



House of Representatives

General Assembly

File No. 561

February Session, 2004

Substitute House Bill No. 5478

House of Representatives, April 13, 2004

The Committee on Finance, Revenue and Bonding reported through REP. STILLMAN of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING APPLICABILITY OF THE UNIFORM COMMERCIAL CODE TO CERTAIN STATE TRANSACTIONS.

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

1 Section 1. Subsection (d) of section 42a-9-109 of the general statutes,
2 as amended by section 3 of public act 03-62, is repealed and the
3 following is substituted in lieu thereof (*Effective from passage and*
4 *applicable to any pledge, lien or security interest of this state or any political*
5 *subdivision of this state, which pledge, lien or interest was in existence on*
6 *October 1, 2003, and applicable to any such pledge, lien or interest created*
7 *after October 1, 2003*):

8 (d) This article does not apply to:

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

10 (2) A lien, other than an agricultural lien, given by statute or other
11 rule of law for services or materials, but section 42a-9-333 applies with

12 respect to priority of the lien;

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

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

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

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

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

25 (8) A transfer of an interest in or an assignment of a claim under a
26 policy of insurance, other than an assignment by or to a health-care
27 provider of a health-care-insurance receivable and any subsequent
28 assignment of the right to payment, but sections 42a-9-315 and 42a-9-
29 322 apply with respect to proceeds and priorities in proceeds;

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

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

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

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

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

- 40 (A) Liens on real property in sections 42a-9-203 and 42a-9-308;
- 41 (B) Fixtures in section 42a-9-334;
- 42 (C) Fixture filings in sections 42a-9-501, as amended, 42a-9-502, 42a-
43 9-512, as amended, 42a-9-516 and 42a-9-519, as amended; and
- 44 (D) Security agreements covering personal and real property in
45 section 42a-9-604;
- 46 (12) An assignment of a claim arising in tort, other than a
47 commercial tort claim, but sections 42a-9-315 and 42a-9-322 apply with
48 respect to proceeds and priorities in proceeds;
- 49 (13) An assignment of a deposit account in a consumer transaction,
50 but sections 42a-9-315 and 42a-9-322 apply with respect to proceeds
51 and priorities in proceeds;
- 52 (14) A pledge or other lien by this state or a government subdivision
53 or agency of this state in existence on or after October 1, 2003, in
54 connection with a bond or note issue of this state or of a government
55 subdivision or agency of this state, which pledge or other lien is
56 governed by a statute of this state that (A) provides for the creation of
57 a pledge or other lien by this state or a government subdivision or
58 agency of this state in connection with any bond or note issued by this
59 state or a government subdivision or agency of this state, and (B)
60 expressly states that such pledge or lien shall be valid and binding as
61 against other parties;
- 62 [(14)] (15) An assignment of workers' compensation benefits
63 governed by section 31-320; or
- 64 [(15)] (16) A security interest in a deposit account that is a payroll
65 account or a trust account and which is titled or otherwise clearly
66 identifiable as such an account, except that this article does apply to a
67 security interest in (A) such an account if another statute of this state
68 expressly so provides, or (B) a deposit account of a debtor that is a
69 statutory trust formed or a foreign statutory trust registered under

70 chapter 615, provided such deposit account is not a payroll account or
71 a trust account which is titled or otherwise clearly identifiable as such
72 an account.

73 Sec. 2. Subsection (d) of section 10a-185 of the general statutes is
74 repealed and the following is substituted in lieu thereof (*Effective from*
75 *passage and applicable to any pledge, lien or security interest of this state or*
76 *any political subdivision of this state, which pledge, lien or interest was in*
77 *existence on October 1, 2003, and applicable to any such pledge, lien or*
78 *interest created after October 1, 2003*):

79 (d) Any resolution or resolutions authorizing any bonds or any
80 issue of bonds may contain provisions, which shall be a part of the
81 contract with the holders of the bonds to be authorized, as to: (1)
82 Pledging the full faith and credit of the authority, the full faith and
83 credit of a participating institution for higher education, a participating
84 health care institution, a participating corporation or of a participating
85 nursing home, all or any part of the revenues of a project or any
86 revenue-producing contract or contracts made by the authority with
87 any individual, partnership, corporation or association or other body,
88 public or private, any federally guaranteed security and moneys
89 received therefrom purchased with bond proceeds or any other
90 property, revenues, funds or legally available moneys to secure the
91 payment of the bonds or of any particular issue of bonds, subject to
92 such agreements with bondholders as may then exist; (2) the rentals,
93 fees and other charges to be charged, and the amounts to be raised in
94 each year thereby, and the use and disposition of the revenues; (3) the
95 setting aside of reserves or sinking funds, and the regulation and
96 disposition thereof; (4) limitations on the right of the authority or its
97 agent to restrict and regulate the use of the project; (5) the purpose and
98 limitations to which the proceeds of sale of any issue of bonds then or
99 thereafter to be issued may be applied, including as authorized
100 purposes, all costs and expenses necessary or incidental to the issuance
101 of bonds, to the acquisition of or commitment to acquire any federally
102 guaranteed security and to the issuance and obtaining of any federally
103 insured mortgage note, and pledging such proceeds to secure the

104 payment of the bonds or any issue of the bonds; (6) limitations on the
105 issuance of additional bonds, the terms upon which additional bonds
106 may be issued and secured and the refunding of outstanding bonds;
107 (7) the procedure, if any, by which the terms of any contract with
108 bondholders may be amended or abrogated, the amount of bonds the
109 holders of which must consent thereto, and the manner in which such
110 consent may be given; (8) limitations on the amount of moneys derived
111 from the project to be expended for operating, administrative or other
112 expenses of the authority; (9) defining the acts or omissions to act
113 which shall constitute a default in the duties of the authority to holders
114 of its obligations and providing the rights and remedies of such
115 holders in the event of a default, and (10) the mortgaging of a project
116 and the site thereof for the purpose of securing the bondholders.

117 Sec. 3. Section 10a-186 of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective from passage and*
119 *applicable to any pledge, lien or security interest of this state or any political*
120 *subdivision of this state, which pledge, lien or interest was in existence on*
121 *October 1, 2003, and applicable to any such pledge, lien or interest created*
122 *after October 1, 2003*):

123 In the discretion of the authority any bonds issued under the
124 provisions of this chapter may be secured by a trust agreement by and
125 between the authority and a corporate trustee or trustees, which may
126 be any trust company or bank having the powers of a trust company
127 within or without the state. Such trust agreement or the resolution
128 providing for the issuance of such bonds [may] or other instrument of
129 the authority may secure such bonds by a pledge or [assign the]
130 assignment of any revenues to be received, any contract or proceeds of
131 any contract, [or contracts pledged and may convey or mortgage the
132 project or any portion thereof] or any other property, revenues,
133 moneys or funds available to the authority for such purpose. Any
134 pledge made by the authority pursuant to this section shall be valid
135 and binding from the time when the pledge is made. The lien of any
136 such pledge shall be valid and binding as against all parties having
137 claims of any kind in tort, contract or otherwise against the authority,

138 irrespective of whether the parties have notice of the claims.
139 Notwithstanding any provision of the Uniform Commercial Code, no
140 instrument by which such pledge is created need be recorded or filed.
141 Any revenues or other receipts, funds, moneys, income, contracts or
142 property so pledged and thereafter received by the authority shall be
143 subject immediately to the lien of the pledge without any physical
144 delivery thereof or further act and such lien shall have priority over all
145 other liens. Such trust agreement or other instrument may mortgage,
146 assign or convey any real property to secure such bonds. Such trust
147 agreement or resolution providing for the issuance of such bonds may
148 contain such provisions for protecting and enforcing the rights and
149 remedies of the bondholders as may be reasonable and proper and not
150 in violation of law, including particularly such provisions as have
151 hereinabove been specifically authorized to be included in any
152 resolution or resolutions of the authority authorizing bonds thereof.
153 Any bank or trust company incorporated under the laws of this state
154 which may act as depositary of the proceeds of bonds or of revenues or
155 other moneys may furnish such indemnifying bonds or pledge such
156 securities as may be required by the authority. Any such trust
157 agreement may set forth the rights and remedies of the bondholders
158 and of the trustee or trustees, and may restrict the individual right of
159 action by bondholders. In addition to the foregoing, any such trust
160 agreement or resolution may contain such other provisions as the
161 authority may deem reasonable and proper for the security of the
162 bondholders. All expenses incurred in carrying out the provisions of
163 such trust agreement or resolution may be treated as a part of the cost
164 of the operation of a project.

165 Sec. 4. Subsection (i) of section 32-607 of the general statutes is
166 repealed and the following is substituted in lieu thereof (*Effective from*
167 *passage and applicable to any pledge, lien or security interest of this state or*
168 *any political subdivision of this state, which pledge, lien or interest was in*
169 *existence on October 1, 2003, and applicable to any such pledge, lien or*
170 *interest created after October 1, 2003*):

171 (i) Any pledge made by the authority of income, revenues, state

172 contract assistance provided under section 32-608, or other property
173 shall be valid and binding from the time the pledge is made, [, and
174 shall constitute a pledge within the meaning and for all purposes of
175 title 42a.] The income, revenue, state contract assistance, such state
176 taxes as the authority shall be entitled to receive or other property so
177 pledged and thereafter received by the authority shall immediately be
178 subject to the lien of such pledge without any physical delivery thereof
179 or further act, and the lien of any such pledge shall be valid and
180 binding as against all parties having claims of any kind in tort, contract
181 or otherwise against the authority, irrespective of whether such parties
182 have notice thereof.

183 Sec. 5. Subsection (i) of section 32-206 of the general statutes is
184 repealed and the following is substituted in lieu thereof (*Effective from*
185 *passage and applicable to any pledge, lien or security interest of this state or*
186 *any political subdivision of this state, which pledge, lien or interest was in*
187 *existence on October 1, 2003, and applicable to any such pledge, lien or*
188 *interest created after October 1, 2003*):

189 (i) Any pledge made by the authority of income, revenues, state
190 contract assistance as herein provided and such state taxes as the
191 authority shall be entitled to receive pursuant to the provisions hereof,
192 or other property shall be valid and binding from the time the pledge
193 is made, [, and shall constitute a pledge within the meaning and for all
194 purposes of title 42a.] The income, revenue, state contract assistance as
195 provided in sections 32-200 to 32-212, inclusive, and such state taxes as
196 the authority shall be entitled to receive pursuant to the provisions of
197 said sections, or other property so pledged and thereafter received by
198 the authority shall immediately be subject to the lien of such pledge
199 without any physical delivery thereof or further act, and the lien of any
200 such pledge shall be valid and binding as against all parties having
201 claims of any kind in tort, contract or otherwise against the authority,
202 irrespective of whether such parties have notice thereof.

203 Sec. 6. Subsection (a) of section 10a-109h of the general statutes is
204 repealed and the following is substituted in lieu thereof (*Effective from*

205 *passage and applicable to any pledge, lien or security interest of this state or*
206 *any political subdivision of this state, which pledge, lien or interest was in*
207 *existence on October 1, 2003, and applicable to any such pledge, lien or*
208 *interest created after October 1, 2003):*

209 (a) Any pledge made by the university pursuant to section 10a-109g
210 is and shall be deemed a statutory lien. [and, except as expressly
211 provided in this section, is governed by article 9 of title 42a.] Such lien
212 shall be valid and binding from the time when the pledge is made. The
213 lien of any pledge shall be valid and binding as against all parties
214 having claims of any kind in tort, contract or otherwise against the
215 university, irrespective of whether the parties have notice of the
216 claims. Notwithstanding any provision of the Uniform Commercial
217 Code to the contrary, neither sections 10a-109a to 10a-109y, inclusive,
218 the indenture or resolution, nor any other instrument by which a
219 pledge is created need be recorded. Any revenues or other receipts,
220 funds, moneys, personal property of fixtures so pledged and thereafter
221 received by the university shall be subject immediately to the lien of
222 the pledge without any physical delivery thereof or further act and
223 such lien shall have priority over all other liens, including without
224 limitation the liens of persons who, in the ordinary course of business,
225 furnish services or materials in respect of such assets.

226 Sec. 7. Subsection (e) of section 22a-483 of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective from*
228 *passage and applicable to any pledge, lien or security interest of this state or*
229 *any political subdivision of this state, which pledge, lien or interest was in*
230 *existence on October 1, 2003, and applicable to any such pledge, lien or*
231 *interest created after October 1, 2003):*

232 (e) Any pledge made by the state pursuant to sections 22a-475 to
233 22a-483, inclusive, is a statutory pledge [within the meaning and for all
234 purposes of title 42a] and shall be valid and binding from the time
235 when the pledge is made, and any revenues or other receipts, funds or
236 moneys so pledged and thereafter received by the state shall be subject
237 immediately to the lien of such pledge without any physical delivery

238 thereof or further act. The lien of any such pledge shall be valid and
239 binding as against all parties having claims of any kind in tort, contract
240 or otherwise against the state, irrespective of whether such parties
241 have notice thereof. Neither the resolution nor any other instrument by
242 which a pledge is created need be recorded. Any pledge made by the
243 state pursuant to sections 22a-475 to 22a-483, inclusive, to secure
244 revenue bonds issued to finance eligible water quality projects shall
245 secure only revenue bonds issued for such purpose and any such
246 pledge made by the state to secure revenue bonds issued to finance
247 eligible drinking water projects shall secure only revenue bonds issued
248 for such purpose.

249 Sec. 8. Subsection (a) of section 10a-224 of the general statutes is
250 repealed and the following is substituted in lieu thereof (*Effective from*
251 *passage and applicable to any pledge, lien or security interest of this state or*
252 *any political subdivision of this state, which pledge, lien or interest was in*
253 *existence on October 1, 2003, and applicable to any such pledge, lien or*
254 *interest created after October 1, 2003*):

255 (a) There is created a body politic and corporate to be known as the
256 "Connecticut Higher Education Supplemental Loan Authority". The
257 authority is constituted a public instrumentality and political
258 subdivision of the state and the exercise by the authority of the powers
259 conferred by this chapter shall be deemed and held to be the
260 performance of an essential public and governmental function. The
261 powers of the authority shall be vested in and exercised by a board of
262 directors which shall consist of eight members, one of whom shall be
263 the State Treasurer, one of whom shall be the Secretary of the Office of
264 Policy and Management and one of whom shall be the Commissioner
265 of Higher Education, each serving ex officio, and five of whom shall be
266 residents of the state appointed by the Governor, not more than three
267 of such appointed members to be members of the same political party.
268 Three of the appointed members shall be active or retired trustees,
269 directors, officers or employees of Connecticut institutions for higher
270 education. [, of whom not more than one shall be from a constituent
271 unit of the state system of higher education.] At least one of the

272 appointed members shall be a person having a favorable reputation for
273 skill, knowledge and experience in the higher education loan finance
274 field, and at least one of such appointed members shall be a person
275 having a favorable reputation for skill, knowledge and experience in
276 state and municipal finance, either as a partner, officer or employee of
277 an investment banking firm which originates and purchases state and
278 municipal securities, or as an officer or employee of an insurance
279 company or bank whose duties relate to the purchase of state and
280 municipal securities as an investment and to the management and
281 control of a state and municipal securities portfolio. Of the three
282 members first appointed who are trustees, directors, officers or
283 employees of Connecticut institutions for higher education, one shall
284 serve until July 1, 1986, one shall serve until July 1, 1987, and one shall
285 serve until July 1, 1988. Of the three remaining members first
286 appointed, one shall serve until July 1, 1983, one shall serve until July
287 1, 1984, and one shall serve until July 1, 1985. On or before the first day
288 of July, annually, the Governor shall appoint a member or members to
289 succeed those whose terms expire, each for a term of six years and
290 until his successor is appointed and has qualified. The Governor shall
291 fill any vacancy for the unexpired term. A member of the board shall
292 be eligible for reappointment. Any member of the board may be
293 removed by the Governor for misfeasance, malfeasance or wilful
294 neglect of duty. Each member of the board before entering upon his or
295 her duties shall take and subscribe the oath or affirmation required by
296 section 1 of article eleventh of the State Constitution. A record of each
297 such oath shall be filed in the office of the Secretary of the State. The
298 State Treasurer, the Secretary of the Office of Policy and Management
299 and the Commissioner of Higher Education may each designate a
300 deputy or any staff member to represent him as a member at meetings
301 of the board with full power to act and vote on his behalf.

302 Sec. 9. Subsection (b) of section 10a-230 of the general statutes is
303 repealed and the following is substituted in lieu thereof (*Effective from*
304 *passage and applicable to any pledge, lien or security interest of this state or*
305 *any political subdivision of this state, which pledge, lien or interest was in*
306 *existence on October 1, 2003, and applicable to any such pledge, lien or*

307 *interest created after October 1, 2003):*

308 (b) The revenue bonds and notes of every issue shall be payable
309 solely out of the revenues of the authority pertaining to the program
310 relating to such bonds or notes including principal and interest on
311 authority loans and education loans, and any other revenues derived
312 from or in connection with any other authority loans and education
313 loans, payments by participating institutions for higher education,
314 banks, guarantors, insurance companies or others pursuant to letters of
315 credit or purchase agreements, investment earnings from funds or
316 accounts maintained pursuant to the bond resolution, insurance
317 proceeds, loan funding deposits, proceeds of sales of education loans,
318 proceeds of refunding bonds and fees, charges and other revenues,
319 funds and other assets of the authority [from such program] but
320 subject only to any agreements with the holders of particular revenue
321 bonds or notes pledging any particular revenues and subject to any
322 agreements with any participating institution for higher education.

323 Sec. 10. Subsection (d) of section 10a-230 of the general statutes is
324 repealed and the following is substituted in lieu thereof (*Effective from*
325 *passage and applicable to any pledge, lien or security interest of this state or*
326 *any political subdivision of this state, which pledge, lien or interest was in*
327 *existence on October 1, 2003, and applicable to any such pledge, lien or*
328 *interest created after October 1, 2003):*

329 (d) Any resolution or resolutions authorizing any revenue bonds or
330 any issue of revenue bonds may contain provisions, which shall be a
331 part of the contract with the holders of the revenue bonds to be
332 authorized, as to: (1) Pledging all or any part of the revenues, [derived
333 from] funds or other assets of the authority, including, but not limited
334 to, the authority loans and education loans [with respect to which] to
335 secure such bonds or notes; [are to be issued;] (2) pledging all or any
336 part of the revenues paid to the authority by any guarantor or
337 insurance company; (3) pledging any revenue producing contract or
338 contracts made by the authority with any individual, partnership,
339 corporation or association or other body, public or private, or any

340 federally guaranteed security and moneys received or receivable
341 therefrom whether such security is acquired by the authority or a
342 participating institution for higher education to secure the payment of
343 the revenue bonds or notes or of any particular issue of revenue bonds
344 or notes, subject to such agreements with bondholders or noteholders
345 as may then exist; (4) the fees and other amounts to be charged, and
346 the sums to be raised in each year thereby, and the use, investment and
347 disposition of such sums; (5) the establishment and setting aside of
348 reserves or sinking funds, the setting aside of loan funding deposits,
349 capitalized interest accounts, and cost of issuance accounts, and the
350 regulation and disposition thereof; (6) limitations on the use of the
351 education loans; (7) limitations on the purpose to which the proceeds
352 of the sale of any issue of revenue bonds or notes then or thereafter to
353 be issued may be applied, including as authorized purposes, all costs
354 and expenses necessary or incidental to the issuance of bonds, to the
355 acquisition of or commitment to acquire any federally guaranteed
356 security and pledging such proceeds to secure the payment of the
357 revenue bonds, notes or any issue of the revenue bonds or notes; (8)
358 limitations on the issuance of additional bonds or notes, the terms
359 upon which additional bonds or notes may be issued and secured and
360 the terms on which additional bonds or notes rank on a parity with, or
361 be subordinate or superior to, other bonds or notes; (9) the refunding
362 of outstanding bonds or notes; (10) the procedure, if any, by which the
363 terms of any contract with bondholders or noteholders may be
364 amended or abrogated, the amount of bonds or notes the holders of
365 which must consent thereto, and the manner in which such consent
366 may be given; (11) limitations on the amount of moneys derived from
367 the educational program to be expended for operating, administrative
368 or other expenses of the authority; (12) defining the acts or omissions
369 to act which shall constitute a default in the duties of the authority to
370 holders of its obligations and providing the rights and remedies of
371 such holders in the event of default; (13) the duties, obligations and
372 liabilities of any trustee or paying agent; (14) providing for guarantees,
373 pledges of endowments, letters of credit, property or other security for
374 the benefit of the holders of such bonds or notes; and (15) any other

375 matters relating to the bonds or notes which the authority deems
376 desirable.

377 Sec. 11. Section 10a-233 of the general statutes is repealed and the
378 following is substituted in lieu thereof (*Effective from passage and*
379 *applicable to any pledge, lien or security interest of this state or any political*
380 *subdivision of this state, which pledge, lien or interest was in existence on*
381 *October 1, 2003, and applicable to any such pledge, lien or interest created*
382 *after October 1, 2003*):

383 The authority shall fix, revise, charge and collect fees and is
384 empowered to contract with any person, partnership, association or
385 corporation, or other body, public or private, in respect thereof. Each
386 agreement entered into by the authority with a participating institution
387 or institutions for higher education shall provide that the fees and
388 other amounts payable by said institution or institutions with respect
389 to any program or programs of the authority shall be sufficient at all
390 times, (1) to pay its or their share of the administrative costs and
391 expenses of such program, (2) to pay the principal of, the premium, if
392 any, and the interest on outstanding bonds or notes of the authority
393 issued with respect to such program to the extent that other revenues
394 of the authority pledged for the payment of the bonds or notes are
395 insufficient to pay the bonds or notes as they become due and payable,
396 (3) to create and maintain reserves which may but need not be
397 required or provided for in the bond resolution relating to such bonds
398 or notes of the authority, and (4) to establish and maintain whatever
399 education loan servicing, control, or audit procedures are deemed to
400 be necessary to the operations of the authority. The authority [shall]
401 may pledge all or any part of the revenues, [from each program,]
402 funds, contracts or other assets of the authority, as described in
403 [subsection (b)] subsections (b) and (d) of section 10a-230, as security
404 for [the] any issue of bonds or notes. [relating to such program] Such
405 pledge shall be valid and binding from the time when the pledge is
406 made; the revenues, funds, contracts or other assets so pledged by the
407 authority shall immediately be subject to the lien of such pledge
408 without any physical delivery thereof or further act, and the lien of any

409 such pledge shall be valid and binding against all parties having
410 claims of any kind in tort, contract or otherwise against the authority
411 or any participating institution for higher education, irrespective of
412 whether such parties have notice thereof. [Neither] Such lien shall have
413 priority over all other liens, including, without limitation, the lien of
414 any person who in the ordinary course of business furnishes services
415 or materials to the authority. Notwithstanding any provisions of the
416 Uniform Commercial Code, neither the bond resolution nor any
417 financing statement, continuation statement or other instrument by
418 which a pledge or security interest is created or by which the
419 authority's interest in revenues, funds, contracts or other assets is
420 assigned need be filed in any public records in order to perfect the
421 security interest or lien thereof as against third parties. [except in the
422 records of the authority. The authority may elect, notwithstanding the
423 exclusions provided in subdivision (14) of subsection (d) of section
424 42a-9-109, to have the provisions of the Connecticut Uniform
425 Commercial Code apply to any pledge made by or to the authority to
426 secure its bonds or notes by filing a financing statement with respect to
427 the security interest created by the pledge.] The use and disposition of
428 moneys to the credit of such sinking or other similar fund shall be
429 subject to the provisions of the resolution authorizing the issuance of
430 such bonds or notes or of such trust agreement. Except as may
431 otherwise be provided in such resolution, or such trust agreement,
432 such sinking or other similar fund shall be a fund for all such revenue
433 bonds or notes issued to finance an educational program or programs
434 at one or more participating institutions for higher education, without
435 distinction or priority of one over another; provided, the authority in
436 any such resolution or trust agreement may provide that such sinking
437 or other similar fund shall be the fund for a particular educational
438 program or programs at a participating institution or institutions for
439 higher education and for the revenue bonds or notes issued to finance
440 a particular education program or programs and may, additionally,
441 permit and provide for the issuance of revenue bonds or notes having
442 a subordinate lien in respect of the security herein authorized to other
443 revenue bonds or notes of the authority and, in such case, the authority

444 may create separate or other similar funds in respect of such
445 subordinate lien bonds or notes.

446 Sec. 12. Subsection (d) of section 10a-237 of the general statutes is
447 repealed and the following is substituted in lieu thereof (*Effective from*
448 *passage and applicable to any pledge, lien or security interest of this state or*
449 *any political subdivision of this state, which pledge, lien or interest was in*
450 *existence on October 1, 2003, and applicable to any such pledge, lien or*
451 *interest created after October 1, 2003*):

452 (d) The portion of the proceeds of any such revenue bonds or notes
453 issued for the additional purpose of making additional authority loans
454 may be invested and reinvested in direct obligations of, or
455 unconditionally guaranteed by, the United States, and certificates of
456 deposit or time deposits secured by direct obligations of, or
457 unconditionally guaranteed by, the United States, or obligations of a
458 state, territory or possession of the United States, or any political
459 subdivision of any such state, territory or possession, or of the District
460 of Columbia, within the meaning of Section 103(a) of the Internal
461 Revenue Code of 1986, or any subsequent corresponding internal
462 revenue code of the United States, as from time to time amended, the
463 full and timely payment of the principal of and interest on which are
464 secured by an irrevocable deposit of direct obligations of the United
465 States or which, if the outstanding bonds are then rated by a nationally
466 recognized rating agency, are rated in the highest rating category by
467 such rating agency, maturing not later than the time or times when
468 such proceeds will be needed for the purpose of paying all or any part
469 of such cost and any other investment described in section 10a-238, as
470 amended by this act. The interest, income and profits, if any, earned or
471 realized on such investment may be applied to the payment of all or
472 any part of such cost or may be used by the authority in any lawful
473 manner.

474 Sec. 13. Section 10a-238 of the general statutes, as amended by
475 section 11 of public act 03-84, is repealed and the following is
476 substituted in lieu thereof (*Effective from passage and applicable to any*

477 *pledge, lien or security interest of this state or any political subdivision of this*
478 *state, which pledge, lien or interest was in existence on October 1, 2003, and*
479 *applicable to any such pledge, lien or interest created after October 1, 2003):*

480 Except as otherwise provided in subsection (c) of section 10a-237,
481 the authority may invest any funds in (1) direct obligations of the
482 United States or the state of Connecticut, (2) obligations as to which the
483 timely payment of principal and interest is fully guaranteed by the
484 United States or the state of Connecticut, [including] and Connecticut's
485 Short-Term Investment Fund, (3) obligations of the United States
486 Export-Import Bank, Farmers Home Administration, Federal
487 Financing Bank, Federal Housing Administration, General Services
488 Administration, United States Maritime Administration, United States
489 Department of Housing and Urban Development, Farm Credit System,
490 Resolution Funding Corporation, federal intermediate credit banks,
491 federal banks for cooperatives, federal land bank, federal home loan
492 banks, Federal National Mortgage Association, Government National
493 Mortgage Association and the Student Loan Marketing Association, (4)
494 certificates of deposit or time deposits constituting direct obligations of
495 any bank in the state, provided that investments may be made only in
496 those certificates of deposit or time deposits in banks which are
497 insured by the Federal Deposit Insurance Corporation if then in
498 existence, (5) withdrawable capital accounts or deposits of federal
499 chartered savings and loan associations which are insured by the
500 Federal Savings and Loan Insurance Corporation, (6) other obligations
501 which are legal investments for savings banks in the state, (7)
502 investment agreements with financial institutions whose long-term
503 obligations are rated within the top two rating categories of any
504 nationally recognized rating service or of any rating service recognized
505 by the Banking Commissioner or whose short-term obligations are
506 rated within the top two rating categories of any nationally recognized
507 rating service or of any rating service recognized by the Banking
508 Commissioner, or investment agreements fully secured by obligations
509 of, or guaranteed by, the United States or agencies or instrumentalities
510 of the United States, and (8) securities or obligations which are legal
511 investments for savings banks in Connecticut, subject to repurchase

512 agreements in the manner in which such agreements are negotiated in
513 sales of securities in the market place, provided the authority shall not
514 enter into any such agreement with any securities dealer or bank
515 acting as a securities dealer unless such dealer or bank is included in
516 the list of primary dealers, as prepared by the Federal Reserve Bank of
517 New York, effective at the time of the agreement. Any such securities
518 may be purchased at the offering or market price thereof at the time of
519 such purchase. All such securities so purchased shall mature or be
520 redeemable on a date or dates prior to the time when, in the judgment
521 of the authority, the funds so invested will be required for expenditure.
522 The express judgment of the authority as to the time when any funds
523 shall be required for expenditure or be redeemable is final and
524 conclusive.

525 Sec. 14. Subsection (i) of section 10a-204b of the general statutes is
526 repealed and the following is substituted in lieu thereof (*Effective from*
527 *passage and applicable to any pledge, lien or security interest of the*
528 *corporation, which pledge, lien or interest was in existence on October 1,*
529 *2003, and applicable to any such pledge, lien or interest created after October*
530 *1, 2003*):

531 (i) Any pledge made by the corporation of income, revenues or
532 other property to secure bonds, notes or other obligations of the
533 corporation shall be valid and binding from the time the pledge is
534 made. The income, revenue or other property so pledged and
535 thereafter received by or on behalf of the corporation shall
536 immediately be subject to the lien of such pledge without any physical
537 delivery thereof or further act, and the lien of any such pledge shall be
538 valid and binding as against all parties having claims of any kind in
539 tort, contract or otherwise against the corporation, irrespective of
540 whether such parties have notice thereof. Any such lien shall have
541 priority over all other liens, including, without limitation, the lien of
542 any person who in the ordinary course of business furnishes services
543 or materials to the corporation. Any provision of law to the contrary
544 notwithstanding, neither possession nor the filing of any financing or
545 continuation statement or other instrument shall be necessary with

546 respect to any such income, revenues or other property to establish or
547 evidence the lien of any such pledge with respect thereto. Neither this
548 section, nor any resolution authorizing bonds, notes or other
549 obligations, nor any trust agreement nor any other instrument by
550 which such a pledge is created need be recorded. Any pledge or lien
551 described by this subsection shall be conclusively deemed to be a
552 pledge or lien described by subdivision (14) of subsection (d) of section
553 42a-9-109, as amended by this act, notwithstanding that the
554 corporation is neither a political subdivision nor an agency of the state.

555 Sec. 15. Subsection (c) of section 22a-516 of the general statutes is
556 repealed and the following is substituted in lieu thereof (*Effective from*
557 *passage and applicable to any pledge, lien or security interest of this state or*
558 *any political subdivision of this state, which pledge, lien or interest was in*
559 *existence on October 1, 2003, and applicable to any such pledge, lien or*
560 *interest created after October 1, 2003*):

561 (c) Any pledge made by a municipality or an authority pursuant to
562 the provisions of sections 22a-500 to 22a-519, inclusive, shall be valid
563 and binding from the time when the pledge is made, and any revenues
564 or other receipts, funds or moneys so pledged and thereafter received
565 by such municipality or authority shall be subject immediately to the
566 lien of such pledge without any physical delivery thereof, filing or
567 further act. The lien of any such pledge shall be valid and binding as
568 against all parties having claims of any kind in tort, contract, or
569 otherwise against the municipality or the authority, irrespective of
570 whether such parties have notice thereof and shall be a statutory lien,
571 [within the meaning of the Uniform Commercial Code and article 9 of
572 title 42a.] Neither the resolution nor any other instrument by which a
573 pledge is created shall be required to be recorded.

574 Sec. 16. Section 3 of special act 92-25, as amended by section 9 of
575 special act 93-40 and section 3 of special act 01-10, is amended to read
576 as follows (*Effective from passage and applicable to any pledge, lien or*
577 *security interest of this state or any political subdivision of this state, which*
578 *pledge, lien or interest was in existence on October 1, 2003, and applicable to*

579 *any such pledge, lien or interest created after October 1, 2003):*

580 The principal of and interest on bonds issued by the committee, and
581 any agreement as set forth in section 2 of special act 92-25, may be
582 secured by a pledge of any revenues and receipts of the committee
583 derived from the project and may be additionally secured by the
584 assignment of a lease of the project or by an assignment of the
585 revenues and receipts derived by the committee from any such lease.
586 The payment of principal and interest on such bonds may be
587 additionally secured by a pledge of any other property, revenues,
588 moneys or funds available to the committee for such purpose. The
589 resolution authorizing the issuance of bonds and any such lease may
590 contain or authorize agreements and provisions respecting (1) the
591 establishment of reserves to secure such bonds, (2) the maintenance
592 and insurance of the project covered thereby, (3) the fixing and
593 collection of rents for any portion thereof leased by the committee to
594 others, (4) the creation and maintenance of special funds from such
595 revenues, (5) the rights and remedies available in the event of default,
596 (6) provision for a trust agreement by and between the committee and
597 a corporate trustee or trustees which may be any trust company or
598 bank having the powers of a trust company within or without the
599 state, which agreement may provide for the pledge or assigning of any
600 assets or income from assets to which or in which the committee has
601 rights or interest, the vesting in such trustee or trustees of such
602 property, rights, powers and duties in trust as the committee may
603 determine, which may include any or all of the rights, powers and
604 duties of any trustee appointed by the holders of any bonds and
605 limiting or abrogating the right of the holders of any bonds to appoint
606 a trustee or limiting rights, powers and duties of such trustee, and may
607 further provide for such other rights and remedies exercisable by the
608 trustee as may be proper for the protection of the holders of any bonds
609 and not otherwise in violation of law. Such trust agreement may
610 provide for the restriction of rights of any individual holder of bonds
611 of the committee and may contain any provisions which are reasonable
612 to delineate further the respective rights, due safeguards,
613 responsibilities and liabilities of the committee, persons and collective

614 holders of bonds of the committee and the trustee, (7) covenants to do
615 or refrain from doing acts and things as may be necessary or
616 convenient or desirable in order to better secure bonds of the
617 committee, or which, in the discretion of the committee, will tend to
618 make any bonds to be issued more marketable, notwithstanding that
619 such covenants or things may not be enumerated in this act, and (8)
620 any other matters of like or different character, which in any way affect
621 the security or protection of the bonds, all as the committee shall deem
622 advisable and not in conflict with the provisions of this act. Each
623 pledge, agreement or assignment of lease made for the benefit or
624 security of any bonds of the committee shall be in effect until the
625 principal of and interest on the bonds for the benefit of which the same
626 were made have been fully paid, or until provision has been made for
627 the payment in the manner provided in the resolution or resolutions
628 authorizing the issuance. Any pledge made in respect of such bonds
629 shall be valid and binding from the time when the pledge is made;
630 moneys or rents so pledged and thereafter received by the committee
631 shall immediately be subject to the lien of such pledge without any
632 physical delivery thereof or further act; and the lien of any such pledge
633 shall be valid and binding as against parties having claims of any kind
634 in tort, contract or otherwise against the committee, irrespective of
635 whether such parties have notice thereof. Neither the resolution, trust
636 indenture nor any other instrument by which a pledge is created need
637 be recorded. The committee may, without further approval of the
638 legislative bodies of the municipalities which are parties to the original
639 project agreements, assign, amend, reaffirm, or terminate any or all of
640 such original project agreements to secure the bonds and exercise the
641 powers set forth in this act by vote taken in accordance with the inter-
642 community agreement. The resolution authorizing the issuance of such
643 bonds may provide for the enforcement of any such pledge or security
644 in any lawful manner. The committee shall be considered a political
645 subdivision of the state for purposes of subdivision (14) of subsection
646 (d) of section 42a-9-109 of the general statutes, as amended by this act.

647 Sec. 17. Section 10-66c of the general statutes is amended by adding
648 subsection (i) as follows (*Effective from passage and applicable to any*

649 *pledge, lien or security interest of this state or any political subdivision of this*
650 *state, which pledge, lien or interest was in existence on October 1, 2003, and*
651 *applicable to any such pledge, lien or interest created after October 1, 2003):*

652 (NEW) (i) A regional educational service center shall be considered
653 an agency of the state for purposes of subdivision (14) of subsection (d)
654 of section 42a-9-109, as amended by this act.

655 Sec. 18. Section 22a-479 of the general statutes is repealed and the
656 following is substituted in lieu thereof (*Effective from passage and*
657 *applicable to any pledge, lien or security interest of this state or any political*
658 *subdivision of this state, which pledge, lien or interest was in existence on*
659 *October 1, 2003, and applicable to any such pledge, lien or interest created*
660 *after October 1, 2003):*

661 (a) A municipality may authorize and approve (1) the execution and
662 delivery of project funding agreements, and (2) the issuance and sale of
663 project obligations, grant account loan obligations and interim funding
664 obligations, in accordance with such statutory and charter
665 requirements as govern the authorization and approval of borrowings
666 and the making of contracts generally by the municipality or in
667 accordance with the provisions of subsection (e) of this section. Project
668 loan obligations, grant account loan obligations and interim funding
669 obligations shall be duly executed and accompanied by an approving
670 legal opinion of bond counsel of recognized standing in the field of
671 municipal law whose opinions are generally accepted by purchasers of
672 municipal bonds and shall be subject to the debt limitation provisions
673 of section 7-374; except that project loan obligations, grant account loan
674 obligations and interim funding obligations issued in order to meet the
675 requirements of any abatement order of the commissioner shall not be
676 subject to the debt limitation provisions of section 7-374, provided the
677 municipality files a certificate, signed by its chief fiscal officer, with the
678 commissioner demonstrating to the satisfaction of the commissioner
679 that the municipality has a plan for levying a system of charges,
680 assessments or other revenues which are sufficient, together with other
681 available funds of the municipality, to repay such obligations as the

682 same become due and payable.

683 (b) Each recipient which enters into a project funding agreement
684 shall protect, defend and hold harmless the state, its agencies,
685 departments, agents and employees from and against any and all
686 claims, suits, actions, demands, costs and damages arising from or in
687 connection with the performance or nonperformance by the recipient,
688 or any of its officers, employees or agents, of the recipient's obligations
689 under any project funding agreement as such project funding
690 agreement may be amended or supplemented from time to time. Each
691 such recipient may insure against the liability imposed by this
692 subsection through any insurance company organized within or
693 without this state authorized to write such insurance in this state or
694 may elect to act as self-insurer of such liability, provided such
695 indemnity shall not be limited by any such insurance coverage.

696 (c) Whenever a recipient has entered into a project funding
697 agreement and has authorized the issuance of project loan obligations
698 or grant account loan obligations, it may authorize the issuance of
699 interim funding obligations. Proceeds from the issuance and sale of
700 interim funding obligations shall be used to temporarily finance an
701 eligible project pending receipt of the proceeds of a project loan
702 obligation, a grant account loan obligation or project grant. Such
703 interim funding obligations may be issued and sold to the state for the
704 benefit of the Clean Water Fund or issued and sold to any other lender
705 on such terms and in such manner as shall be determined by a
706 recipient. Such interim funding obligations may be renewed from time
707 to time by the issuance of other notes, provided the final maturity of
708 such notes shall not exceed six months from the date of completion of
709 the planning and design phase or the construction phase, as applicable,
710 of an eligible project, as determined by the commissioner. Such notes
711 and any renewals of a municipality shall not be subject to the
712 requirements and limitations set forth in sections 7-378, [and] 7-378a
713 and 7-264. The provisions of section 7-374 shall apply to such notes
714 and any renewals thereof of a municipality; except that project loan
715 obligations, grant account loan obligations and interim funding

716 obligations issued in order to meet the requirements of an abatement
717 order of the commissioner shall not be subject to the debt limitation
718 provisions of section 7-374, provided the municipality files a certificate,
719 signed by its chief fiscal officer, with the commissioner demonstrating
720 to the satisfaction of the commissioner that the municipality has a plan
721 for levying a system of charges, assessments or other revenues
722 sufficient, together with other available funds of the municipality, to
723 repay such obligations as the same become due and payable. The
724 officer or agency authorized by law or by vote of the recipient to issue
725 such interim funding obligations shall, within any limitation imposed
726 by such law or vote, determine the date, maturity, interest rate, form,
727 manner of sale and other details of such obligations. Such obligations
728 may bear interest or be sold at a discount and the interest or discount
729 on such obligations, including renewals thereof, and the expense of
730 preparing, issuing and marketing them may be included as a part of
731 the cost of an eligible project. Upon the issuance of a project loan
732 obligation or grant account loan obligation, the proceeds thereof, to the
733 extent required, shall be applied forthwith to the payment of the
734 principal of and interest on all interim funding obligations issued in
735 anticipation thereof and upon receipt of a project grant, the proceeds
736 thereof, to the extent required, shall be applied forthwith to the
737 payment of the principal of and interest on all grant anticipation notes
738 issued in anticipation thereof or, in either case, shall be deposited in
739 trust for such purpose with a bank or trust company, which may be the
740 bank or trust company, if any, at which such obligations are payable.

741 (d) Project loan obligations, grant account loan obligations, interim
742 funding obligations or any obligation of a municipality that satisfies
743 the requirements of Title VI of the federal Water Pollution Control Act
744 or the federal Safe Drinking Water Act or other related federal act may,
745 as determined by the commissioner, be general obligations of the
746 issuing municipality and in such case each such obligation shall recite
747 that the full faith and credit of the issuing municipality are pledged for
748 the payment of the principal thereof and interest thereon. To the extent
749 a municipality is authorized pursuant to sections 22a-475 to 22a-483,
750 inclusive, to issue project loan obligations or interim funding

751 obligations, such obligations may be secured by a pledge of revenues
752 and other funds derived from its sewer system or public water supply
753 system, as applicable. Each pledge and agreement made for the benefit
754 or security of any of such obligations shall be in effect until the
755 principal of, and interest on, such obligations have been fully paid, or
756 until provision has been made for payment in the manner provided in
757 the resolution authorizing their issuance or in the agreement for the
758 benefit of the holders of such obligations. In any such case, such
759 pledge shall be valid and binding from the time when such pledge is
760 made. Any revenues or other receipts, funds or moneys so pledged
761 and thereafter received by the municipality shall immediately be
762 subject to the lien of such pledge without any physical delivery thereof
763 or further act. The lien of any such pledge shall be valid and binding as
764 against all parties having claims of any kind in tort, contract or
765 otherwise against the municipality, irrespective of whether such
766 parties have notice thereof. Neither the project loan obligation, interim
767 funding obligation, project funding agreement nor any other
768 instrument by which a pledge is created need be recorded. All
769 securities or other investments of moneys of the state permitted or
770 provided for under sections 22a-475 to 22a-483, inclusive, may, upon
771 the determination of the State Treasurer, be purchased and held in
772 fully marketable form, subject to provision for any registration in the
773 name of the state. Securities or other investments at any time
774 purchased, held or owned by the state may, upon the determination of
775 the State Treasurer and upon delivery to the state, be accompanied by
776 such documentation, including approving bond opinion, certification
777 and guaranty as to signatures and certification as to absence of
778 litigation, and such other or further documentation as shall from time
779 to time be required in the municipal bond market or required by the
780 state.

781 (e) Notwithstanding the provisions of the general statutes, any
782 special act or any municipal charter [, a municipality may, upon the
783 approval of] governing the authorization of bonds, notes or obligations
784 or the appropriation of funds, or governing the application for, and
785 expenditure of, grants or loans, or governing the authorization of

786 contracts or financing agreements or governing the pledging of sewer
787 or water revenues or funds, a municipality may, by resolution
788 approved by its legislative body and by (1) its water pollution control
789 authority or sewer authority, if any, authorize a project loan and
790 project grant agreement between the municipality and the state
791 pursuant to sections 22a-475 to 22a-483, inclusive, and appropriate
792 funds and authorize project loan obligations [,] and interim funding
793 obligations [, revenue bonds, notes or other obligations] of the
794 municipality paid and secured solely by a pledge of revenues, funds
795 and moneys of the municipality and the water pollution control
796 authority or sewer authority, if any, derived from its sewer system, to
797 pay for and finance the total project costs of an eligible water quality
798 project, pursuant to a project loan and project grant agreement
799 between the municipality and the state pursuant to sections 22a-475 to
800 22a-483, inclusive, [and] or (2) by its water authority, if any, authorize
801 a project loan and project grant agreement between the municipality
802 and the state pursuant to sections 22a-475 to 22a-483, inclusive, and
803 appropriate funds and authorize project loan obligations [,] and
804 interim funding obligations [, revenue bonds, notes or other
805 obligations] of the municipality paid and secured solely by a pledge of
806 revenues, funds and moneys of the municipality and the water
807 authority, if any, derived from its public water supply system, to pay
808 for and finance the total project costs of an eligible water quality
809 project, pursuant to a project loan agreement between the municipality
810 and the state pursuant to sections 22a-475 to 22a-483, inclusive. The
811 provisions of chapter 103 shall apply to the [bonds, notes or other]
812 obligations authorized by this section, to the extent such section is not
813 inconsistent with this subsection. A project loan and project grant
814 agreement authorized by such resolution may contain covenants and
815 agreements with respect to, and may pledge the revenues, funds and
816 moneys derived from, the sewer system or public water system to
817 secure such project loan obligations and interim funding obligations,
818 including, but not limited to, covenants and agreements with respect
819 to holding or depositing such revenues, funds and moneys in separate
820 accounts and agreements described in section 7-266. As used in this

821 subsection "legislative body" means (A) the board of selectmen in a
 822 town that does not have a charter, special act or home rule ordinance
 823 relating to its government, (B) the council, board of aldermen,
 824 representative town meeting, board of selectmen or other elected
 825 legislative body described in a charter, special act or home rule
 826 ordinance relating to government in a city, consolidated town and city,
 827 consolidated town and borough or a town having a charter, special act,
 828 consolidation ordinance or home rule ordinance relating to its
 829 government, (C) the board of burgesses or other elected legislative
 830 body in a borough, or (D) the district committee or other elected
 831 legislative body in a district, metropolitan district or other municipal
 832 corporation.

833 (f) Any recipient which is not a municipality shall execute and
 834 deliver project loan obligations and interim financing obligations in
 835 accordance with applicable law and in such form and with such
 836 requirements as may be determined by the commissioner. The
 837 Commissioner of Public Health and the Department of Public Utility
 838 Control as required by section 16-19e shall review and approve all
 839 costs that are necessary and reasonable prior to the award of the
 840 project funding agreement. The Department of Public Utility Control,
 841 where appropriate, shall include these costs in the recipient's rate
 842 structure in accordance with section 16-19e.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 2	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>

Sec. 3	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 4	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 5	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 6	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 7	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 8	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 9	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 10	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>

Sec. 11	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 12	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 13	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 14	<i>from passage and applicable to any pledge, lien or security interest of the corporation, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 15	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 16	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 17	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>
Sec. 18	<i>from passage and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which pledge, lien or interest was in existence on October 1, 2003, and applicable to any such pledge, lien or interest created after October 1, 2003</i>

FIN 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: None

Municipal Impact: None

Explanation

The bill has no fiscal impact. It clarifies that the governmental units adversely affected by PA 03-62 are exempt from making filings under Article 9 of the Uniform Commercial Code (UCC) and that statutory liens provisions apply. This makes it clear that revenue bond holders have first priority on the revenue stream or assets pledged to support revenue bonds.

Article 9 of the UCC governs secured transactions, in which collateral is pledged to secure the obligation of a debtor to a secured party. Until 2003, Connecticut's version of Article 9 did not apply to pledges and liens granted by the State of Connecticut or other Connecticut governmental units. In 2003, PA 03-62 changed the UCC so that it was unclear whether certain governmental units had an exemption from making Article 9 filings. The effect of this was to create uncertainty about whether a secured party (e.g., a revenue bond holder) would continue to have first priority on the pledged revenue stream or assets because it was unclear whether the statutory liens apply or Article 9 applies.

OLR BILL ANALYSIS

sHB 5478

AN ACT CONCERNING APPLICABILITY OF THE UNIFORM COMMERCIAL CODE TO CERTAIN STATE TRANSACTIONS**SUMMARY:**

This bill:

1. expressly exempts pledges and liens issued in connection with the bonds and other obligations of the state and various state and local government entities from Article 9 of the Uniform Commercial Code (UCC), which deals with secured transactions;
2. strengthens the security backing the bonds of various governmental entities by expanding the assets they can pledge to repay their bonds and giving bondholders' pledges and liens priority over those of third parties;
3. changes some of the qualifications for serving on the Connecticut Higher Education Supplemental Loan Authority (CHESLA) board of directors;
4. expands CHESLA's options for investing its funds; and
5. makes various changes regarding municipal clean water project loan and grant financing.

EFFECTIVE DATE: Upon passage and applicable to any pledge, lien, or security interest created by the state or a state political subdivision or agency, and in existence on October 1, 2003 or created on or after that date.

UNIFORM COMMERCIAL CODE PROVISIONS***General Exemption (§ 1)***

The bill specifies that Article 9 of the UCC does not apply to pledges or liens by the state or its political subdivisions or agencies if the pledges or liens:

1. existed on or after October 1, 2003 and
2. are governed by a state law that (a) creates the pledge or lien in connection with a state, subdivision, or agency bond or note and (b) explicitly makes the pledge or lien valid and binding against other parties.

Specific Entities

The bill expressly exempts bond pledges and liens of the following entities from the secured transaction provisions of the UCC:

- Connecticut Health and Educational Facilities Authority (§ 3)
- Capital City Economic Development Authority (§ 4)
- Lower Fairfield County Convention Center Authority (§ 5)
- University of Connecticut UConn 2000 bonds (§ 6)
- State Clean Water Bonds (§ 7)
- Connecticut Higher Education Supplemental Loan Authority (§ 8)
- Regional water pollution control authorities (§ 15)

It exempts the bond pledges and liens of the following entities from the UCC even though they are not state agencies or political subdivisions:

- Connecticut Student Loan Foundation (§ 14)
- Bristol Resource Recovery Facility Operating Committee (§ 16)
- Regional educational service centers (§ 17)

Increased Security for Pledges and Liens

The bill allows the following entities to secure their bonds, notes, or other instruments by pledging any of their revenues and assets and gives these pledges priority over other third party liens:

- Connecticut Health and Educational Facilities Authority (§§ 2 & 3)
- Connecticut Higher Education Supplemental Loan Authority (§§ 9-11)
- Connecticut Student Loan Foundation (§ 14)

- Municipalities issuing bonds and notes for water pollution projects (§ 18(e))

CHESLA CHANGES (§ 8)

Board of Directors

The bill makes two changes in the qualifications of the three members of CHESLA's board of directors representing Connecticut higher education institutions. It:

1. allows them to be retired as well as active trustees, directors, or employees of such institutions and
2. eliminates the restriction that only one of the three can be from a public higher education institution.

Investment Options

The bill expands the authority's options for investing its funds to allow it to:

1. invest in the obligations of the U.S. Export-Import Bank, Farmers Home Administration, Federal Financing Bank, Federal Housing Administration, General Services Administration, U.S. Maritime Administration, U.S. Department of Housing and Urban Development, Farm Credit System, and Resolution Funding Corporation and
2. make investment agreements with financial institutions whose long-term, instead of just their short-term, obligations are rated in the top two categories by either a national rating service or one recognized by the Connecticut banking commissioner.

MUNICIPAL WATER POLLUTION CONTROL PROJECT FINANCING (§ 18)

The bill makes several changes regarding municipal clean water project loan and grant financing. It:

1. specifies that issuance and renewal of interim municipal clean water project loan or grant obligations are not subject to the law

governing temporary notes issued to acquire or construct all or part of a sewer system;

2. specifies that pledges for repayment of municipal clean water project loan or grant obligations remain in effect until the principal and interest is paid off or until some other provision for their repayment is made;
3. expressly allows a municipality to authorize a project loan or grant agreement between it and the state under the Clean Water Act by vote of its legislative body and water pollution control or sewer authority, if any, regardless of any state law, special act, or charter provision governing such activities;
4. allows a municipality to secure repayment of a project loan or grant agreement by pledging revenues or other funds from the public sewer or water system, including holding or depositing the revenues in separate accounts and making agreements with holders concerning rates, charges, and other aspects of sewer or water system operations; and
5. defines a municipal legislative body for purposes of approving municipal clean water project loan or grant obligations as (a) the board of selectmen in towns without a charter, special act, or home rule ordinance, (b) the council, board of aldermen, representative town meeting, board of selectmen, or other legislative body in towns or boroughs with charters, special acts, consolidation ordinances, or home rule ordinances, (c) the board of burgesses or other elected legislative body in a borough, or (d) the district committee or other elected legislative body in a district, metropolitan district, or other municipal corporation.

BACKGROUND

Uniform Commercial Code - Article 9

Article 9 of the UCC deals with security interests created by contracts in personal property that secure payment or other performance the debtor is obliged to make. 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 governmental units. Thus, other rules prevail over Article 9, but

Article 9 applies if there is no express rule. PA 03-62, which took effect on October 1, 2003, eliminated a blanket Article 9 exemption for government obligations.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 44 Nay 0