



House of Representatives

General Assembly

File No. 620

January Session, 2009

House Bill No. 6640

House of Representatives, April 15, 2009

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

AN ACT INCREASING THE PENALTY FOR FOREIGN CORPORATIONS AND OTHER ENTITIES THAT TRANSACT BUSINESS OR CONDUCT AFFAIRS IN THIS STATE WITHOUT AUTHORITY.

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

1 Section 1. Subsection (d) of section 33-921 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (d) A foreign corporation is liable to this state, for the years or parts
5 thereof during which it transacted business in this state without a
6 certificate of authority, in an amount equal to (1) all fees and taxes
7 which would have been imposed by law upon such corporation had it
8 duly applied for and received such certificate of authority to transact
9 business in this state, and (2) all interest and penalties imposed by law
10 for failure to pay such fees and taxes. A foreign corporation is further
11 liable to this state, for each month or part thereof during which it
12 transacted business without a certificate of authority, in an amount

13 equal to [one hundred sixty-five] three hundred dollars, except that a
14 foreign corporation which has obtained a certificate of authority not
15 later than ninety days after it has commenced transacting business in
16 this state shall not be liable for such monthly penalty. Such fees and
17 penalties may be levied by the Secretary of the State. The Attorney
18 General shall bring such action as he may deem necessary to recover
19 any amounts due the state under the provisions of this subsection
20 including an action to restrain a foreign corporation against which fees
21 and penalties have been imposed pursuant to this subsection from
22 transacting business in this state until such time as such fees and
23 penalties have been paid.

24 Sec. 2. Subsection (d) of section 33-1211 of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective*
26 *October 1, 2009*):

27 (d) A foreign corporation is liable to this state, for the years or parts
28 thereof during which it conducted affairs in this state without a
29 certificate of authority, in an amount equal to (1) all fees and taxes
30 which would have been imposed by law upon such corporation had it
31 duly applied for and received such certificate of authority to conduct
32 affairs in this state, and (2) all interest and penalties imposed by law
33 for failure to pay such fees and taxes. A foreign corporation is further
34 liable to this state, for each month or part thereof during which it
35 conducted affairs in this state without a certificate of authority, in an
36 amount equal to [one hundred sixty-five] three hundred dollars,
37 except that a foreign corporation which has obtained a certificate of
38 authority not later than ninety days after it has commenced conducting
39 affairs in this state shall not be liable for such monthly penalty. Such
40 fees and penalties may be levied by the Secretary of the State. The
41 Attorney General shall bring such action as he may deem necessary to
42 recover any amounts due the state under the provisions of this
43 subsection including an action to restrain a foreign corporation against
44 which fees and penalties have been imposed pursuant to this
45 subsection from conducting affairs in this state until such time as such
46 fees and penalties have been paid.

47 Sec. 3. Subsection (e) of section 34-38l of the general statutes is
48 repealed and the following is substituted in lieu thereof (*Effective*
49 *October 1, 2009*):

50 (e) A foreign limited partnership which transacts business in this
51 state without registering with the Secretary of the State as required by
52 this chapter shall be liable to this state, for each year or part thereof
53 during which it transacted business in this state without being
54 registered with said secretary, in an amount equal to: (1) All fees and
55 taxes which would have been imposed by law upon such limited
56 partnership had it duly applied for and received such registration to
57 transact business in this state, and (2) all interest and penalties
58 imposed by law for failure to pay such fees and taxes. A foreign
59 limited partnership is further liable to this state, for each month or part
60 thereof during which it transacted business in this state without
61 registering with the Secretary of the State, in an amount equal to [one
62 hundred sixty-five] three hundred dollars, except that a foreign limited
63 partnership which has registered with said secretary not later than
64 ninety days after it has commenced transacting business in this state
65 shall not be liable for such monthly penalty. Such fees and penalties
66 may be levied by the Secretary of the State.

67 Sec. 4. Subsection (d) of section 34-233 of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective*
69 *October 1, 2009*):

70 (d) A foreign limited liability company which transacts business in
71 this state without a valid certificate of registration shall be liable to this
72 state, for each year or part thereof during which it transacted business
73 in this state without such certificate, in an amount equal to: (1) All fees
74 and taxes which would have been imposed by law upon such limited
75 liability company had it duly applied for and received such
76 registration to transact business in this state, and (2) all interest and
77 penalties imposed by law for failure to pay such fees and taxes. A
78 foreign limited liability company is further liable to this state, for each
79 month or part thereof during which it transacted business in this state

80 without a valid certificate of registration, in an amount equal to [one
81 hundred sixty-five] three hundred dollars, except that a foreign limited
82 liability company which has registered with the Secretary of the State
83 not later than ninety days after it has commenced transacting business
84 in this state shall not be liable for such monthly penalty. Such fees and
85 penalties may be levied by the Secretary of the State. The Attorney
86 General may bring proceedings to recover all amounts due this state
87 under the provisions of this subsection.

88 Sec. 5. Subsection (c) of section 34-430 of the general statutes is
89 repealed and the following is substituted in lieu thereof (*Effective*
90 *October 1, 2009*):

91 (c) A foreign registered limited liability partnership which transacts
92 business in this state without filing a certificate of authority under
93 section 34-429 shall be liable to this state, for each year or part thereof
94 during which it transacted business in this state without such
95 certificate, in an amount equal to: (1) All fees and taxes which would
96 have been imposed by law upon such registered limited liability
97 partnership had it duly applied for and received such authority to
98 transact business in this state, and (2) all interest and penalties
99 imposed by law for failure to pay such fees and taxes. A foreign
100 registered limited liability partnership is further liable to this state, for
101 each month or part thereof during which it transacted business in this
102 state without filing a certificate of authority under section 34-429, in an
103 amount equal to [one hundred sixty-five] three hundred dollars,
104 except that a foreign registered limited liability partnership which has
105 filed a certificate of authority with the Secretary of the State not later
106 than ninety days after it has commenced transacting business in this
107 state shall not be liable for such monthly penalty. Such fees and
108 penalties may be levied by the Secretary of the State. The Attorney
109 General may bring proceedings to recover all amounts due this state
110 under the provisions of this subsection.

111 Sec. 6. Subsection (d) of section 34-539 of the general statutes is
112 repealed and the following is substituted in lieu thereof (*Effective*

113 *October 1, 2009*):

114 (d) A foreign statutory trust which transacts business in this state
 115 without a valid certificate of registration shall be liable to this state, for
 116 each year or part thereof during which it transacted business in this
 117 state without such certificate, in an amount equal to: (1) All fees and
 118 taxes which would have been imposed by law upon such statutory
 119 trust had it duly applied for and received such registration to transact
 120 business in this state, and (2) all interest and penalties imposed by law
 121 for failure to pay such fees and taxes. A foreign statutory trust is
 122 further liable to this state, for each month or part thereof during which
 123 it transacted business without a valid certificate of registration, in an
 124 amount equal to [one hundred sixty-five] three hundred dollars,
 125 except that a foreign statutory trust which has registered with the
 126 Secretary of the State not later than ninety days after it has commenced
 127 transacting business in this state shall not be liable for such monthly
 128 penalty. Such fees and penalties may be levied by the Secretary of the
 129 State. The Attorney General may bring proceedings to recover all
 130 amounts due this state under the provisions of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	33-921(d)
Sec. 2	<i>October 1, 2009</i>	33-1211(d)
Sec. 3	<i>October 1, 2009</i>	34-381(e)
Sec. 4	<i>October 1, 2009</i>	34-233(d)
Sec. 5	<i>October 1, 2009</i>	34-430(c)
Sec. 6	<i>October 1, 2009</i>	34-539(d)

JUD *Joint Favorable*

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-Effect	FY 10 \$	FY 11 \$
Secretary of the State	GF - Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill increases the monthly penalty assessment made to foreign corporations or entities who transacts business in Connecticut without authority from \$165 to \$300. In FY 08, approximately \$1 million was collected for this penalty. This penalty is collected by the Office of the Secretary of the State and deposited into the General Fund.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 6640*****AN ACT INCREASING THE PENALTY FOR FOREIGN CORPORATIONS AND OTHER ENTITIES THAT TRANSACT BUSINESS OR CONDUCT AFFAIRS IN THIS STATE WITHOUT AUTHORITY.*****SUMMARY:**

This bill increases, from \$165 to \$300, the penalty that the secretary of the state can impose on a foreign business entity for each month or part of one that it conducts business in the state without the required certificate or registration to do so. This applies to foreign stock and non-stock corporations, limited partnerships, limited liability companies, registered limited liability partnerships, and statutory trusts. By law, the secretary cannot impose this penalty if the foreign business entity gets the required certificate within 90 days of starting to transact business in the state.

By law, these entities are also liable to the state for fees and taxes that would have been imposed had they applied for and received the required certificate, and all interest and penalties for failing to pay them, for each year or part of one that they transact business in the state without a certificate. The secretary can levy the penalties, and the attorney general can sue to recover them and to prohibit the entity from continuing to conduct business in the state.

EFFECTIVE DATE: October 1, 2009

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (03/27/2009)