

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-39		7562	0	6	1
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 2
449-973**

Wednesday, March 10, 1971

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MR. CARROZZELLA: (81st)

Mr. Speaker, the bill merely adds the words in writing relative to a notice given to the State. Strange as it seems, right now the law is that the notice does not have to be in writing. This is a good bill and I hope it passes and as amended it is probably a better bill.

THE SPEAKER:

Will you remark further on the bill as amended. If not, the question is on acceptance and passage as amended by House Amendment Schedule A. All those in favor indicate by saying AYE. Those opposed.

THE bill is PASSED.

THE CLERK:

Cal. No. 55. House Bill No. 7562. AN ACT CONCERNING THE
SUBSTITUTION OF A LIEN IN LIEU OF BOND ON THE DISSOLUTION OF ANY ATTACHMENT.
File 43.

the SPEAKER:

Rep. Guidera of the 162nd.

MR. GUIDERA: (162nd)

Mr. Speaker, the Clerk has an amendment.

THE CLERK:

House Amendment Schedule "A", offered by Mr. Guidera of the 162nd.
Delete Section 5. Renumber Section 6 to Section 5. Renumber Section 7
to Section 6.

MR. GUIDERA: (162nd)

Mr. Speaker, I move passage of the amendment.

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THE SPEAKER:

Question is on adoption of House Amendment Schedule "A". Will you remark.

MR. GUIDERA: (162nd)

Mr. Speaker, I don't know how Section 5 got into this bill. But if it remains in the bill, it will kill the entire effect of the bill. Presently, this would provide, the statute if it passes, will provide, that an individual could substitute other property for an attachment within the State of Connecticut with the discretion of the Court. Section 5 states that the plaintiff and the defendant must agree upon this. This they can do without the statute, Mr. Speaker, and I move adoption of the amendment.

THE SPEAKER:

Will you remark further on the amendment. If not, all those in favor of Amendment Schedule "A" will indicate by saying AYE. Those opposed. The Amendment is ADOPTED. The Chair will rule it technical and we can now proceed with consideration of acceptance of the joint committee's favorable report and adoption of the bill, passage of the bill as amended by House Amendment Schedule "A".

Representative Guidera.

MR. GUIDERA: (162nd)

Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

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THE SPEAKER:

Question is on acceptance and passage as amended. Will you remark.

MR. GUIDERA: (162nd)

Mr. Speaker, this bill entitled "An Act Concerning the Substitution of a Lien in Lieu of Bond on the Dissolution of Any Attachment" amends Section 52-304 by allowing a defendant, upon application granted, to substitute a bond or a lien on any other of his property of equal or greater net equity value for an attachment. The intent of the bill, Mr. Speaker, is to make an attachment what it has always been meant to be - security for a claim. Presently, as written, the statute is used as a weapon over the head of a defendant landowner who wishes to sell his property and can provide equal or greater security but is unable to do so due to the unreasonableness of a plaintiff. I move passage of the bill, Mr. Speaker.

THE SPEAKER:

Further remarks on the bill as amended. Rep. Argazzi from the 25th.

MR. ARGAZZI: (25th)

Mr. Speaker, a question through you to the gentleman, Rep. Guidera. What type of substitute lien is contemplated in this statute.

THE SPEAKER:

Does the gentleman care to respond.

MR. GUIDERA: (162nd)

It would be attachment on similar property. It would be in the discretion of the court, completely at the discretion of the court. Any

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property of greater or equal value which the court would consider sufficient, could be substituted.

THE SPEAKER:

Further remarks or questions. Welcome back, Representative Camp.

MR. CAMP: (163rd)

I may be here but I am not on. Another question to the proponent. Can evidence be admissible or can there be some sort of hearing if there is a dispute as to the lien that is to be substituted.

THE SPEAKER:

Does the gentleman care to respond.

MR. GUIDERA: (162nd)

The answer to that is "no". It is merely the substitution of equal or greater property in value.

MR. CAMP: (163rd)

You mean then that I would submit an affidavit to the court and then the court would decide on a guess or on its estimate. On what basis could the court decide to substitute alien if it determined that the other party said, "Well, no, this is not as good a property as the one that I have at the present time."

MR. GUIDERA: (162nd)

The defendant would have to come forward and prove to the satisfaction of the court that the property being substituted would have to be in Connecticut and would be of equal or greater value. The burden is upon the defendant to show this.

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MR. CAMP: (163rd)

One further question. I understand that you could not admit evidence for this purpose. How would it be shown.

MR. GUIDERA: (162nd)

I'm sorry, I misunderstood your question. Yes, you could admit evidence.

THE SPEAKER:

Further remarks or questions. Representative Argazzi.

MR. ARGAZZI: (25th)

Mr. Speaker, I would, after these answers to these questions, say that this puts a real burden on the attaching creditor or attorney because first of all he has to find some property to attach and if this is the property, the substitute property that will be substituted for, there has to be another title search made and I think it is going to be a heck of a lot of work for an attorney with a creditor with a legitimate claim to go through this whole process. I think you are defeating creditor's rights in this bill.

THE SPEAKER:

Further remarks. Representative Cretella of the 99th.

MR. CRETELLA: (99th)

Mr. Speaker, I would point out that at this time Connecticut is probably one or two states of the 50 that allows attachment prior to judgment and I would, therefore, urge the passage of this bill because I think that it helps to allow us to retain this right and still not abuse it.

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THE SPEAKER:

Are there further remarks. Representative Ajello.

MR. AJELLO: (118th)

Mr. Speaker, I quite agree with the remarks of the last speaker and I rise in support of the bill as amended. This is a unique state in that an attachment can be freely made and whether or not there are remedies available for a wrongful attachment, the true fact of the matter is that it is a process which is very often abused. I am familiar right at the present time with a situation in which an attachment is being used to harass and delay a property owner in order to require him to urge his own insurance carrier to settle a somewhat questionable claim. I think that this is a good bill for that very purpose and that it is needed.

THE SPEAKER:

Further remarks. Representative Gillies of the 75th.

MR. GILLIES: (75th)

Mr. Speaker, contrary to what has been suggested by one of the speakers, this is a bill particularly aimed at the consumer, in a sense, it is the defendant who moves to have the attachment removed from parcel A to parcel B and it is to his best interest that it be done. I think that it is a good bill and it should pass.

THE SPEAKER:

Further remarks. If not, all those in favor of the bill as amended indicate by saying AYE. Those opposed. the bill is PASSED.

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THE CLERK:

Page 3, please. Top of the page, second item.

CAL. NO. 90. File No. 43. Favorable report of the joint standing committee on Judiciary. House Bill No. 7562. Am Act Concerning the Substitution of a Lien in Lieu of Bond On The Dissolution of Any Attachment. As amended by House Amendment Schedule A.

SENATOR JACKSON:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill, as amended by House Amendment Schedule A.

THE CHAIR:

Will you remark?

SENATOR JACKSON:

House Amendment Schedule A deletes Section 5 and renumbers Section 6 to be Section 5 and renumbers Section 7 to Section 6.

The bill is a very equitable one, in that, it allows a substitution of a lien on other property of a defendant where an attachment has been made. At the present time, the only way you can get the lien off is by substituting a Bond. In many instances, this creates a hardship either for paying premiums on the bond or tying up cash or to other securities. It allows the substitution on a lien of other properties of the defendant.

THE CHAIR:

The question is on passage of the bill, as amended by House Amendment Schedule A. Will you remark further? If not, all those in favor signify their intentions by saying, "aye". Opposed, "nay". The ayes have it. The bill is passed.