

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-722		6484	3	3	2
<u>Committee Pages:</u> <ul style="list-style-type: none"> • <i>General Law</i> 265-268 				<u>House Pages:</u> <ul style="list-style-type: none"> • 3671-3673 	<u>Senate Pages:</u> <ul style="list-style-type: none"> • 3355-3356(<i>Consent</i>)

H-115

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 8
3377-3877**

Tuesday, May 25, 1971

30

MR. CRETELLA (99th):

Mr. Speaker, I will summarize House Amendment Schedule "A" if allowed. Schedule "A", Mr. Speaker, merely cleans up the language in the bill as submitted to clearly set forth that it is a seven member commission, that there are two members ex-officio without the right to vote. It changes nothing else in the bill. I would propose that the amendment be adopted.

THE SPEAKER:

Question is on adoption of House Amendment Schedule "A". Would you remark further?

MR. MC NELLIS (85th):

Mr. Speaker, this amendment clears up some language that has been in the statutes since about 1893. I don't oppose the amendment.

THE SPEAKER:

Will you remark further on Amendment Schedule "A"? If not, all those in favor indicate by saying aye. Opposed? The amendment is ADOPTED and ruled technical. Will you remark further on the bill as amended? If not, all those in favor of the bill as amended indicate by saying aye. Opposed?
The bill is PASSED.

THE CLERK:

Calendar No. 1030, substitute for H.B. No. 6484, An Act Concerning Personal Property Liens in Favor of Municipalities.

MR. GUDELSKI (110th):

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

THE SPEAKER:

Will you remark?

MR. GUDELSKI (110th):

djh

Mr. Speaker, this bill provides a mechanism for municipalities to collect their delinquent taxes. It permits the municipality to file a lien against the taxpayer whose taxes on personal property, excepting that of a motor vehicle, are not paid within the time limited by the local charter or ordinance. Section 3, for those that may be interested, spells out the information that is to be contained with each such notice of lien. A notice of tax lien shall not be effective if it is filed more than two years from the date of assessment over the taxes claimed to be due. The lien shall be effective when filed for a period of ten years from the date of filing unless otherwise discharged that is by actual full payment of the taxes for which the lien has been filed including the interest due thereon, by a cash bond or surety company bond furnished to the municipality conditioned upon the payment of the amount liened together with interest due thereon within the effective period of the lien, and by a final judgment rendered in favor of the taxpayers or others claiming an interest in the personal property lien determining that the tax is not owed and the lien is not valid. If, however, the judgment shall determine that the tax is partially owed, then the original notice of lien shall be amended within a period of ten days. When the lien is discharged, a certificate of discharge shall be properly filed by the Tax Collector of the municipality which originally filed a notice of lien. The bill also provides that even though the notice of lien has been filed by a municipality, such lien shall not be valid, one, with respect to the security interest which came into existence after the tax lien filing but which is in qualified property covered by the terms of a written agreement before the tax lien filing and constituting a commercial, constituting commercial transactions financing agreement or an obligatory disbursement agreement and is protected under the laws of the State of Connecticut against the judgment lien

arising out of an unsecured obligation, also with respect to security interests which came into existence after the tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing or before the person making such disbursements had actual notice or knowledge of the tax lien filing, whichever is earlier, but only if such security interests is in property subject to the imposed lien and covered by the terms of a written agreement entered into before the tax lien filing and is protected by the laws of Connecticut against the judgment lien arising out of an unsecured obligation, obligation. And also with respect to tangible personal property purchased at retail unless at the time of such purchase, such purchaser intends that the purchase is to hinder, evade or defeat the collection of the lien tax. And also with respect to a purchase money security interest if such purchase money security interest would be prior to a conflicting security interest in the same collateral under section 42a-9-312 of the general statutes and it's titled, Priorities Among Conflicting Security Interest in the Same Collateral.

Mr. Speaker, this is a mechanism that many of our municipalities have been seeking and have been looking forward to. I move passage of this bill. It's a good one.

THE SPEAKER:

Further remarks on the bill? If not, all those in favor indicate by saying aye. Opposed? The bill is PASSED.

THE CLERK:

Back to page 6, second from the bottom, Calendar No. 1014, on page 6, Dr. Cohen, substitute for H.B. No. 6127, An Act Concerning Practice of Dentistry in Clinics and Schools of Dentistry.

THE SPEAKER:

The Chair recognizes the gentleman from the 41st. It's extremely

S-82
CONNECTICUT
GENERAL ASSEMBLY

SENATE

PROCEEDINGS
1971

VOL. 14
PART 7
2874-3413

June 9, 1971

Page 26

of the bill, as amended, signify by saying, "aye". Opposed, "nay". The ayes have it, the bill is passed.

SENATOR IVES:

Mr. President, I move for suspension of the rules for immediate transmittal to the House, On cal. 786, Cal. 1172 and Cal. 677.

THE CHAIR:

If there is no objection, it is so-ordered.

SENATOR CALDWELL:

Mr. President, by agreement of the Minority and the Majority parties, may we take up on a Consent Motion, the following matters: I move for the adoption of the joint committee's favorable reports and the passage of the bills: On page two of the Calendar, 987, File No. 1125, Substitute House Bill 6484. An Act Concerning Personal Property Liens in Favor of Municipality 1101, File 1288, Substitute House Bill 7869, An Act Concerning State Pilots and Pilotage. Page 4, of the Calendar, Cal. 1190, File 1103, Sub House Bill 6709, An Act Concerning An Establishment of a Five Mile River Commission. Cal. 1196, File 1373, Sub House Bill 8671, An Act Concerning Acquisition of Case Mountain for use of A State Park. Cal. 1210, File 1425, Sub House Bill 5760, An Act Authorizing the Treasurer to Replace Mutilated, Defaced, Destroyed, Stolen or Lost State Obligations. Page 5, Cal. 1221, File 787, Sub House Bill 8334, An Act Concerning the Number of Resident State Policemen. Cal. 1224, File 930, House Bill 8453, An Act Concerning Military Funerals for National Guardsmen. Cal. 1230, File 1375, Sub House Bill 7929, An Act Concerning Second Taxing District of Norwalk. Cal. 1241, File 1471, Sub House Bill 5046. An Act Concerning Holding and Sale of Bonds to the State and the Pension Fund of the Teachers Retirement System. Page 6, Cal. 1242, File 1481

June 9, 1971

Page 27

House Bill 5168. An Act Concerning the Power of Lending of Future Advancement of Money and to Complete the Work Progress in the Event of Default.

Cal. 1255, File 1470, Sub House Bill 6723, An Act Concerning Technical Amendments to the Planning and Zoning Statutes with Respect to Hearing.

Cal. 1258, File 1490, House Bill 7321, An Act Concerning Payment for Preparation of Preliminary School Building Plans.

Cal. 1265, File 1472, House Bill 8612, An Act Permitting Constables in Small Towns to Make Arrests outside their jurisdiction and fresh pursuit cases.

Page 7, Cal. That is all I have for now.

Mr. President, at this time, I'd like to suggest that we proceed with the following two Calendars: Cal. 1358, commonly known as the Gambling Bill, File 1362, known as the Environmental Bill.

THE CHAIR:

Senator, do you not want to make to move on the Consent Motion?

Question is on the bill enumerated by the Majority Leader, is there any objection to their passage? Hearing none, said bills are declared passed.

SENATOR CALDWELL:

Mr. President, if any of them did not have double stars, I move that the rules be suspended.

THE CHAIR:

Motion has been made for suspension of the rules where necessary, concerning double or single starred items. Hearing no objection, suspension of the rules is ordered.

THE CLERK:

CAL. NO. 1358, File No. 1560. Favorable report of the joint committee on Appropriations. Substitute House Bill 7238. An Act Concerning A Commission

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GENERAL
LAW**

**PART 1
1-296**

**1971
Index**

feeling encroached upon at all times, and this would be one more way of encroaching a little bit more. For this reason I favor this bill. I am also in favor of Bill #5226 because again Waterford, as many communities in this area, has its own identify, its own character. Zoning is the heart of a town's development. It is the basis of developing this character, and if any state body were to restrict local zoning in any way against the views of the majority, it might well erode the nature or the character of this very town. This bill will insure that the localities can control their own future development the way the majority see fit, because the Planning and Zoning Board, as any board or commission or any elected assembly in any town, sways very much with what the majority wants to do, we're close to it, we hear what they want, we see what they want, and we try to do what they want in the best possible manner. That's all. Thank you.

Rep. Webber: I think we've cleaned up #5059. Oh yes, go ahead.

Mr. William S. Mayer, First Selectman of the Town of East Granby: I would like to oppose #5059 as I would like to oppose all the bills for the very same reason. I believe that there is nothing that needs correcting as far as the present zoning or the regional planning agency's authority. Present zoning rests within the hands of the local town. This is where I would like to see it stay. I do not think you need any state statutes, any additional state statutes, to correct that. The only state statutes that will be possibly introduced is to take away the local power of zoning. I believe the Regional Planning Agency has no real power at this particular time and there is no need to override any of their views which you can ignore or obey as you see fit. I believe that none of these bills do anything for anybody and will only clutter up the state statutes. I oppose them all.

Rep. Webber: Thank you, Bill. Any questions? I think we ought to start going down the list, and as you get here talk about whatever bills you want. Is Senator Ives here? Donald Lee Rome?

Mr. Donald Lee Rome, practicing Attorney in Hartford: I am delighted to have the opportunity to speak to this Committee about H.B. #6484 which deals with personal property liens in favor of the municipalities. As a practicing attorney with experience in matters pertaining to secured financing, I am concerned about the bill not because I would oppose it, because I don't, but rather because I believe that for this bill to effectively create the rights which the Legislature might want to

create in favor of the towns, it should have certain additional provisions because of conflicts which could exist with the existing law, particularly the uniform commercial code. I do believe that it would be altogether appropriate for the towns to have a lien for personal property taxes on the property out of which the tax arose, and I do agree that the filing provisions of the uniform commercial code, which are embodied in this bill, should be embodied within any legislation to provide the towns with such a lien. However, I do believe that in order to carry out the purposes, something similar to what the Internal Revenue Act provides would also have to be provided. Once the town has the lien, by virtue of its filings, something has to be provided in the legislation to spell out what rights the town would then have to foreclose on the lien. I would recommend that in addition to having the legislation incorporate the filing provisions of the uniform commercial code, that the legislation should also include a reference to that portion of the uniform commercial code which deals with the rights of a secured party who wants to foreclose on his lien. Now those provisions deal with notice requirements to the party whose property has been taken, notice requirements to all other parties who may have filed against the property, procedures that deal with the disposition of the property in a commercially reasonable manner, the notice requirement in that regard, as well as requirement for disposition of the proceeds or funds which arise out of the sale. That's one area, namely the area of default provisions and I would suggest that Part V, Article 9, of the Uniform Commercial Code be incorporated in such legislation as may be favorably acted upon that would provide for this personal property tax lien. Now, a second area, which is terribly important in this particular kind of legislation, has to do with against whom the lien is or is not valid. The best example I can give you is the Internal Revenue Act. The federal government has a tax lien which specifically exempts certain parties against whom its validity would apply. The best example would be a purchaser who buys good in the ordinary course of business from someone against whom a lien has been filed. Now that party, under the Internal Revenue Act, has to, in order to make business operate successfully, have clear title to the property. I would suggest that something akin to the exemption of the federal act be applicable here. Now there are other exemptions, and I won't go into them, I simply use that as an example, and it would seem that in the absence of this, we can have great conflict and we really end up, without intending

15
RSW
WEDNESDAY

GENERAL LAW

MARCH 3, 1971

to, by hurting the parties that you really don't intend to hurt for this reason. Your business is located within the state, who are most likely to have problems in the area of payment of their personal property taxes, are going to be businesses which by and large are not your very very largest and strongest. These businesses will require normally, as their life blood, credit from those who sell goods to them or from lending institutions. Most of the time that credit has to be secured, and the only way you can have good secured lending or good secured selling, is to have certainty in terms of what the rights of all the parties are who would have security interests. For this reason, legislation of this type should be dove-tailed with all the provisions of the Uniform Commercial Code that would be applicated. I think, Representative Webber, you're referring to the Consumer Credit Code, which is entirely different from the Commerical Code...you see I was on the Commission, as a matter of fact, and that's a different matter. This Commercial Code, which the Legislature adopted in '61 is now in force in 49 states and I may say, in terms of what can happen, when one state either tampers with it to a point where you have uncertainty, or in the particular case I'm going to mention, Louisiana where they don't have the Code, the fact is that Louisiana businesses do not have the same access for...or to credit from vendors or from lenders, as Businesses do in the other states, and the main reason is because there is no certainty of the position of the sellers and the lenders in these states. The reason I feel very strongly that it would be beneficial to have the appropriate provisions in this legislation is this: If legislation is passed which makes it very difficult for the business people in terms of lenders and sellers to know where they stand, they can adjust, they don't sell on credit or they don't lend, its easy for them to adjust. The people who have a tough time adjusting are the business people who may not qualify for a general line of unsecured credit, and who because of lien legislation that creates uncertainty, are unable to obtain secured lending. So I strongly recommend that there be some revision along these lines if this Committee is to report out this legislation favorably, and I also wish to make note of the fact that there is before this Committee also S.B. #957 which deals with a wage priority lien, and there is before the Labor Committee H.B. #7250 which also deals with a wage priority lien, and those have problems which I couldn't even begin to discuss now, but I would strongly recommend that any consideration of such lien laws by

16
RSW
WEDNESDAY

GENERAL LAW

MARCH 3, 1971

the Committees be pulled together, whether it be this Committee or any other Committee, and that there be perhaps consultation with people who are specialized in the field and who know about the federal lien laws and bankruptcy laws so that we end up with appropriate legislation which provides the necessary liens and at the same time allows the people who need certainty in the field of endeavor that's involved here, to have this certainty that would be necessary. I thank you very much for the opportunity to testify.

Rep. Webber: Thank you

Elmer Lowden: May I ask one question? Sir, do you see any difficulty in getting an adequate description of the properties which the lien would attach if this legislation is enacted?

Mr. Rome: Well, I'm making an assumption that the tax out of which the lien would arise, if we would have it, would be machinery and equipment and inventory, and I would assume that again going back to the Uniform Commercial Code that the towns would use the same descriptions which lenders and other vendors would use whereby they would say all machinery and equipment located at certain premises or all inventory. If they did that, and if this were dovetailed with the Commercial Code, then I think the towns could properly describe the assets.

Mr. Lowden: You've got a problem with the assessment rate...
.....would attach as of your assessment rate. (pretty much inaudible)

Mr. Rome: Well, you see the lien would attach as....that's another point. You have to provide in this legislation for a date of perfection in terms of lien law, which would have to be not the assessment date, because people don't know about that from all over the country. It would have to be the filing date and that would, I would suggest, in terms of tidying this up, that there would have to be a date of perfection and the same as the Internal Revenue. The Internal Revenue assesses its lien long before it files, and yet its lien only is effective from the date of filing. Are there any other questions? Thank you.

Rep. Webber: Any questions? Thank you very much. Mr. Leahey?

Mr. Richard S. Leahey, 36 Charcoal Ridge Rd., Danbury, Conn:
I wanted to speak regarding an amendment possibly to