



General Assembly

Substitute Bill No. 29

February Session, 2012

* SB00029HED__030712__ *

AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY.

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

1 Section 1. Subsection (e) of section 10a-178 of the 2012 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective July 1, 2012*):

4 (e) "Institution for higher education" means (1) [an educational
5 institution situated within this state which by virtue of law or charter
6 is a nonprofit educational institution empowered to provide a program
7 of education beyond the high school level;] a degree-granting
8 educational institution within the United States authorized by
9 applicable law to provide a program of education beyond high school
10 level and (A) described in Section 501(c)(3) of the Internal Revenue
11 Code of 1986, or any subsequent corresponding internal revenue code
12 of the United States, as from time to time amended, and exempt from
13 taxation under Section 501(a) of said code, or (B) exempt from taxation
14 under said code as a government unit; or (2) a public [educational
15 institution, which, shall be the state colleges, known collectively as
16 Connecticut State University] or independent institution for higher
17 education in this state;

18 Sec. 2. Section 10a-178 of the 2012 supplement to the general statutes
19 is amended by adding subsections (p) to (r), inclusive, as follows

20 (Effective July 1, 2012):

21 (NEW) (p) "Connecticut Higher Education Supplemental Loan
22 Authority" means the Connecticut Higher Education Supplemental
23 Loan Authority established as a subsidiary of the authority with
24 powers granted pursuant to chapter 187b.

25 (NEW) (q) "Education borrower" means any student or parent who
26 has agreed to pay (1) a loan made by the Connecticut Higher
27 Education Supplemental Loan Authority to a student or parent, or
28 both, to finance the attendance of such student at an institution for
29 higher education, or (2) a loan made by or on behalf of a Connecticut
30 institution for higher education from the proceeds of a Connecticut
31 Higher Education Supplemental Loan Authority loan to a student or
32 parent, or both, to finance such student's attendance at such institution.

33 (NEW) (r) "Parent" means any parent, legal guardian or sponsor of a
34 student at an institution for higher education.

35 Sec. 3. (NEW) (Effective July 1, 2012) (a) The Connecticut Higher
36 Education Supplemental Loan Authority is constituted as a subsidiary
37 of the Connecticut Health and Educational Facilities Authority. The
38 Connecticut Higher Education Supplemental Loan Authority shall be
39 deemed a quasi-public agency for purposes of chapter 12 of the
40 general statutes and for the purpose of assisting education borrowers
41 and Connecticut institutions for higher education in the financing and
42 refinancing of the cost of higher education. The Connecticut Higher
43 Education Supplemental Loan Authority shall have all the privileges,
44 immunities, tax exemptions and other exemptions of the Connecticut
45 Health and Educational Facilities Authority and may exercise the
46 powers granted pursuant to chapter 187b of the general statutes, which
47 shall be deemed and held to be the performance of an essential public
48 and government function. The Connecticut Higher Education
49 Supplemental Loan Authority shall be subject to suit and liability
50 solely from the assets, revenues and resources of the Connecticut
51 Higher Education Supplemental Loan Authority and without recourse

52 to the general funds, revenues, resources or any other assets of the
53 Connecticut Health and Educational Facilities Authority. The
54 Connecticut Higher Education Supplemental Loan Authority is
55 authorized, for the purposes set forth in chapter 187b of the general
56 statutes, to mortgage, convey or dispose of its assets and pledge its
57 revenues in order to secure any borrowing, provided each such
58 borrowing or mortgage shall be a special obligation of the Connecticut
59 Higher Education Supplemental Loan Authority, which obligation
60 may be in the form of bonds, bond anticipation notes or other
61 obligations which evidence an indebtedness to the extent permitted
62 under chapter 187b of the general statutes to fund, refinance and
63 refund such borrowing and provide for the rights of holders of such
64 bonds, bond anticipation notes or other obligation, and to secure such
65 bonds, bond anticipation notes or other obligation by pledge of
66 revenues, notes and mortgages of others, and which shall be payable
67 solely from the assets, revenues and other resources of the Connecticut
68 Higher Education Supplemental Loan Authority. The Connecticut
69 Higher Education Supplemental Loan Authority shall have the
70 purposes which shall be consistent with chapter 187b of the general
71 statutes.

72 (b) The Connecticut Higher Education Supplemental Loan
73 Authority shall be governed by a board of directors consisting of the
74 following nine members: (1) The State Treasurer, or the Treasurer's
75 designee, who shall serve as an ex-officio voting member; (2) the
76 Secretary of the Office of Policy and Management, or the secretary's
77 designee, who shall serve as an ex-officio voting member; (3) the
78 President of the Board of Regents for Higher Education, or the
79 president's designee, who shall serve as an ex-officio voting member;
80 (4) the chairperson of the board of directors of the Connecticut Health
81 and Educational Facilities Authority; (5) the executive director of said
82 authority; (6) a member of the board of directors of said authority who
83 is an active or retired trustee, director, officer or employee of a
84 Connecticut institution for higher education, appointed by the board of
85 directors of said authority; (7) a member of the board of directors of

86 said authority who is an active or retired trustee, director, officer or
87 employee of a Connecticut institution for higher education, appointed
88 by the board of directors of said authority; (8) a resident of this state
89 with a favorable reputation for skill, knowledge and experience in the
90 higher education loan field, who shall be appointed by the board of
91 directors of said authority; and (9) a resident of this state with a
92 favorable reputation for skill, knowledge and experience in either the
93 higher education loan field or in state and municipal finance,
94 appointed by the board of directors of said authority. Of the four
95 appointed members, not more than two may be members of the same
96 political party. The two members who are members of the board of
97 said authority and active or retired trustees, directors, officers or
98 employees of Connecticut institutions for higher education shall serve
99 so long as such member remains a member of the board of said
100 authority or until such time as a successor is appointed. One appointed
101 member shall serve until the earlier of July 1, 2017, or, if such person
102 was a member of the Connecticut Higher Education Supplemental
103 Loan Authority board on June 30, 2012, the date on which such
104 member's then current term was originally scheduled to end. One
105 appointed member shall serve until the earlier of July 1, 2018, or, if
106 such person was a member of the Connecticut Higher Education
107 Supplemental Loan Authority board on June 30, 2012, the date on
108 which such member's then current term was originally scheduled to
109 end. Except as provided in this subsection and notwithstanding the
110 original date of expiration of the term of any person who is an
111 appointed member of the Connecticut Higher Education Supplemental
112 Loan Authority board on June 30, 2012, the term of all such persons
113 shall expire on June 30, 2012. The Connecticut Health and Educational
114 Facilities Authority board shall appoint a member or members each for
115 a term of six years or until his or her successor is appointed and has
116 qualified to succeed the members whose terms expire. Said authority
117 board shall fill any vacancy for the unexpired term. A member of the
118 Connecticut Higher Education Supplemental Loan Authority board
119 shall be eligible for reappointment. Any member of the Connecticut
120 Higher Education Supplemental Loan Authority board may be

121 removed by the appointing authority for misfeasance, malfeasance or
122 wilful neglect of duty. Each member of the Connecticut Higher
123 Education Supplemental Loan Authority board before entering upon
124 his or her duties shall take and subscribe the oath or affirmation
125 required by section 1 of article eleventh of the State Constitution. A
126 record of each such oath shall be filed in the office of the Secretary of
127 the State.

128 (c) The chairperson of the board of the directors of the Connecticut
129 Health and Educational Facilities Authority shall serve as chairperson
130 of the Connecticut Higher Education Supplemental Loan Authority
131 board. The Connecticut Higher Education Supplemental Loan
132 Authority board shall annually elect one of its members as vice-
133 chairman. The Connecticut Higher Education Supplemental Loan
134 Authority board may appoint an executive director, who shall be an
135 employee of the Connecticut Health and Educational Facilities
136 Authority and who shall serve at the pleasure of the Connecticut
137 Higher Education Supplemental Loan Authority board.

138 (d) To the extent necessary or appropriate to assure that the interest
139 on any of its bonds, notes or other obligations are or continue to be
140 excluded from the gross income of the recipients for federal income tax
141 purposes, the Connecticut Health and Educational Facilities Authority
142 or the Connecticut Higher Education Supplemental Loan Authority
143 shall take such actions to comply with the provisions of the Internal
144 Revenue Code of 1986 or any subsequent corresponding internal
145 revenue code of the United States, as from time to time amended, if
146 necessary, to qualify and maintain such subsidiary as a corporation
147 exempt from taxation under said Internal Revenue Code.

148 (e) The provisions of section 1-125 of the general statutes, subsection
149 (e) of section 10a-185 of the general statutes and this subsection shall
150 apply to any officer, director, designee or employee appointed as a
151 member, director or officer of the Connecticut Higher Education
152 Supplemental Loan Authority. Any such persons so appointed shall
153 not be personally liable for the debts, obligations or liabilities of the

154 Connecticut Higher Education Supplemental Loan Authority as
155 provided in said section 1-125. The subsidiary shall and the
156 Connecticut Health and Educational Facilities Authority may provide
157 for the indemnification to protect, save harmless and indemnify such
158 officer, director, designee or employee as provided by said section 1-
159 125.

160 (f) The Connecticut Health and Educational Facilities Authority or
161 the Connecticut Higher Education Supplemental Loan Authority may
162 take such actions as are necessary to comply with the provisions of the
163 Internal Revenue Code of 1986 or any subsequent corresponding
164 internal revenue code of the United States, as from time to time
165 amended, to qualify and maintain any such subsidiary as a corporation
166 exempt from taxation under said Internal Revenue Code.

167 Sec. 4. Section 10a-180 of the general statutes is amended by adding
168 subsection (x) as follows (*Effective July 1, 2012*):

169 (NEW) (x) To provide and be compensated for such services to or
170 on behalf of the Connecticut Higher Education Supplemental Loan
171 Authority as are appropriate for the operation and management of
172 said authority, including, without limitation, to provide to said
173 authority and to be reimbursed for costs associated with such space,
174 equipment, supplies and employees as are necessary and appropriate
175 for the operations of said authority.

176 Sec. 5. Section 10a-223 of the general statutes is repealed and the
177 following is substituted in lieu thereof (*Effective July 1, 2012*):

178 In this chapter, the following words and terms shall have the
179 following meanings unless the context indicates another or different
180 meaning or intent:

181 [(a)] (1) "Authority" means the Higher Education Supplemental
182 Loan Authority [established pursuant to section 10a-224] constituted as
183 a subsidiary of the Connecticut Health and Educational Facilities
184 Authority as provided in section 3 of this act;

185 (2) "Authorized officer" means an employee of the Connecticut
186 Health and Educational Facilities Authority or of the authority who is
187 authorized by the Connecticut Health and Educational Facilities
188 Authority to execute and deliver documents and papers and to act in
189 the name of and on behalf of the Connecticut Health and Educational
190 Facilities Authority;

191 [(b)] (3) "Authority loans" means education loans by the authority,
192 or loans by the authority from the proceeds of bonds for the purpose of
193 funding education loans;

194 [(c)] (4) "Bonds" or "revenue bonds" means revenue bonds or notes
195 of the authority issued under the provisions of this chapter, including
196 revenue refunding bonds or notes;

197 [(d)] (5) "Bond resolution" means the resolution or resolutions of the
198 authority and the trust agreement, if any, authorizing the issuance of
199 and providing for the terms and conditions applicable to bonds;

200 [(e)] (6) "Borrower" means a student and any parent who has
201 received or agreed to pay an education loan;

202 (7) "Connecticut Health and Educational Facilities Authority" means
203 the quasi-public authority established pursuant to section 10a-179;

204 [(f)] (8) "Connecticut institution for higher education" means an
205 institution for higher education within the state;

206 [(g)] (9) "Default insurance" means insurance insuring education
207 loans, authority loans or bonds against default;

208 [(h)] (10) "Default reserve fund" means a fund established pursuant
209 to a bond resolution for the purpose of securing education loans,
210 authority loans or bonds;

211 [(i)] (11) "Education loan" means a loan which is made by the
212 authority to a student in or from the state, or the parents of such a
213 student, or both, to finance the attendance of the student at an

214 institution for higher education, or a loan by or on behalf of a
215 participating institution for higher education from the proceeds of an
216 authority loan, to a student, or the parents of a student, or both, to
217 finance the student's attendance at such institution;

218 [(j)] (12) "Loan funding deposit" means moneys or other property
219 deposited by a Connecticut institution for higher education with the
220 authority, a guarantor or a trustee for the purpose of [(1)] (A)
221 providing security for bonds, [(2)] (B) funding a default reserve fund,
222 [(3)] (C) acquiring default insurance, or [(4)] (D) defraying costs of the
223 authority, such moneys or properties to be in such amounts as deemed
224 necessary by the authority or guarantor as a condition for such
225 institution's participation in the authority's programs;

226 [(k)] (13) "Institution for higher education" means a degree-granting
227 educational institution within the United States authorized by
228 applicable law to provide a program of education beyond the high
229 school level and [(1)] (A) described in Section 501(c)(3) of the Internal
230 Revenue Code of 1986, or any subsequent corresponding internal
231 revenue code of the United States, as from time to time amended, and
232 exempt from taxation under Section 501(a) of said code with respect to
233 a trade or business carried on by such institution which is not an
234 unrelated trade or business, determined by applying Section 513(a) of
235 said code to such organization or a foundation established for its
236 benefit, or [(2)] (B) exempt from taxation under said code as a
237 governmental unit;

238 [(l)] (14) "Participating institution for higher education" means a
239 Connecticut institution for higher education which, pursuant to the
240 provisions of this chapter, undertakes the financing directly or
241 indirectly of education loans as provided in this chapter;

242 [(m)] (15) "Parent" means any parent, legal guardian or sponsor of a
243 student at an institution for higher education;

244 [(n)] (16) "Education loan series portfolio" means all education loans
245 made by the authority or by or on behalf of a specific participating

246 institution for higher education which are funded from the proceeds of
247 a related specific bond issue of the authority.

248 Sec. 6. Section 10a-224 of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective July 1, 2012*):

250 [(a) There is created a body politic and corporate to be known as the
251 "Connecticut Higher Education Supplemental Loan Authority". The
252 authority is constituted a public instrumentality and political
253 subdivision of the state and the exercise by the authority of the powers
254 conferred by this chapter shall be deemed and held to be the
255 performance of an essential public and governmental function. The
256 powers of the authority shall be vested in and exercised by a board of
257 directors which shall consist of eight members, one of whom shall be
258 the State Treasurer, one of whom shall be the Secretary of the Office of
259 Policy and Management and one of whom shall be the president of the
260 Board of Regents for Higher Education, each serving *ex officio*, and
261 five of whom shall be residents of the state appointed by the Governor,
262 not more than three of such appointed members to be members of the
263 same political party. Three of the appointed members shall be active or
264 retired trustees, directors, officers or employees of Connecticut
265 institutions for higher education. At least one of the appointed
266 members shall be a person having a favorable reputation for skill,
267 knowledge and experience in the higher education loan finance field,
268 and at least one of such appointed members shall be a person having a
269 favorable reputation for skill, knowledge and experience in state and
270 municipal finance, either as a partner, officer or employee of an
271 investment banking firm which originates and purchases state and
272 municipal securities, or as an officer or employee of an insurance
273 company or bank whose duties relate to the purchase of state and
274 municipal securities as an investment and to the management and
275 control of a state and municipal securities portfolio. Of the three
276 members first appointed who are trustees, directors, officers or
277 employees of Connecticut institutions for higher education, one shall
278 serve until July 1, 1986, one shall serve until July 1, 1987, and one shall
279 serve until July 1, 1988. Of the three remaining members first

280 appointed, one shall serve until July 1, 1983, one shall serve until July
281 1, 1984, and one shall serve until July 1, 1985. On or before the first day
282 of July, annually, the Governor shall appoint a member or members to
283 succeed those whose terms expire, each for a term of six years and
284 until his successor is appointed and has qualified. The Governor shall
285 fill any vacancy for the unexpired term. A member of the board shall
286 be eligible for reappointment. Any member of the board may be
287 removed by the Governor for misfeasance, malfeasance or wilful
288 neglect of duty. Each member of the board before entering upon his or
289 her duties shall take and subscribe the oath or affirmation required by
290 section 1 of article eleventh of the State Constitution. A record of each
291 such oath shall be filed in the office of the Secretary of the State. The
292 State Treasurer, the Secretary of the Office of Policy and Management
293 and the president of the Board of Regents for Higher Education may
294 each designate a deputy or any staff member to represent him as a
295 member at meetings of the board with full power to act and vote on his
296 behalf.

297 (b) The chairperson of the board shall be appointed by the Governor
298 with the advice and consent of both houses of the General Assembly.
299 The board shall annually elect one of its members as vice-chairman.
300 The board may appoint an executive director and assistant executive
301 director, who shall not be members of the board and who shall serve at
302 the pleasure of the board. The executive director and assistant
303 executive director shall receive such compensation as shall be fixed by
304 the board.]

305 [(c)] (a) The executive director of the Connecticut Higher Education
306 Supplemental Loan Authority shall supervise the administrative
307 affairs and technical activities of the authority in accordance with the
308 directives of the board. The executive director shall keep a record of
309 the proceedings of the authority and shall be custodian of all books,
310 documents and papers filed with the authority, the minute book or
311 journal of the authority, and its official seal. The executive director or
312 assistant executive director or other person may cause copies to be
313 made of all minutes and other records and documents of the authority

314 and may give certificates under the official seal of the authority to the
315 effect that such copies are true copies, and all persons dealing with the
316 authority may rely upon such certificates.

317 ~~[(d)]~~ (b) (1) Five members of the board shall constitute a quorum.
318 The affirmative vote of five of the members of the board shall be
319 necessary for any action taken by the board. No vacancy in the
320 membership of the board shall impair the right of a quorum of
321 members to exercise all the rights and perform all the duties of the
322 board. Any action taken by the board under the provisions of this
323 chapter may be authorized by resolution at any regular or special
324 meeting, and each such resolution shall take effect immediately and
325 need not be published or posted. (2) The board of directors may
326 delegate to three or more of its members such board powers and duties
327 as it may deem proper. At least one of such members shall not be a
328 state employee.

329 ~~[(e)]~~ (c) Before the issuance of any bonds or notes under the
330 provisions of this chapter, the chairman and vice-chairman of the
331 board of directors, the executive director and assistant executive
332 director of the authority and any other member of the board
333 authorized by resolution of the board to handle funds or sign checks of
334 the authority shall execute a surety bond in the penal sum of fifty
335 thousand dollars, or in lieu thereof the chairman shall obtain a blanket
336 position bond covering the executive director and every member of the
337 board and other employee of the authority in the penal sum of fifty
338 thousand dollars. Each such bond shall be conditioned upon the
339 faithful performance of the duties of the principal or the members,
340 executive director and other employees, as the case may be, shall be
341 executed by a surety company authorized to transact business in the
342 state as surety, and shall be filed in the office of the Secretary of the
343 State. The cost of each such bond shall be paid by the authority.

344 ~~[(f)]~~ (d) The members of the board shall receive no compensation for
345 the performance of their duties hereunder but each such member shall
346 be paid the necessary expenses incurred by such member while

347 engaged in the performance of such duties.

348 [(g)] (e) (1) No member of the board or officer, agent or employee of
349 the authority shall, directly or indirectly, have any financial interest in
350 any participating institution for higher education or in any
351 corporation, business trust, estate, trust, partnership or association,
352 two or more persons having a joint or common interest, or any other
353 legal or commercial entity contracting with the authority. Any
354 individual who violates the provisions of this subsection shall be
355 punished by a fine of not less than fifty dollars nor more than one
356 thousand dollars, or by imprisonment for not more than one month, or
357 both.

358 (2) Notwithstanding the provisions of subdivision (1) of this
359 subsection or the provisions of any other law to the contrary, it shall
360 not be or constitute a conflict of interest or violation of the provisions
361 of said subdivision or the provisions of any other law for a trustee,
362 director, officer or employee of a participating institution of higher
363 education or for a person having the required favorable reputation for
364 skill, knowledge and experience in state and municipal finance or for a
365 person having the required favorable reputation for skill, knowledge
366 and experience in the higher education loan finance field to serve as a
367 member of the board; provided, in each case to which the provisions of
368 this subdivision are applicable, such trustee, director, officer or
369 employee of such participating institution of higher education abstains
370 from discussion, deliberation, action and vote by the board in specific
371 respect to any undertaking pursuant to this chapter in which such
372 participating institution of higher education has a direct interest
373 separate from the interests of all of the participating institutions
374 generally, or such person having the required favorable reputation for
375 skill, knowledge and experience in state and municipal finance
376 abstains from discussion, deliberation, action and vote by the board in
377 specific respect to any sale, purchase or ownership of bonds of the
378 authority in which the investment banking firm or insurance company
379 or bank of which such person is a partner, officer or employee has or
380 may have a current or future interest, or such person having the

381 required favorable reputation for skill, knowledge and experience in
382 the higher education loan finance field abstains from discussion,
383 deliberation, action and vote by the board in specific respect to any
384 action of the authority in which any partnership, firm, joint venture,
385 sole proprietorship or corporation of which such person is an owner,
386 venturer, participant, partner, officer or employee has or may have a
387 current or future interest.

388 [(h)] (f) The board of directors of the authority shall adopt written
389 procedures, in accordance with the provisions of section 1-121, for: (1)
390 Adopting an annual budget and plan of operations, including a
391 requirement of board approval before the budget or plan may take
392 effect; (2) hiring, dismissing, promoting and compensating employees
393 of the authority, including an affirmative action policy and a
394 requirement of board approval before a position may be created or a
395 vacancy filled; (3) acquiring real and personal property and personal
396 services, including a requirement of board approval for any
397 nonbudgeted expenditure in excess of five thousand dollars; (4)
398 contracting for financial, legal, bond underwriting and other
399 professional services, including a requirement that the authority solicit
400 proposals at least once every three years for each such service which it
401 uses; (5) issuing and retiring bonds, bond anticipation notes and other
402 obligations of the authority; (6) awarding loans, grants and other
403 financial assistance, including eligibility criteria, the application
404 process and the role played by the authority's staff and board of
405 directors; and (7) the use of surplus funds to the extent authorized
406 under this chapter or other provisions of the general statutes.

407 [(i)] (g) The authority shall continue as long as it shall have bonds or
408 other obligations outstanding and until its existence is terminated by
409 law. Upon termination of the existence of the authority, all its rights
410 and properties shall pass to and be vested in the state of Connecticut.

411 (h) The provisions of section 1-125, subsection (f) of section 10a-230
412 and this subsection shall apply to any officer, director or employee of
413 the Connecticut Health and Educational Facilities Authority appointed

414 as a director of the authority and to any employee of the Connecticut
 415 Health and Educational Facilities Authority who is an authorized
 416 officer of the Connecticut Health and Educational Facilities Authority.
 417 Any such person shall not be personally liable for the debts,
 418 obligations or liabilities of the authority as provided in said section 1-
 419 125. The authority shall and the Connecticut Health and Educational
 420 Facilities Authority may provide for the indemnification to protect,
 421 save harmless and indemnify such officer, director or employee of the
 422 Connecticut Health and Educational Facilities Authority as provided
 423 by said section 1-125.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	10a-178(e)
Sec. 2	<i>July 1, 2012</i>	10a-178
Sec. 3	<i>July 1, 2012</i>	New section
Sec. 4	<i>July 1, 2012</i>	10a-180
Sec. 5	<i>July 1, 2012</i>	10a-223
Sec. 6	<i>July 1, 2012</i>	10a-224

Statement of Legislative Commissioners:

In section 3, references to "the authority" were changed to "the Connecticut Health and Educational Facilities Authority" or "said authority" for clarity and accuracy.

HED *Joint Favorable Subst.-LCO*