

Act Number	Session	Bill Number	Total Number of Committee Pages	Total Number of House Pages	Total Number of Senate Pages
PA 71-809		5168	4	3	1
<u>Committee Pages:</u> <ul style="list-style-type: none"> Judiciary 719 Judiciary 699-700 Judiciary 735 Judiciary 710 				<u>House Pages:</u> <ul style="list-style-type: none"> 4933-4935 	<u>Senate Pages:</u> <ul style="list-style-type: none"> 5356

H-118

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
1971**

**VOL. 14
PART 11
4831-5162**

Friday, June 4, 1971 103.

On Page 15, Calendar No. 1301, H.B. No. 5168, an Act concerning the power of lenders to secure future advancements of mon- and ey to complete work in progress in event of default. EFH

ROBERT G. OLIVER:

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the Bill. Mr. Speaker, the Clerk has an Amendment.

MR. SPEAKER:

The Clerk will call Amendment Schedule "A".

THE CLERK:

House Amendment Schedule "A", offered by Mr. Oliver. In Line 62, delete the words "Whether or not such debt may" and substitute the following: "provided in no such case shall the total debt due".

ROBERT G. OLIVER:

Mr. Speaker, I move adoption of the Amendment.

MR. SPEAKER:

Question's on adoption of Amendment Schedule "A". Will you remark.

ROBERT G. OLIVER:

Mr. Speaker, this is a technical Amendment clarifying the right of a mortgagee to complete work in progress when it's subject to a mortgage to secure future advancements.

MR. SPEAKER:

Will you remark further on Amendment Schedule "A". If not, all those in favor indicate by saying "aye". Opposed. Amendment "A" is adopted.

Friday, June 4, 1971 104.

ROBERT G. OLIVER:

EFH

Mr. Speaker, I move acceptance of the Bill as amended by House "A".

MR. SPEAKER:

Question's on acceptance and passage as amended by House Amendment Schedule "A". Will you remark.

ROBERT G. OLIVER:

Mr. Speaker, rare indeed it is that I am speaking in favor of Bills sponsored by the gentleman from the 165th, but I do so today. And it's a good Bill...basically a technical Bill...clarifying mortgages to secure future advancements...clearly allows site improvements to be covered now in addition to the construction...the building itself...clarifies certain advancements on condition, and as I indicated before, handles the mortgagee actually completing the construction. Good Bill as amended. I urge its passage.

MR. SPEAKER:

Further remarks on the Bill as amended.

RONALD A. SARASIN:

Mr. Speaker, sitting in the gentleman's chair and echoing the gentleman from the 104th's concern for the gentleman from the 165th, I, too, endorse this Bill...urge its adoption.

MR. SPEAKER:

Will you remark further on the Bill as amended.

ROBERT G. OLIVER:

Mr. Speaker, I will not reconsider. I still support the Bill.

MR. SPEAKER:

EFH

With this unique twist and development on the floor of the House, will you remark further on the Bill as amended. If not in that spirit of brotherly love expressed across the aisle by the gentleman from New Haven, the gentleman from the 95th, all those in favor indicate by saying "aye". Opposed. Bill is passed.

THE CLERK:

At the top of Page 16, Calendar No. 1306, Substitute for H.B. No. 5785, an Act concerning School Boards of Education--teacher negotiations.

GEORGE W. HANNON, JR.:

Mr. Speaker, I move this matter be passed retaining its place on the Calendar.

MR. SPEAKER:

So ordered.

THE CLERK:

Page 19, the middle of the page, Calendar No. 1348, on Page 19, Substitute for H.B. No. 9165, an Act concerning administrative appeal.

RICHARD C. WILLARD:

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

MR. SPEAKER:

Will you remark.

RICHARD C. WILLARD:

Mr. Speaker, the Clerk has an Amendment.

MR. SPEAKER:

S-82
CONNECTICUT
GENERAL ASSEMBLY

SENATE

PROCEEDINGS
1971

VOL. 14
PART 7
2874-3413

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**

JUDICIARY

**PART 3
689-1000**

1971

applies to mechanic's liens and with the changes, we advocate recording the certificate of foreclosure of judgment. You can tell now, from an examination of land records, whether or not the mechanic's lien limitation statute has been complied with and you can also tell whether or not the judgment liens of limitations has been complied with.

There should not be any requirement of going to the owner of the lien to require him to release it. It would appear on record that the limitations statute has not been complied with then the respective liens should be extinguished by operation of law.

H.B. #5167 - AN ACT CONCERNING THE UNAUTHORIZED RECORDING OF CLAIMS AGAINST REAL PROPERTY.

H.B. #5167 has to do with a problem that all conveyances meet up with and that is finding a bond of land records, a statement usually prepared by a layman, that some certain party claims an interest in property and it is nothing more than a blackmail normally - a situation. But under the existing law, most attorneys shy away from it. This statute endeavors to outlaw any such statements unless there is a provision by statute permitting them to be recorded and the existance of these caveat statement upon the land records shall outweigh in any way to effect the marketability of the title so that Title Examiners can ignore them and not required now to go to the person to hold up a transaction to try to get a release because they have no statutory authorization as it is.

Sen. Rome: You know on that point, they have no statutory authorization now... ..Do you feel that this would substantially change them?

Mr. Gallivan: Oh, definitely because these provide specifically that the existance of these unreleased upon the land records shall not effect the title

Sen. Rome: Do you feel that this eliminate any by a title company and insure a title?

Mr. Gallivan: Yes, without question.

H.B. #5168 - AN ACT CONCERNING THE POWER OF LENDERS TO SECURE FUTURE ADVANCEMENTS OF MONEY AND TO COMPLETE WORK IN PROGRESS IN THE EVENT OF DEFAULT.

This Bill is an attempt to supplement add to Section 49-3 dealing with the construction advances to lenders pursuant to the statute. As you know that statute changed the common law so that advances now may be made at the discretion of the lender.

The first change we advocate is to make certain that the statute site improvements as well as buildings. There is a difference of opinion among conveyances now whether you can use that statute when the lender is simply lending money for site improvements, road construction, water facilities, storm water facilities, drainage facilities of any kind; and by the addition we have the language and we eliminate that doubt.

The next addition proposed to this statute is one born out of recent lending theories. Frequently you will find under construction mortgages today, the lender will agree to make the last advance or the last two advances provided there are a certain minimum rentals provided for as regard to property - in other words, that existing leases have already been signed providing for minimum amount of rentals. These are so-called "rent rolls". Again, the conveyancing bar is in disagreement whether you could add that type of clause to the existing statutory language or whether you are required to adopt an entirely new type of construction mortgage in order to take care of that.

This proposed addition permits now the lender to add any additional clause to the statutory language in order to make the mortgage reflect the actual agreement of the party if they have an agreement as regards certain specific advances that are not to be up to the discretion of the lender.

The third addition to this statute takes care of very knotty problem that we run into every day. You know this statute provides - and this is the one specific requirement as I recall that it has, and that is except for the time when the building will be completed and then provides that the advances must be made at that time. Experience shows that frequently the builder does not complete within the 18 months or within the 12 or 16 months as is set forth in the mortgage. What lenders have been doing is requiring a modification - lengthy modification of the mortgage requiring mechanic's lien waivers to be secured, requiring an up-dated survey and a title search which is a tremendous expensive time consuming proposition.

This proposed amendment in addition to the statutes to provide that the completion date may be modified by a mere agreement signed by the parties and that they be recorded and that once recorded, the priority of the mortgage, as regards subsequent parties will not be effective in any way by merely modifying the date the building will be completed and hence the date of the advance.

The fourth addition we propose is one based on this philosophy. If a builder built a fleet of buildings and left partiality completed, it is much better frequently, if the lender has the authority to go on and complete the building using the mortgage proceeds to do so. Subsequent incumbances are better off if they are dealing with a completed building rather than an incomplete building and the addition that we propose here permits the lender, under a future advance mortgage, to complete the building even though the actual cost may exceed the base amount of the mortgage. And the expenditures of the lender will be secured by the mortgage and that result is - yes your mortgage indebtedness is higher than it would be if it remained at the stage when the builder walked off the job. Nevertheless, the subsequent incumbances now have a completed building with a better chance of realizing their interest in the building, their security in the building then they would in a foreclosure of an incompleted building took place.

Mr. Schwartz: My name is David Schwartz, my address is 799 Main Street in Hartford. I am here on behalf of the Savings Banks Association of Connecticut. We support Bill #6754.

H.B. #6754 - AN ACT CONCERNING LIENS ON PROPERTY CONDEMNED AS A NUISANCE.

This is a Bill which would amend Section 54-33g of the General Statutes. Under that Section of the General Statutes, the State may condemn, without compensation, any property used in connection with a crime. The Section is not limited to property which is itself, inherently criminal such as heroin or gambling apparatus, it applies as well to - for example a car used for transporting heroin or a house in which illegal gambling is conducted.

The Savings Banks have secured lenders, frequently have on cars and mortgages on houses. Our concern is that we not lose our security interest on a car/house which the State condemns pursuant to Section 54-33g. That is the purpose of Bill #6754. It provides that the car/house become the property of the State, subject to the land.

Representative Stevens, who introduced the Bill, has expressed concern that the Bill might be used by a criminal to evade Section 54-33g. For example, he suggested that the gangster might give us security interest in his car/house to his wife with the result that when the State condemns the property, the effect would merely be to transfer ownership of the property from the criminal to his wife. For that reason, we have prepared to modify the Bill which by its terms, excludes the lien given for the purpose of evading the act and I would like to present that modified Bill to the Committee. Thank you.

Sen. Jackson: Would you leave that for the Secretary, please.

Mr. Schwartz: The Savings Banks Association of Connecticut also supports a number of other Bills that are before you today. Nos. 5095, 5164, 5168, 5169, 5172, 5173, 5868 and 1049 and we have a written statement in support of those which I would like to leave with you.

H.B. #5095 - AN ACT PROVIDING FOR A REVISION OF THE MECHANIC'S LIEN LAW TO PROTECT THE INNOCENT PURCHASER FOR VALUE.

H.B. #5164 - AN ACT CONCERNING INDEFINITE REFERENCES IN RECORDED INSTRUMENTS.

H.B. #5168 - AN ACT CONCERNING THE POWER OF LENDERS TO SECURE FUTURE ADVANCEMENTS OF MONEY AND TO COMPLETE WORK IN PROGRESS IN THE EVENT OF DEFAULT.

H.B. #5169 - AN ACT CONCERNING THE REVOCATION OF POWERS OF ATTORNEY.

H.B. #5172 - AN ACT CONCERNING A MARKETABLE TITLE ACT.

H.B. #5173 - AN ACT PROVIDING A MASTER MORTGAGE RECORDING ACT.

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March 9, 1971

Joint Committee on Judiciary

STATEMENT OF THE SAVINGS BANKS' ASSOCIATION
 OF CONNECTICUT IN SUPPORT OF HOUSE BILLS NOS.
 5095, 5164, 5168, 5169, 5172, 5173 AND 5868
 AND SENATE BILL NO. 1049

Gentlemen:

As mortgagees, the savings banks have an interest in improving and clarifying the law of real property. We support these bills because we believe that their enactment would improve and clarify the law of real property.

House Bill No. 5095, "AN ACT PROVIDING FOR A REVISION OF THE MECHANIC'S LIEN LAW TO PROTECT THE INNOCENT PURCHASER FOR VALUE", would revise the mechanic's lien law so that a title searcher examining the land records would know to what liens the property may be subject.

House Bill No. 5164, "AN ACT CONCERNING INDEFINITE REFERENCES IN RECORDED INSTRUMENTS", would invalidate indefinite references in recorded instruments, and would thus remove an unreasonable burden on title searchers.

House Bill No. 5168, "AN ACT CONCERNING THE POWER OF LENDERS TO SECURE FUTURE ADVANCEMENTS OF MONEY AND TO COMPLETE WORK IN PROGRESS IN THE EVENT OF DEFAULT", would improve and clarify the law of construction mortgages.

House Bill No. 5169, "AN ACT CONCERNING THE REVOCATION OF POWERS OF ATTORNEY", would eliminate the hazard presently involved in accepting a deed from an attorney-in-fact.