



House Bill No. 6340

Public Act No. 13-106

AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT.

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

Section 1. Section 36b-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The following securities are exempted from sections 36b-16 and 36b-22: (1) Any security including a revenue obligation issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; (2) any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; (3) any security that is not a "covered security" under Sections 3(a)(2) and 18(b)(4)(C) of the Securities Act of 1933 and that is issued by and represents or will represent an interest in or a debt of, or guaranteed by, any international banking institution, any bank, savings bank or savings and loan association organized under the laws of the United

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States, or any bank, savings institution or trust company organized and supervised under the laws of any state; (4) any security issued by and representing or that will represent an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any savings and loan or similar association organized under the laws of any state; (5) any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state; (6) any security issued or guaranteed by any federal credit union or any credit union, industrial loan association or similar association organized and supervised under the laws of this state; (7) any security issued or guaranteed by any railroad, other common carrier, public utility or public utility holding company that is (A) regulated with respect to its rates and charges by the United States or any state; (B) a public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of said act; or (C) regulated with respect to the issuance or guarantee of the security by the United States, any state, Canada or any Canadian province or territory; (8) (A) any security [appearing on the list of over-the-counter and foreign securities approved for margin by the Board of Governors of the Federal Reserve System which is not otherwise] that is both (i) a margin security, as defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System, or an American depositary receipt, as defined in such regulations or rules, that represents such margin security, and (ii) an over-the-counter security or a security issued by a foreign issuer, regardless of whether such security is a covered security, (B) any warrant or right to purchase or subscribe to any security described in subparagraph (A) of this subdivision, and (C) any warrant or right to purchase or subscribe to any security listed or approved for listing upon notice of issuance on (i) the New York Stock Exchange, the American Stock Exchange, the Chicago Board Options Exchange and such other securities exchanges,

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including any successor to said exchanges, as may be designated by the commissioner from time to time, or (ii) [the list of over-the-counter securities approved for margin by the Board of Governors of the Federal Reserve System where such security is a covered security, or (iii)] the national market system of the National Association of Securities Dealers Automated Quotation System established pursuant to the Securities Exchange Act of 1934, or any successor to said system; (9) any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes, or as a chamber of commerce or trade or professional association; (10) any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal; (11) any security issued in connection with an employees' stock purchase, stock option, savings, pension, profit-sharing or similar benefit plan; (12) any security issued by any cooperative apartment corporation incorporated under the laws of this state, located in and operating wholly within the borders of this state, in conjunction with the execution of proprietary leases; (13) any security issued by any person, organized and located in this state and operating exclusively for the purpose of promoting the industrial or commercial development of this state, or such development of any political subdivision thereof or such development of any regional planning area within this state, if such persons are approved by the Commissioner of Economic and Community Development and such approval has been certified, in writing, by said Commissioner of Economic and Community Development to the commissioner; such approval and certification shall be conclusive as to the nature and purpose of such person; (14) any security issued by the Connecticut Development Credit Corporation; (15) any security issued by any

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nonstock corporation, which is incorporated under the laws of this state as a cooperative marketing corporation and has its principal place of business in this state, and which is a farmers' cooperative organization, as defined in Section 521 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, if such corporation has been certified, in writing, by the Connecticut Department of Agriculture to the commissioner to be a bona fide cooperative marketing corporation; such certification shall be conclusive as to the nature and purpose of such corporation; (16) any security issued by all cooperative associations organized or existing under chapter 595; (17) any security issued by any person organized, located and operating within or from the borders of this state, when selling or offering for sale an interest in real estate limited partnerships or real estate syndications exclusively, if such person has obtained a permit from the Real Estate Commission; (18) any security which, prior to or within sixty days after October 1, 1977, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offer of any such security by an issuer or underwriter subsequent to such sixty days; (19) any interest or participation in any common trust fund or similar fund established and maintained by a bank, or by one or more banks under common control as otherwise authorized by general statute, exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its fiduciary capacity; (20) any security issued by a worker cooperative corporation formed under the provisions of sections 33-418f to 33-418o, inclusive; (21) an equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be exempt under this section or would be a "covered security" under Section 18(b)(1) of the Securities Act of 1933; and (22) any other security that the commissioner may exempt, conditionally or unconditionally, on a finding that registration is not necessary or appropriate in the public

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interest or for the protection of investors.

(b) The following transactions are exempted from sections 36b-16 and 36b-22: (1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not; (2) any nonissuer transaction by a registered agent of a registered broker-dealer in a security of a class that has been outstanding in the hands of the public for at least ninety days provided, at the time of the transaction: (A) The security is sold at a price reasonably related to the current market price of the security; (B) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security; (C) a nationally recognized securities manual contains (i) a description of the business and operations of the issuer; (ii) the names of the issuer's officers and directors or, in the case of a non-United States issuer, the corporate equivalents of such persons in the issuer's country of domicile; (iii) an audited balance sheet of the issuer as of a date within eighteen months, or in the case of a reorganization or merger where the parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and (iv) an audited income statement for each of the issuer's immediately preceding two fiscal years, or for the period of existence of the issuer, if in existence for less than two years, or in the case of a reorganization or merger where the parties to the reorganization or merger had such audited income statement, a pro forma income statement; and (D) the issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, or designated for trading on the National Association of Securities Dealers Automated Quotation System, unless the issuer, including any predecessors of the issuer (i) has been engaged in continuous business for at least three years or (ii) has total assets of at least two million dollars based on an audited balance sheet of the issuer as of a date within eighteen months, or in the case of a reorganization or merger where the parties to the reorganization or

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merger had such audited balance sheet, a pro forma balance sheet. The exemption in this subdivision shall not be available for any distribution of securities issued by a blank check company, shell company, dormant company or any issuer that has been merged or consolidated with or has bought out a blank check company, shell company or dormant company unless the issuer or any predecessor has continuously operated its business for at least the preceding five years and has had gross operating revenue in each of the preceding five years, including gross operating revenue of at least five hundred thousand dollars per year in three of the preceding five years; (3) any nonissuer distribution of an outstanding security if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest or dividends on the security; (4) any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the commissioner may by regulation require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period or that the confirmation delivered to the purchaser or a memorandum delivered in connection therewith shall confirm that such purchase was unsolicited by the broker-dealer or any agent of the broker-dealer; (5) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters; (6) any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit; (7) any transaction by an executor, administrator, state marshal, marshal, receiver, trustee in bankruptcy, creditors' committee in a proceeding

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under the Bankruptcy Act, guardian or conservator; (8) any transaction executed by a bona fide pledgee without any purpose of evading sections 36b-2 to 36b-34, inclusive; (9) any offer or sale to a bank and trust company, a national banking association, a savings bank, a savings and loan association, a federal savings and loan association, a federal savings bank, a credit union, a federal credit union, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity; (10) (A) subject to the provisions of this subdivision, any transaction not involving a public offering within the meaning of Section 4(2) of the Securities Act of 1933, but not including any transaction specified in the rules and regulations thereunder. (B) Subject to the provisions of this subdivision, any transaction made in accordance with the uniform exemption from registration for small issuers authorized in Section 19(d)(3)(C) of the Securities Act of 1933. (C) The exemptions set forth in subparagraphs (A) and (B) of this subdivision shall not be available for transactions in securities issued by any blank check company, shell company or dormant company. (D) The exemptions set forth in subparagraphs (A) and (B) of this subdivision may, with respect to any security or transaction or any type of security or transaction, be modified, withdrawn, further conditioned or waived as to conditions, in whole or in part, conditionally or unconditionally, by the commissioner, acting by regulation, rule or order, on a finding that such regulation, rule or order is necessary or appropriate in the public interest or for the protection of investors. (E) A nonrefundable fee of one hundred fifty dollars shall accompany any filing made with the commissioner pursuant to this subdivision; (11) any offer or sale of a preorganization certificate or subscription if (A) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (B) the number of subscribers does not exceed ten, and (C) no payment is made by any subscriber; (12) any

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transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than ninety days of their issuance, if (A) no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state, or (B) the issuer first files a notice, in such form and containing such information as the commissioner may by regulation prescribe, specifying the terms of the offer and the commissioner does not by order disallow the exemption within the next ten full business days; (13) any offer, but not a sale, of a security for which registration statements have been filed under both sections 36b-2 to 36b-34, inclusive, and the Securities Act of 1933, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either said sections or the Securities Act of 1933; (14) any transaction exempt under Section [4(6)] 4(a)(5) of the Securities Act of 1933, and the rules and regulations thereunder. The issuer shall, prior to the first sale, file with the commissioner a notice, in such form and containing such information as the commissioner may by regulation, rule or order prescribe. A nonrefundable fee of one hundred fifty dollars shall accompany any such filing made pursuant to this subdivision; (15) any transaction if all the following conditions are satisfied: (A) The offer and sale is effectuated by the issuer of the security; (B) the total number of purchasers of all securities of the issuer does not exceed ten. A subsequent sale of securities that (i) is registered under sections 36b-2 to 36b-34, inclusive, (ii) is sold pursuant to an exemption under said sections other than this subdivision, or (iii) involves covered securities, shall not be integrated with a sale pursuant to this exemption in computing the number of purchasers hereunder. For the purpose of this subdivision, each of the following is deemed to be a single purchaser of a security: A husband and wife, a child and the parent or guardian of such child when the parent or guardian holds

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the security for the benefit of the child, a corporation, a partnership, an association or other unincorporated entity, a joint stock company or a trust, but only if the corporation, partnership, association, unincorporated entity, joint stock company or trust was not formed for the purpose of purchasing the security; (C) no advertisement, article, notice or other communication published in any newspaper, magazine or similar medium, broadcast over television or radio or communicated by other electronic means or any other general solicitation is used in connection with the sale; and (D) no commission, discount or other remuneration is paid or given directly or indirectly in connection with the offer and sale, and the total expenses, excluding legal and accounting fees, in connection with the offer and sale do not exceed one per cent of the total sales price of the securities. For purposes of this subdivision, a difference in the purchase price among the purchasers shall not, in and of itself, be deemed to constitute indirect remuneration; (16) any transaction exempt under Rule 701, 17 CFR Section 230.701 promulgated under Section 3(b) of the Securities Act of 1933; and (17) any other transaction that the commissioner may exempt, conditionally or unconditionally, on a finding that registration is not necessary or appropriate in the public interest or for the protection of investors.

(c) (1) Any person who offers or sells a security that is a covered security under Section 18(b)(2) of the Securities Act of 1933 shall file with the commissioner, or with any other depository that the commissioner may designate by regulation or order, a notice for each series or portfolio prior to the initial offer of such security in this state, provided such notice requirement does not apply to any offer or sale described in subdivision (9) or (12) of subsection (b) of this section. The notice shall contain such information as the commissioner may require and shall be accompanied by a consent to service of process as required by subsection (g) of section 36b-33 and, except as provided in subdivision (4) of this subsection, a nonrefundable fee of five hundred

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dollars; (2) any notice filed pursuant to this subsection relating to a security issued by a face-amount certificate company or unit investment trust, as such terms are defined in the Investment Company Act of 1940, shall be valid for a period of one year from the date that such security is declared effective by the Securities and Exchange Commission, without limitation as to the number of shares or aggregate amount. Such notice may be renewed annually thereafter upon submission of such information as the commissioner may require, not earlier than thirty days nor later than five days prior to the date upon which such previously filed notice is due to expire, together with a nonrefundable fee of five hundred dollars; (3) any notice filed pursuant to this subsection relating to a redeemable security issued by an open-end management company, as defined in the Investment Company Act of 1940, shall be valid until December thirty-first of the calendar year in which it was first filed, without limitation as to the number of shares or aggregate amount. Such notice may be renewed annually thereafter upon submission of such information as the commissioner may require together with a nonrefundable fee of five hundred dollars; and (4) any notice filed pursuant to this subsection relating to a security issued by a closed-end company shall be valid for one year from the date of receipt by the commissioner or from the date that such security is declared effective by the Securities and Exchange Commission, whichever is later, and shall be accompanied by the nonrefundable fee prescribed in section 36b-19. A closed-end company, the securities of which will continue to be offered or distributed beyond the anniversary date of the filing of such notice with the commissioner or the declaration of such security's effectiveness by the Securities and Exchange Commission, whichever is later, shall file such information as the commissioner may require and include the fee prescribed in section 36b-19.

(d) Any person who offers or sells a security that is a covered security under Section 18(b)(3) of the Securities Act of 1933 shall file a

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consent to service of process with the commissioner as required by subsection (g) of section 36b-33 prior to the first offer or sale of such security in this state.

(e) Any person who offers or sells a security that is a covered security under Section 18(b)(4)(D) of the Securities Act of 1933 shall file a notice with the commissioner within fifteen days after the first sale of such a security in this state. Such notice shall contain such information as the commissioner may require and shall be accompanied by a consent to service of process as required by subsection (g) of section 36b-33 and a nonrefundable fee of one hundred fifty dollars.

(f) The commissioner may by order (1) deny or revoke any exemption specified in subdivision (9) or (11) of subsection (a) of this section or in subsection (b) of this section with respect to a specific security or transaction, (2) suspend the offer or sale of a covered security in this state if any person who offers a covered security fails to comply with any of the requirements set forth in subsections (c), (d) or (e) of this section, or (3) require any person who offers a covered security in this state and refuses to pay any fee required by subsections (c) or (e) of this section to register such security pursuant to section 36b-16. For purposes of this subsection, a delay in the payment of a fee or underpayment of a fee that is promptly remedied shall not constitute a refusal to pay such fee. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions or summarily suspend the offer or sale of any covered security subject to any of the requirements set forth in subsections (c), (d) or (e) of this section pending final determination of any proceeding under this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within

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fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner after notice of, and opportunity for, hearing to all interested persons may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated sections 36b-16 and 36b-22 by reason of any offer or sale effected after the entry of an order under this subsection if such person sustains the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the order.

(g) In any proceeding under sections 36b-2 to 36b-34, inclusive, the burden of proving an exemption, preemption, exclusion or an exception from a definition is upon the person claiming it.

Approved June 6, 2013