a) of this section with respect to the security agreement,
460 and "electronic" means relating to technology that has electrical,
461 digital, magnetic or wireless optical electromagnetic properties or
462 similar capabilities. "Electronic self-help" includes the use of electronic
463 means to locate the collateral.

464 (2) Electronic self-help is permitted only if the debtor separately
465 agrees to a term of the security agreement authorizing electronic self-
466 help that requires notice of exercise as provided in subdivision (3) of
467 this subsection. Except in a consumer transaction, the debtor is deemed
468 to have separately agreed to a term of the security agreement
469 authorizing electronic self-help if a clause is included in the security
470 agreement that specifically states that electronic self-help is authorized.

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

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

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

479 [(iii)] (C) The name, title, address and telephone number of a person
480 representing the secured party with whom the debtor may

481 communicate concerning the security interest.

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

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

491 Sec. 18. Section 14-167 of the general statutes is repealed and the
492 following is substituted in lieu thereof (*Effective October 1, 2003*):

493 This chapter does not apply to or affect: [(a)] (1) A lien given by
494 statute or rule of law to a supplier of services or materials for the
495 vehicle; [(b)] (2) a lien given by statute to the United States, this state or
496 any political subdivision of this state; [(c)] (3) a security interest in a
497 vehicle created by a manufacturer or dealer who holds the vehicle for
498 sale, but a buyer in the ordinary course of business, as defined in
499 subdivision (9) of section 42a-1-201, takes free of the security interest,
500 as stated in section 42a-9-320; or (4) a security interest in a vehicle that
501 is inventory held for sale or lease by a person or leased by that person
502 as lessor and that person is in the business of selling vehicles, as
503 provided in subsection (d) of section 42a-9-311, as amended by this act.

504 Sec. 19. Subsection (b) of section 16-245k of the general statutes is
505 repealed and the following is substituted in lieu thereof (*Effective*
506 *October 1, 2003*):

507 (b) A valid and enforceable security interest in transition property is
508 perfected when it has attached and when a financing statement has
509 been filed in accordance with part 5 of article 9 of title 42a naming the
510 pledgor of the transition property as "debtor" and identifying the
511 transition property. In such case, the financing statement shall be filed

512 as if the debtor were located in this state. Any description of the
513 transition property shall be sufficient if it refers to the financing order
514 creating the transition property. [In each case, the financing statement
515 shall be filed as if the debtor were located in this state.] A copy of the
516 financing statement shall be filed with the department by the electric
517 company or electric distribution company that is the pledgor or
518 transferor of the transition property, and the department may require
519 the electric company or electric distribution company to make other
520 filings with respect to the security interest in accordance with
521 procedures it may establish, provided that the filings shall not affect
522 the perfection of the security interest.

523 Sec. 20. Subsection (j) of section 16-245k of the general statutes is
524 repealed and the following is substituted in lieu thereof (*Effective*
525 *October 1, 2003*):

526 (j) As between bona fide assignees of the same right for value
527 without notice, the assignee first filing a financing statement in
528 accordance with part 5 of article 9 of title 42a naming the assignor of
529 the transition property as debtor and identifying the transition
530 property has priority. In [each] such case, the financing statement shall
531 be filed as if the debtor were located in this state. Any description of
532 the transition property shall be sufficient if it refers to the financing
533 order creating the transition property. A copy of the financing
534 statement shall be filed by the assignee with the department, and the
535 department may require the assignor or the assignee to make other
536 filings with respect to the transfer in accordance with procedures it
537 may establish, but these filings shall not affect the perfection of the
538 transfer.

539 Sec. 21. Subsection (b) of section 36a-770 of the general statutes is
540 repealed and the following is substituted in lieu thereof (*Effective*
541 *October 1, 2003*):

542 (b) Filing and recording. Section 42a-9-310 determines the need for
543 filing or recording to perfect a security interest, section 42a-9-317 [,]

544 determines the persons who take subject to an unperfected security
545 interest, and sections 42a-9-311 and 42a-9-501 to [42a-9-518] 42a-9-526,
546 inclusive, as amended by this act, determine the place for such filing or
547 recording.

548 Sec. 22. Section 52-367a of the general statutes is repealed and the
549 following is substituted in lieu thereof (*Effective October 1, 2003*):

550 (a) As used in this section and section 52-367b, the term "banking
551 institution" means any bank, savings bank, savings and loan
552 association or credit union organized, chartered or licensed under the
553 laws of this state or the United States and having its main office in this
554 state, or any similar out-of-state institution having a branch office in
555 this state.

556 (b) Execution may be granted pursuant to this section against any
557 debts due from any banking institution to a judgment debtor which is
558 not a natural person. If execution is desired against any such debt, the
559 plaintiff requesting the execution shall so notify the clerk, and the clerk
560 shall issue such execution containing a direction that the officer
561 serving the same shall make demand (1) upon the main office of any
562 banking institution having its main office within the county of such
563 officer, or (2) if such main office is not within such officer's county and
564 such banking institution has one or more branch offices within such
565 county, upon an employee of such a branch office, such employee and
566 branch office having been designated by the banking institution in
567 accordance with regulations adopted by the Commissioner of Banking,
568 in accordance with chapter 54, for the payment of any debt due to the
569 judgment debtor, and, after having made such demand, shall serve a
570 true and attested copy thereof, with [his] such officer's actions thereon
571 endorsed, with the banking institution officer upon whom such
572 demand is made.

573 (c) If any such banking institution upon which such execution is
574 served and upon which such demand is made is indebted to the
575 judgment debtor, [it] the banking institution shall [pay to such officer,

576 in the manner and at the time hereinafter described,] remove from the
577 judgment debtor's account the amount of such indebtedness not
578 exceeding the amount due on such execution. [, to be received and
579 applied on such execution by such officer.] Except as provided in
580 subsection (d) of this section, the banking institution shall immediately
581 pay to such officer the amount removed from the judgment debtor's
582 account, which amount shall be received and applied on such
583 execution by such officer. Such banking institution shall act upon such
584 execution according to section 42a-4-303 before its midnight deadline,
585 as defined in section 42a-4-104. Nothing in this subsection shall be
586 construed to affect any other rights or obligations of the banking
587 institution with regard to funds in the judgment debtor's account.

588 (d) If the deposit account is subject to a security interest of a secured
589 party, other than the banking institution upon which such execution is
590 served and upon which such demand is made, pursuant to a control
591 agreement between the banking institution and such secured party
592 under article 9 of title 42a, and if any funds are removed from the
593 judgment debtor's account pursuant to subsection (c) of this section,
594 the banking institution shall forthwith mail a copy of the execution
595 when received from the serving officer, postage prepaid, to the
596 judgment debtor and to such other secured party at the last known
597 address of such parties with respect to the affected accounts on the
598 records of the banking institution. The banking institution shall hold
599 the amount removed from the judgment debtor's account pursuant to
600 subsection (c) of this section for twenty days from the date of the
601 mailing to the judgment debtor and such other secured party, and
602 during such period shall not pay the serving officer.

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

610 (f) Upon receipt of a written claim for determination of interests in
611 property made pursuant to subsection (e) of this section, the clerk of
612 the court shall enter the appearance of the secured party with the
613 address set forth in the written claim. The clerk shall forthwith send
614 file-stamped copies of the written claim to the judgment creditor, the
615 judgment debtor and the banking institution upon which such
616 execution was served with a notice stating that the disputed funds are
617 being held until a court order is entered regarding the disposition of
618 the funds.

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

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

630 (i) If a written claim for determination of interests in property is
631 made pursuant to subsection (e) of this section, the clerk of the court,
632 after a judgment or order is entered pursuant to section 52-356c, shall
633 forthwith send a copy of such judgment or order to the banking
634 institution. Such judgment or order shall be deemed to be a final
635 judgment for the purposes of appeal. No appeal shall be taken except
636 within seven days of the rendering of the judgment or order. The
637 judgment or order of the court may be implemented during such
638 seven-day period, unless stayed by the court.

639 (j) If records or testimony are subpoenaed from a banking
640 institution in connection with a hearing conducted pursuant to section
641 52-356c on a written claim for determination of interests in property

642 made pursuant to subsection (e) of this section, the reasonable costs
643 and expenses of the banking institution in complying with the
644 subpoena shall be recoverable by the banking institution from the
645 party requiring such records or testimony, provided the banking
646 institution shall be under no obligation to attempt to obtain records or
647 documentation relating to the account executed against that are held
648 by any other banking institution. The records of a banking institution
649 as to the dates and amounts of deposits into an account in the banking
650 institution shall, if certified as true and accurate by an officer of the
651 banking institution, be admissible as evidence without the presence of
652 the officer in any hearing conducted pursuant to section 52-356c to
653 determine the legitimacy of a claim of an interest in property made
654 under subsection (e) of this section.

655 (k) If such banking institution fails or refuses to pay over to such
656 officer the amount of such debt, not exceeding the amount due on such
657 execution, such banking institution shall be liable in an action therefor
658 to the judgment creditor named in such execution, and the amount so
659 recovered by such judgment creditor shall be applied toward the
660 payment of the amount due on such execution.

661 (l) Except as provided in subsection (k) of this section, no banking
662 institution or any officer, director or employee of such banking
663 institution shall be liable to any person with respect to any act done or
664 omitted in good faith or through the commission of a bona fide error
665 that occurred despite reasonable procedures maintained by the
666 banking institution to prevent such errors in complying with the
667 provisions of this section.

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

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

673 (a) Execution may be granted pursuant to this section against any

674 debts due from any banking institution to a judgment debtor who is a
675 natural person, except to the extent such debts are protected from
676 execution by sections 52-352a, 52-352b, 52-352c, of the general statutes,
677 revision of 1958, revised to 1983, 52-354 of the general statutes, revision
678 of 1958, revised to 1983, 52-361 of the general statutes, revision of 1958,
679 revised to 1983 and section 52-361a, as well as by any other laws or
680 regulations of this state or of the United States which exempt such
681 debts from execution.

682 (b) If execution is desired against any such debt, the plaintiff
683 requesting the execution shall notify the clerk of the court. In a IV-D
684 case, the request for execution shall be accompanied by an affidavit
685 signed by the serving officer attesting to an overdue support amount
686 of five hundred dollars or more which accrued after the entry of an
687 initial family support judgment. If the papers are in order, the clerk
688 shall issue such execution containing a direction that the officer
689 serving such execution shall, within seven days from the receipt by the
690 serving officer of such execution, make demand (1) upon the main
691 office of any banking institution having its main office within the
692 county of the serving officer, or (2) if such main office is not within the
693 serving officer's county and such banking institution has one or more
694 branch offices within such county, upon an employee of such a branch
695 office, such employee and branch office having been designated by the
696 banking institution in accordance with regulations adopted by the
697 Commissioner of Banking, in accordance with chapter 54, for payment
698 of any such nonexempt debt due to the judgment debtor and, after
699 having made such demand, shall serve a true and attested copy of the
700 execution, together with the affidavit and exemption claim form
701 prescribed by subsection (k) of this section, with the serving officer's
702 actions endorsed thereon, with the banking institution officer upon
703 whom such demand is made. If the officer serving such execution has
704 made an initial demand pursuant to this subsection within such seven-
705 day period, the serving officer may make additional demands upon
706 the main office of other banking institutions or employees of other
707 branch offices pursuant to subdivision (1) or (2) of this subsection,

708 provided any such additional demand is made not later than forty-five
709 days from the receipt by the serving officer of such execution.

710 (c) If any such banking institution upon which such execution is
711 served and upon which such demand is made is indebted to the
712 judgment debtor, the banking institution shall remove from the
713 judgment debtor's account the amount of such indebtedness not
714 exceeding the amount due on such execution before its midnight
715 deadline, as defined in section 42a-4-104. Notwithstanding the
716 provisions of this subsection, if electronic direct deposits that are
717 readily identifiable as exempt federal veterans' benefits, Social Security
718 benefits, including, but not limited to, retirement, survivors' and
719 disability benefits, supplemental security income benefits or child
720 support payments processed and received pursuant to Title IV-D of
721 the Social Security Act were made to the judgment debtor's account
722 during the thirty-day period preceding the date that the execution was
723 served on the banking institution, then a banking institution shall
724 leave the lesser of the account balance or one thousand dollars in the
725 judgment debtor's account, provided nothing in this subsection shall
726 be construed to limit a banking institution's right or obligation to
727 remove such funds from the judgment debtor's account if required by
728 any other provision of law or by a court order. The judgment debtor
729 shall have access to such funds left in the judgment debtor's account
730 pursuant to this subsection. The banking institution may notify the
731 judgment creditor that funds have been left in the judgment debtor's
732 account pursuant to this subsection. Nothing in this subsection shall
733 alter the exempt status of funds which are exempt from execution
734 under subsection (a) of this section or under any other provision of
735 state or federal law, or the right of a judgment debtor to claim such
736 exemption. Nothing in this subsection shall be construed to affect any
737 other rights or obligations of the banking institution with regard to the
738 funds in the judgment debtor's account.

739 (d) If any funds are removed from the judgment debtor's account
740 pursuant to subsection (c) of this section, upon receipt of the execution
741 and exemption claim form from the serving officer, the banking

742 institution shall forthwith mail copies thereof, postage prepaid, to the
743 judgment debtor and to any secured party that is party to a control
744 agreement between the banking institution and such secured party
745 under article 9 of title 42a at the [judgment debtor's] last known
746 address of the judgment debtor and of any such secured party with
747 respect to the affected accounts on the records of the banking
748 institution. The banking institution shall hold the amount removed
749 from the judgment debtor's account pursuant to subsection (c) of this
750 section for fifteen days from the date of the mailing to the judgment
751 debtor and any such secured party, and during such period shall not
752 pay the serving officer.

753 (e) To prevent the banking institution from paying the serving
754 officer, as provided in subsection (h) of this section, the judgment
755 debtor shall give notice of a claim of exemption by delivering to the
756 banking institution, by mail or other means, the exemption claim form
757 or other written notice that an exemption is being claimed and any
758 such secured party shall give notice of its claim of a prior perfected
759 security interest in such deposit account by delivering to the banking
760 institution, by mail or other means, written notice thereof. The banking
761 institution may designate an address to which the notice of a claim of
762 exemption, or a secured party claim notice, shall be delivered. Upon
763 receipt of such notice, the banking institution shall, within two
764 business days, send a copy of such notice to the clerk of the court
765 which issued the execution.

766 (f) (1) Upon receipt of an exemption claim form or a secured party
767 claim notice, the clerk of the court shall enter the appearance of the
768 judgment debtor or such secured party with the address set forth in
769 the exemption claim form or secured party claim notice. The clerk shall
770 forthwith send file-stamped copies of the exemption claim form or
771 secured party claim notice to the judgment creditor and judgment
772 debtor with a notice stating that the disputed funds are being held for
773 forty-five days from the date the exemption claim form or secured
774 party claim notice was received by the banking institution or until a
775 court order is entered regarding the disposition of the funds,

776 whichever occurs earlier, and the clerk shall automatically schedule
777 the matter for a short calendar hearing. The claim of exemption filed
778 by such judgment debtor shall be prima facie evidence at such hearing
779 of the existence of the exemption.

780 (2) Upon receipt of notice from the banking institution pursuant to
781 subsection (c) of this section, a judgment creditor may, on an ex parte
782 basis, present to a judge of the Superior Court an affidavit sworn
783 under oath by a competent party demonstrating a reasonable belief
784 that such judgment debtor's account contains funds which are not
785 exempt from execution and the amount of such nonexempt funds.
786 Such affidavit shall not be conclusory but is required to show the
787 factual basis upon which the reasonable belief is based. If such judge
788 finds that the judgment creditor has demonstrated a reasonable belief
789 that such judgment debtor's account contains funds which are not
790 exempt from execution, such judge shall authorize the judgment
791 creditor to submit a written application to the clerk of the court for a
792 hearing on the exempt status of funds left in the judgment debtor's
793 account pursuant to subsection (c) of this section. The judgment
794 creditor shall promptly send a copy of the application and the
795 supporting affidavit to the judgment debtor and to any secured party
796 shown on a secured party claim notice sent to the judgment creditor
797 pursuant to subdivision (1) of this subsection. Upon receipt of such
798 application, the clerk of the court shall automatically schedule the
799 matter for a short calendar hearing and shall give written notice to
800 [both] the judgment creditor, [and] the judgment debtor and any
801 secured party shown on a secured party claim notice received by the
802 clerk of the court. The notice to the judgment creditor pursuant to
803 subsection (c) of this section shall be prima facie evidence at such
804 hearing that the funds in the account are exempt funds. The burden of
805 proof shall be upon the judgment creditor to establish the amount of
806 funds which are not exempt.

807 (g) If an exemption claim is made or a secured party claim notice is
808 given pursuant to subsection (e) of this section, the banking institution
809 shall continue to hold the amount removed from the judgment debtor's

810 account for forty-five days or until a court order is received regarding
811 disposition of the funds, whichever occurs earlier. If no such order is
812 received within forty-five days of the date the banking institution
813 sends a copy of the exemption claim form or notice of exemption or a
814 secured party claim notice to the clerk of the court, the banking
815 institution shall return the funds to the judgment debtor's account.

816 (h) If no claim of exemption or secured party claim notice is
817 received by the banking institution within fifteen days of the mailing
818 to the judgment debtor and any secured party of the execution and
819 exemption claim form pursuant to subsection (d) of this section, the
820 banking institution shall, upon demand, forthwith pay the serving
821 officer the amount removed from the judgment debtor's account, and
822 the serving officer shall thereupon pay such sum, less such serving
823 officer's fees, to the judgment creditor, except to the extent otherwise
824 ordered by a court.

825 (i) The court, after a hearing conducted pursuant to subsection (f) of
826 this section, shall enter an order determining the issues raised by the
827 claim of exemption and claim by a secured party of a prior perfected
828 security interest in such deposit account. The clerk of the court shall
829 forthwith send a copy of such order to the banking institution. Such
830 order shall be deemed to be a final judgment for the purposes of
831 appeal. No appeal shall be taken except within seven days of the
832 rendering of the order. The order of the court may be implemented
833 during such seven-day period, unless stayed by the court.

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

839 (k) The execution, exemption claim form and clerk's notice
840 regarding the filing of a claim of exemption shall be in such form as
841 prescribed by the judges of the Superior Court or their designee. The

842 exemption claim form shall be dated and include a checklist and
843 description of the most common exemptions, instructions on the
844 manner of claiming the exemptions and a space for the judgment
845 debtor to certify those exemptions claimed under penalty of false
846 statement.

847 (l) If records or testimony are subpoenaed from a banking
848 institution in connection with a hearing conducted pursuant to
849 subsection (f) of this section, the reasonable costs and expenses of the
850 banking institution in complying with the subpoena shall be
851 recoverable by the banking institution from the party requiring such
852 records or testimony, provided, the banking institution shall be under
853 no obligation to attempt to obtain records or documentation relating to
854 the account executed against which are held by any other banking
855 institution. The records of a banking institution as to the dates and
856 amounts of deposits into an account in the banking institution shall, if
857 certified as true and accurate by an officer of the banking institution,
858 be admissible as evidence without the presence of the officer in any
859 hearing conducted pursuant to subsection (f) of this section to
860 determine the legitimacy of a claim of exemption made under this
861 section.

862 (m) If there are moneys to be removed from the judgment debtor's
863 account, prior to the removal of such moneys pursuant to subsection
864 (c) of this section, the banking institution shall receive from the serving
865 officer as representative of the judgment creditor a fee of eight dollars
866 for the banking institution's costs in complying with the provisions of
867 this section which fee may be recoverable by the judgment creditor as
868 a taxable cost of the action.

869 (n) If the banking institution fails or refuses to pay over to the
870 serving officer the amount of such debt, not exceeding the amount due
871 on such execution, such banking institution shall be liable in an action
872 therefor to the judgment creditor named in such execution for the
873 amount of nonexempt moneys which the banking institution failed or
874 refused to pay over, excluding funds of up to one thousand dollars

875 which the banking institution in good faith allowed the judgment
876 debtor to access pursuant to subsection (c) of this section. The amount
877 so recovered by such judgment creditor shall be applied toward the
878 payment of the amount due on such execution. Thereupon, the rights
879 of the banking institution shall be subrogated to the rights of the
880 judgment creditor. If such banking institution pays exempt moneys
881 from the account of the judgment debtor over to the serving officer
882 contrary to the provisions of this section, such banking institution shall
883 be liable in an action therefor to the judgment debtor for any exempt
884 moneys so paid and such banking institution shall refund or waive any
885 charges or fees by the banking institution, including, but not limited to,
886 dishonored check fees, overdraft fees or minimum balance service
887 charges and legal process fees, which were assessed as a result of such
888 payment of exempt moneys. Thereupon, the rights of the banking
889 institution shall be subrogated to the rights of the judgment debtor.

890 (o) Except as provided in subsection (n) of this section, no banking
891 institution or any officer, director or employee of such banking
892 institution shall be liable to any person with respect to any act done or
893 omitted in good faith or through the commission of a bona fide error
894 that occurred despite reasonable procedures maintained by the
895 banking institution to prevent such errors in complying with the
896 provisions of this section.

897 (p) Nothing in this section shall in any way restrict the rights and
898 remedies otherwise available to a judgment debtor or any such secured
899 party at law or in equity.

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

904 (r) For the purposes of this subsection, "exempt" shall have the same
905 meaning as provided in subsection (c) of section 52-352a. Funds
906 deposited in an account that has been established for the express

907 purpose of receiving electronic direct deposits of public assistance
908 payments from the Department of Social Services shall be exempt.

909 Sec. 24. Subsection (c) of section 52-355a of the general statutes is
910 repealed and the following is substituted in lieu thereof (*Effective*
911 *October 1, 2003*):

912 (c) Any such judgment lien shall be effective, in the same manner
913 and to the same extent as a similar security interest under the
914 provisions of title 42a, for five years from the date of filing, provided
915 the filing shall not give the judgment creditor any right to take
916 possession of the personal property on which the lien has been placed
917 other than by writ of execution or other judicial process. The lien may
918 be extended for additional five-year periods in the same manner as a
919 financing statement may be extended but shall not be extended
920 beyond the period of enforceability of the judgment. Any such
921 property on which a lien has been placed may be executed against and
922 levied on by the judgment creditor in the same manner as other
923 personal property of the judgment debtor. The fact that a judgment
924 creditor has no right under this subsection to take possession of the
925 personal property on which the lien has been placed other than by writ
926 of execution or other judicial process shall not be a defense in a
927 conversion action brought by such judgment creditor for impairment
928 of such judgment lien.

929 Sec. 25. Subsection (e) of section 42a-2A-702 of the general statutes is
930 repealed and the following is substituted in lieu thereof (*Effective*
931 *October 1, 2003*):

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

938 (2) Electronic self-help is permitted only if the lessee separately

939 agrees to a term of the lease agreement authorizing electronic self-help
940 that requires notice of exercise as provided in subdivision (3) of this
941 subsection. Except in a consumer lease, the lessee is deemed to have
942 separately agreed to a term of the lease agreement authorizing
943 electronic self-help if a clause is included in the lease agreement that
944 specifically states that electronic self-help is authorized.

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

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

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

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

955 (4) A lessee may recover damages, including incidental damages,
956 caused by wrongful use of electronic self-help. The lessee may also
957 recover consequential damages for wrongful use of electronic self-help
958 even if such damages are excluded by the terms of the lease
959 agreement.

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

965 Sec. 26. Subsection (f) of section 32-23f of the general statutes is
966 repealed and the following is substituted in lieu thereof (*Effective*
967 *October 1, 2003*):

968 (f) The principal of and interest on bonds or notes issued by the

969 authority may be secured by a pledge of any revenues and receipts of
970 the authority derived from any project and may be additionally
971 secured by a mortgage or deed of trust covering all or any part of a
972 project, including any additions, improvements, extensions to or
973 enlargements of any projects thereafter made. Such bonds or notes
974 may also be secured by a pledge or assignment of a loan agreement,
975 conditional sale agreement or agreement of sale or by an assignment of
976 the lease of any project for the construction and acquisition of which
977 said bonds or notes are issued and by an assignment of the revenues
978 and receipts derived by the authority from such project. The payments
979 of principal and interest on such bonds or notes may be additionally
980 secured by a pledge of any other property, revenues, moneys, or funds
981 available to the authority for such purpose. The resolution authorizing
982 the issuance of any such bonds or notes and any such mortgage or
983 deed of trust or lease or loan agreement, conditional sale agreement or
984 agreement of sale or credit agreement may contain agreements and
985 provisions respecting the establishment of reserves to secure such
986 bonds or notes, the maintenance and insurance of the projects covered
987 thereby, the fixing and collection of rents for any portion thereof leased
988 by the authority to others or the sums to be paid under any conditional
989 sale agreement or agreement of sale entered into by the authority with
990 others, the creation and maintenance of special funds from such
991 revenues and the rights and remedies available in the event of default,
992 the vesting in a trustee or trustees of such property, rights, powers and
993 duties in trust as the authority may determine, which may include any
994 or all of the rights, powers and duties of any trustee appointed by the
995 holders of any bonds and notes and limiting or abrogating the right of
996 the holders of any bonds and notes of the authority to appoint a trustee
997 under this chapter, chapter 578 and subsection (a) of section 10-320b,
998 or limiting the rights, powers and duties of such trustee; provision for
999 a trust agreement by and between the authority and a corporate trust
1000 which may be any trust company or bank having the powers of a trust
1001 company within or without the state, which agreement may provide
1002 for the pledging or assigning of any revenues or assets or income from
1003 assets to which or in which the authority has any rights or interest, and

1004 may further provide for such other rights and remedies exercisable by
1005 the trustee as may be proper for the protection of the holders of any
1006 bonds or notes and not otherwise in violation of law, and such
1007 agreement may provide for the restriction of the rights of any
1008 individual holder of bonds or notes of the authority and may contain
1009 any further provisions which are reasonable to delineate further the
1010 respective rights, duties, safeguards, responsibilities and liabilities of
1011 the authority; persons and collective holders of bonds or notes of the
1012 authority and the trustee; and covenants to do or refrain from doing
1013 such acts and things as may be necessary or convenient or desirable in
1014 order to better secure any bonds or notes of the authority, or which, in
1015 the discretion of the authority, will tend to make any bonds or notes to
1016 be issued more marketable notwithstanding that such covenants, acts
1017 or things may not be enumerated herein; and any other matters of like
1018 or different character, which in any way affect the security or
1019 protection of the bonds or notes, all as the authority shall deem
1020 advisable and not in conflict with the provisions hereof. Each pledge,
1021 agreement, mortgage and deed of trust made for the benefit or security
1022 of any of the bonds or notes of the authority shall be in effect until the
1023 principal of and interest on the bonds or notes for the benefit of which
1024 the same were made have been fully paid, or until provision has been
1025 made for payment in the manner provided in the resolution or
1026 resolutions authorizing their issuance. Any pledge made in respect of
1027 such bonds or notes shall be valid and binding from the time when the
1028 pledge is made; the revenues, money or property so pledged and
1029 thereafter received by the authority shall immediately be subject to the
1030 lien of such pledge without any physical delivery thereof or further
1031 act; and the lien of any such pledge shall be valid and binding as
1032 against all parties having claims of any kind in tort, contract or
1033 otherwise against the authority irrespective of whether such parties
1034 have notice thereof. Neither the resolution, trust indenture nor any
1035 other instrument by which a pledge is created need be recorded. The
1036 resolution authorizing the issuance of such bonds or notes may
1037 provide for the enforcement of any such pledge or security in any
1038 lawful manner. The authority may elect [, notwithstanding the

1039 exclusions provided in subdivision (14) of subsection (d) of section
 1040 42a-9-109,] to have the provisions of title 42a, the Connecticut uniform
 1041 commercial code, apply to any pledge made by or to the authority to
 1042 secure its bonds or notes by filing a financing statement with respect to
 1043 the security interest created by the pledge [. In each] and, in such case,
 1044 the financing statement shall be filed as if the debtor were located in
 1045 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>

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 (SOTS).

House "A" expands the definition of a security interest in a deposit account that is a payroll account or a trust account. This has no fiscal impact on the SOTS.

OLR Bill Analysis

sHB 5099 (File 258, as amended by House "A")*

**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.

*House Amendment "A" makes a technical change.

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