



General Assembly

January Session, 2013

**Raised Bill No. 6340**

LCO No. 751



Referred to Committee on BANKS

Introduced by:  
(BA)

**AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT.**

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

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 Section 36b-21 of the general statutes is repealed and the  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

3 (a) The following securities are exempted from sections 36b-16 and  
4 36b-22: (1) Any security including a revenue obligation issued or  
5 guaranteed by the United States, any state, any political subdivision of  
6 a state, or any agency or corporate or other instrumentality of one or  
7 more of the foregoing; or any certificate of deposit for any of the  
8 foregoing; (2) any security issued or guaranteed by Canada, any  
9 Canadian province, any political subdivision of any such province, any  
10 agency or corporate or other instrumentality of one or more of the  
11 foregoing, or any other foreign government with which the United  
12 States currently maintains diplomatic relations, if the security is  
13 recognized as a valid obligation by the issuer or guarantor; (3) any  
14 security that is not a "covered security" under Sections 3(a)(2) and  
15 18(b)(4)(C) of the Securities Act of 1933 and that is issued by and  
16 represents or will represent an interest in or a debt of, or guaranteed

17 by, any international banking institution, any bank, savings bank or  
18 savings and loan association organized under the laws of the United  
19 States, or any bank, savings institution or trust company organized  
20 and supervised under the laws of any state; (4) any security issued by  
21 and representing or that will represent an interest in or a debt of, or  
22 guaranteed by, any federal savings and loan association, or any  
23 savings and loan or similar association organized under the laws of  
24 any state; (5) any security issued by and representing an interest in or a  
25 debt of, or guaranteed by, any insurance company organized under the  
26 laws of any state and authorized to do business in this state; (6) any  
27 security issued or guaranteed by any federal credit union or any credit  
28 union, industrial loan association or similar association organized and  
29 supervised under the laws of this state; (7) any security issued or  
30 guaranteed by any railroad, other common carrier, public utility or  
31 public utility holding company that is (A) regulated with respect to its  
32 rates and charges by the United States or any state; (B) a public utility  
33 holding company registered under the Public Utility Holding  
34 Company Act of 1935 or a subsidiary of such a registered holding  
35 company within the meaning of said act; or (C) regulated with respect  
36 to the issuance or guarantee of the security by the United States, any  
37 state, Canada or any Canadian province or territory; (8) (A) any  
38 security [appearing on the list of over-the-counter and foreign  
39 securities approved for margin by the Board of Governors of the  
40 Federal Reserve System which is not otherwise] that is (i) a margin  
41 security, as defined in regulations or rules adopted by the Board of  
42 Governors of the Federal Reserve System; and (ii) an over-the-counter  
43 security or a security issued by a foreign issuer, regardless of whether  
44 such security is a covered security, (B) any warrant or right to  
45 purchase or subscribe to any security described in subparagraph (A) of  
46 this subdivision, and (C) any warrant or right to purchase or subscribe  
47 to any security listed or approved for listing upon notice of issuance on  
48 (i) the New York Stock Exchange, the American Stock Exchange, the  
49 Chicago Board Options Exchange and such other securities exchanges,  
50 including any successor to said exchanges, as may be designated by  
51 the commissioner from time to time, or (ii) [the list of over-the-counter

52 securities approved for margin by the Board of Governors of the  
53 Federal Reserve System where such security is a covered security, or  
54 (iii)] the national market system of the National Association of  
55 Securities Dealers Automated Quotation System established pursuant  
56 to the Securities Exchange Act of 1934, or any successor to said system;  
57 (9) any security issued by any person organized and operated not for  
58 private profit but exclusively for religious, educational, benevolent,  
59 charitable, fraternal, social, athletic or reformatory purposes, or as a  
60 chamber of commerce or trade or professional association; (10) any  
61 commercial paper which arises out of a current transaction or the  
62 proceeds of which have been or are to be used for current transactions,  
63 and which evidences an obligation to pay cash within nine months of  
64 the date of issuance, exclusive of days of grace, or any renewal of such  
65 paper which is likewise limited, or any guarantee of such paper or of  
66 any such renewal; (11) any security issued in connection with an  
67 employees' stock purchase, stock option, savings, pension,  
68 profit-sharing or similar benefit plan; (12) any security issued by any  
69 cooperative apartment corporation incorporated under the laws of this  
70 state, located in and operating wholly within the borders of this state,  
71 in conjunction with the execution of proprietary leases; (13) any  
72 security issued by any person, organized and located in this state and  
73 operating exclusively for the purpose of promoting the industrial or  
74 commercial development of this state, or such development of any  
75 political subdivision thereof or such development of any regional  
76 planning area within this state, if such persons are approved by the  
77 Commissioner of Economic and Community Development and such  
78 approval has been certified, in writing, by said Commissioner of  
79 Economic and Community Development to the commissioner; such  
80 approval and certification shall be conclusive as to the nature and  
81 purpose of such person; (14) any security issued by the Connecticut  
82 Development Credit Corporation; (15) any security issued by any  
83 nonstock corporation, which is incorporated under the laws of this  
84 state as a cooperative marketing corporation and has its principal place  
85 of business in this state, and which is a farmers' cooperative  
86 organization, as defined in Section 521 of the Internal Revenue Code of

87 1986, or any subsequent corresponding internal revenue code of the  
88 United States, as from time to time amended, if such corporation has  
89 been certified, in writing, by the Connecticut Department of  
90 Agriculture to the commissioner to be a bona fide cooperative  
91 marketing corporation; such certification shall be conclusive as to the  
92 nature and purpose of such corporation; (16) any security issued by all  
93 cooperative associations organized or existing under chapter 595; (17)  
94 any security issued by any person organized, located and operating  
95 within or from the borders of this state, when selling or offering for  
96 sale an interest in real estate limited partnerships or real estate  
97 syndications exclusively, if such person has obtained a permit from the  
98 Real Estate Commission; (18) any security which, prior to or within  
99 sixty days after October 1, 1977, has been sold or disposed of by the  
100 issuer or bona fide offered to the public, but this exemption shall not  
101 apply to any new offer of any such security by an issuer or  
102 underwriter subsequent to such sixty days; (19) any interest or  
103 participation in any common trust fund or similar fund established  
104 and maintained by a bank, or by one or more banks under common  
105 control as otherwise authorized by general statute, exclusively for the  
106 collective investment and reinvestment of assets contributed thereto by  
107 such bank in its fiduciary capacity; (20) any security issued by a  
108 worker cooperative corporation formed under the provisions of  
109 sections 33-418f to 33-418o, inclusive; (21) an equipment trust  
110 certificate with respect to equipment leased or conditionally sold to a  
111 person, if any security issued by the person would be exempt under  
112 this section or would be a "covered security" under Section 18(b)(1) of  
113 the Securities Act of 1933; and (22) any other security that the  
114 commissioner may exempt, conditionally or unconditionally, on a  
115 finding that registration is not necessary or appropriate in the public  
116 interest or for the protection of investors.

117 (b) The following transactions are exempted from sections 36b-16  
118 and 36b-22: (1) Any isolated nonissuer transaction, whether effected  
119 through a broker-dealer or not; (2) any nonissuer transaction by a  
120 registered agent of a registered broker-dealer in a security of a class

121 that has been outstanding in the hands of the public for at least ninety  
122 days provided, at the time of the transaction: (A) The security is sold at  
123 a price reasonably related to the current market price of the security;  
124 (B) the security does not constitute the whole or part of an unsold  
125 allotment to, or a subscription or participation by, the broker-dealer as  
126 an underwriter of the security; (C) a nationally recognized securities  
127 manual contains (i) a description of the business and operations of the  
128 issuer; (ii) the names of the issuer's officers and directors or, in the case  
129 of a non-United States issuer, the corporate equivalents of such  
130 persons in the issuer's country of domicile; (iii) an audited balance  
131 sheet of the issuer as of a date within eighteen months, or in the case of  
132 a reorganization or merger where the parties to the reorganization or  
133 merger had such audited balance sheet, a pro forma balance sheet; and  
134 (iv) an audited income statement for each of the issuer's immediately  
135 preceding two fiscal years, or for the period of existence of the issuer, if  
136 in existence for less than two years, or in the case of a reorganization or  
137 merger where the parties to the reorganization or merger had such  
138 audited income statement, a pro forma income statement; and (D) the  
139 issuer of the security has a class of equity securities listed on a national  
140 securities exchange registered under the Securities Exchange Act of  
141 1934, or designated for trading on the National Association of  
142 Securities Dealers Automated Quotation System, unless the issuer,  
143 including any predecessors of the issuer (i) has been engaged in  
144 continuous business for at least three years or (ii) has total assets of at  
145 least two million dollars based on an audited balance sheet of the  
146 issuer as of a date within eighteen months, or in the case of a  
147 reorganization or merger where the parties to the reorganization or  
148 merger had such audited balance sheet, a pro forma balance sheet. The  
149 exemption in this subdivision shall not be available for any  
150 distribution of securities issued by a blank check company, shell  
151 company, dormant company or any issuer that has been merged or  
152 consolidated with or has bought out a blank check company, shell  
153 company or dormant company unless the issuer or any predecessor  
154 has continuously operated its business for at least the preceding five  
155 years and has had gross operating revenue in each of the preceding

156 five years, including gross operating revenue of at least five hundred  
157 thousand dollars per year in three of the preceding five years; (3) any  
158 nonissuer distribution of an outstanding security if the security has a  
159 fixed maturity or a fixed interest or dividend provision and there has  
160 been no default during the current fiscal year or within the three  
161 preceding fiscal years, or during the existence of the issuer and any  
162 predecessors if less than three years, in the payment of principal,  
163 interest or dividends on the security; (4) any nonissuer transaction  
164 effected by or through a registered broker-dealer pursuant to an  
165 unsolicited order or offer to buy; but the commissioner may by  
166 regulation require that the customer acknowledge upon a specified  
167 form that the sale was unsolicited, and that a signed copy of each such  
168 form be preserved by the broker-dealer for a specified period or that  
169 the confirmation delivered to the purchaser or a memorandum  
170 delivered in connection therewith shall confirm that such purchase  
171 was unsolicited by the broker-dealer or any agent of the broker-dealer;  
172 (5) any transaction between the issuer or other person on whose behalf  
173 the offering is made and an underwriter, or among underwriters; (6)  
174 any transaction in a bond or other evidence of indebtedness secured by  
175 a real or chattel mortgage or deed of trust or by an agreement for the  
176 sale of real estate or chattels, if the entire mortgage, deed of trust or  
177 agreement, together with all the bonds or other evidences of  
178 indebtedness secured thereby, is offered and sold as a unit; (7) any  
179 transaction by an executor, administrator, state marshal, marshal,  
180 receiver, trustee in bankruptcy, creditors' committee in a proceeding  
181 under the Bankruptcy Act, guardian or conservator; (8) any transaction  
182 executed by a bona fide pledgee without any purpose of evading  
183 sections 36b-2 to 36b-34, inclusive; (9) any offer or sale to a bank and  
184 trust company, a national banking association, a savings bank, a  
185 savings and loan association, a federal savings and loan association, a  
186 federal savings bank, a credit union, a federal credit union, trust  
187 company, insurance company, investment company as defined in the  
188 Investment Company Act of 1940, pension or profit-sharing trust, or  
189 other financial institution or institutional buyer, or to a broker-dealer,  
190 whether the purchaser is acting for itself or in some fiduciary capacity;

191 (10) (A) subject to the provisions of this subdivision, any transaction  
192 not involving a public offering within the meaning of Section 4(2) of  
193 the Securities Act of 1933, but not including any transaction specified  
194 in the rules and regulations thereunder. (B) Subject to the provisions of  
195 this subdivision, any transaction made in accordance with the uniform  
196 exemption from registration for small issuers authorized in Section  
197 19(d)(3)(C) of the Securities Act of 1933. (C) The exemptions set forth in  
198 subparagraphs (A) and (B) of this subdivision shall not be available for  
199 transactions in securities issued by any blank check company, shell  
200 company or dormant company. (D) The exemptions set forth in  
201 subparagraphs (A) and (B) of this subdivision may, with respect to any  
202 security or transaction or any type of security or transaction, be  
203 modified, withdrawn, further conditioned or waived as to conditions,  
204 in whole or in part, conditionally or unconditionally, by the  
205 commissioner, acting by regulation, rule or order, on a finding that  
206 such regulation, rule or order is necessary or appropriate in the public  
207 interest or for the protection of investors. (E) A nonrefundable fee of  
208 one hundred fifty dollars shall accompany any filing made with the  
209 commissioner pursuant to this subdivision; (11) any offer or sale of a  
210 preorganization certificate or subscription if (A) no commission or  
211 other remuneration is paid or given directly or indirectly for soliciting  
212 any prospective subscriber, (B) the number of subscribers does not  
213 exceed ten, and (C) no payment is made by any subscriber; (12) any  
214 transaction pursuant to an offer to existing security holders of the  
215 issuer, including persons who at the time of the transaction are holders  
216 of convertible securities, nontransferable warrants or transferable  
217 warrants exercisable within not more than ninety days of their  
218 issuance, if (A) no commission or other remuneration other than a  
219 standby commission is paid or given directly or indirectly for soliciting  
220 any security holder in this state, or (B) the issuer first files a notice, in  
221 such form and containing such information as the commissioner may  
222 by regulation prescribe, specifying the terms of the offer and the  
223 commissioner does not by order disallow the exemption within the  
224 next ten full business days; (13) any offer, but not a sale, of a security  
225 for which registration statements have been filed under both sections

226 36b-2 to 36b-34, inclusive, and the Securities Act of 1933, if no stop  
227 order or refusal order is in effect and no public proceeding or  
228 examination looking toward such an order is pending under either  
229 said sections or the Securities Act of 1933; (14) any transaction exempt  
230 under Section [4(6)] 4(a)(5) of the Securities Act of 1933, and the rules  
231 and regulations thereunder. The issuer shall, prior to the first sale, file  
232 with the commissioner a notice, in such form and containing such  
233 information as the commissioner may by regulation, rule or order  
234 prescribe. A nonrefundable fee of one hundred fifty dollars shall  
235 accompany any such filing made pursuant to this subdivision; (15) any  
236 transaction if all the following conditions are satisfied: (A) The offer  
237 and sale is effectuated by the issuer of the security; (B) the total  
238 number of purchasers of all securities of the issuer does not exceed ten.  
239 A subsequent sale of securities that (i) is registered under sections  
240 36b-2 to 36b-34, inclusive, (ii) is sold pursuant to an exemption under  
241 said sections other than this subdivision, or (iii) involves covered  
242 securities, shall not be integrated with a sale pursuant to this  
243 exemption in computing the number of purchasers hereunder. For the  
244 purpose of this subdivision, each of the following is deemed to be a  
245 single purchaser of a security: A husband and wife, a child and the  
246 parent or guardian of such child when the parent or guardian holds  
247 the security for the benefit of the child, a corporation, a partnership, an  
248 association or other unincorporated entity, a joint stock company or a  
249 trust, but only if the corporation, partnership, association,  
250 unincorporated entity, joint stock company or trust was not formed for  
251 the purpose of purchasing the security; (C) no advertisement, article,  
252 notice or other communication published in any newspaper, magazine  
253 or similar medium, broadcast over television or radio or  
254 communicated by other electronic means or any other general  
255 solicitation is used in connection with the sale; and (D) no commission,  
256 discount or other remuneration is paid or given directly or indirectly  
257 in connection with the offer and sale, and the total expenses, excluding  
258 legal and accounting fees, in connection with the offer and sale do not  
259 exceed one per cent of the total sales price of the securities. For  
260 purposes of this subdivision, a difference in the purchase price among

261 the purchasers shall not, in and of itself, be deemed to constitute  
262 indirect remuneration; (16) any transaction exempt under Rule 701, 17  
263 CFR Section 230.701 promulgated under Section 3(b) of the Securities  
264 Act of 1933; and (17) any other transaction that the commissioner may  
265 exempt, conditionally or unconditionally, on a finding that registration  
266 is not necessary or appropriate in the public interest or for the  
267 protection of investors.

268 (c) (1) Any person who offers or sells a security that is a covered  
269 security under Section 18(b)(2) of the Securities Act of 1933 shall file  
270 with the commissioner, or with any other depository that the  
271 commissioner may designate by regulation or order, a notice for each  
272 series or portfolio prior to the initial offer of such security in this state,  
273 provided such notice requirement does not apply to any offer or sale  
274 described in subdivision (9) or (12) of subsection (b) of this section. The  
275 notice shall contain such information as the commissioner may require  
276 and shall be accompanied by a consent to service of process as  
277 required by subsection (g) of section 36b-33 and, except as provided in  
278 subdivision (4) of this subsection, a nonrefundable fee of five hundred  
279 dollars; (2) any notice filed pursuant to this subsection relating to a  
280 security issued by a face-amount certificate company or unit  
281 investment trust, as such terms are defined in the Investment  
282 Company Act of 1940, shall be valid for a period of one year from the  
283 date that such security is declared effective by the Securities and  
284 Exchange Commission, without limitation as to the number of shares  
285 or aggregate amount. Such notice may be renewed annually thereafter  
286 upon submission of such information as the commissioner may  
287 require, not earlier than thirty days nor later than five days prior to the  
288 date upon which such previously filed notice is due to expire, together  
289 with a nonrefundable fee of five hundred dollars; (3) any notice filed  
290 pursuant to this subsection relating to a redeemable security issued by  
291 an open-end management company, as defined in the Investment  
292 Company Act of 1940, shall be valid until December thirty-first of the  
293 calendar year in which it was first filed, without limitation as to the  
294 number of shares or aggregate amount. Such notice may be renewed

295 annually thereafter upon submission of such information as the  
296 commissioner may require together with a nonrefundable fee of five  
297 hundred dollars; and (4) any notice filed pursuant to this subsection  
298 relating to a security issued by a closed-end company shall be valid for  
299 one year from the date of receipt by the commissioner or from the date  
300 that such security is declared effective by the Securities and Exchange  
301 Commission, whichever is later, and shall be accompanied by the  
302 nonrefundable fee prescribed in section 36b-19. A closed-end  
303 company, the securities of which will continue to be offered or  
304 distributed beyond the anniversary date of the filing of such notice  
305 with the commissioner or the declaration of such security's  
306 effectiveness by the Securities and Exchange Commission, whichever  
307 is later, shall file such information as the commissioner may require  
308 and include the fee prescribed in section 36b-19.

309 (d) Any person who offers or sells a security that is a covered  
310 security under Section 18(b)(3) of the Securities Act of 1933 shall file a  
311 consent to service of process with the commissioner as required by  
312 subsection (g) of section 36b-33 prior to the first offer or sale of such  
313 security in this state.

314 (e) Any person who offers or sells a security that is a covered  
315 security under Section 18(b)(4)(D) of the Securities Act of 1933 shall file  
316 a notice with the commissioner within fifteen days after the first sale of  
317 such a security in this state. Such notice shall contain such information  
318 as the commissioner may require and shall be accompanied by a  
319 consent to service of process as required by subsection (g) of section  
320 36b-33 and a nonrefundable fee of one hundred fifty dollars.

321 (f) The commissioner may by order (1) deny or revoke any  
322 exemption specified in subdivision (9) or (11) of subsection (a) of this  
323 section or in subsection (b) of this section with respect to a specific  
324 security or transaction, (2) suspend the offer or sale of a covered  
325 security in this state if any person who offers a covered security fails to  
326 comply with any of the requirements set forth in subsections (c), (d) or  
327 (e) of this section, or (3) require any person who offers a covered

328 security in this state and refuses to pay any fee required by subsections  
329 (c) or (e) of this section to register such security pursuant to section  
330 36b-16. For purposes of this subsection, a delay in the payment of a fee  
331 or underpayment of a fee that is promptly remedied shall not  
332 constitute a refusal to pay such fee. No such order may be entered  
333 without appropriate prior notice to all interested parties, opportunity  
334 for hearing and written findings of fact and conclusions of law, except  
335 that the commissioner may by order summarily deny or revoke any of  
336 the specified exemptions or summarily suspend the offer or sale of any  
337 covered security subject to any of the requirements set forth in  
338 subsections (c), (d) or (e) of this section pending final determination of  
339 any proceeding under this subsection. Upon the entry of a summary  
340 order, the commissioner shall promptly notify all interested parties  
341 that it has been entered and of the reasons therefor and that within  
342 fifteen days of the receipt of a written request the matter will be set  
343 down for hearing. If no hearing is requested and none is ordered by  
344 the commissioner, the order will remain in effect until it is modified or  
345 vacated by the commissioner. If a hearing is requested or ordered, the  
346 commissioner after notice of, and opportunity for, hearing to all  
347 interested persons may modify or vacate the order or extend it until  
348 final determination. No order under this subsection may operate  
349 retroactively. No person may be considered to have violated sections  
350 36b-16 and 36b-22 by reason of any offer or sale effected after the entry  
351 of an order under this subsection if such person sustains the burden of  
352 proof that such person did not know, and in the exercise of reasonable  
353 care could not have known, of the order.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	36b-21

**BA**      *Joint Favorable*