

**Act Number:** 09-083

**Bill Number:** 6640

**Senate Pages:** 2348-2349, 2585-2588 **6**

**House Pages:** 2706-2710 **5**

**Committee:** Judiciary: 5010-5011, 5012-  
5015, 5016-5019, 5449 **11**

**Page Total:** **22**

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2009**

**VOL. 52  
PART 8  
2344 - 2636**

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SENATE

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May 19, 2009

SENATOR LOONEY:

Thank you, Mr. President. Mr. President,  
Calendar page six, Calendar 436, Senate Bill 609,  
marked "passed temporarily."

Calendar page ten, Calendar 546, Senate Bill 579  
is marked "go."

Also, Calendar page ten, Calendar 557, Senate  
Bill 1062, marked "passed temporarily."

Calendar page 11, Calendar 582, House Bill 5436,  
marked "passed temporarily."

Calendar page 12, Calendar 599, House Bill 6463.  
Mr. President, move to place that item on the Consent  
Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, moving  
to Calendar page 13, Calendar 607, House Bill 6576 is  
marked "go."

Calendar page 13, Calendar 608, House Bill 6640.  
Mr. President, move to place that item on the Consent  
Calendar.

THE CHAIR:

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Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Calendar page 14, Calendar 611, House Bill 6341. Mr. President, move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Continuing on Calendar page 14. Calendar 612, House Bill 6286, Mr. President, mark that "passed temporarily."

Also, Calendar page 14, Calendar 620, House Bill 5664 is marked "go."

Calendar page 15, Calendar 622, House Bill 6496, marked "go."

Continuing Calendar page 15, Calendar 623, House Bill 6588 is marked "passed temporarily".

Calendar page 16, Calendar 627, House Bill 6567 is marked "go."

Continuing Calendar page 16, Calendar 628, House Bill 5809. Mr. President, move to place that item on the Consent Calendar.

THE CHAIR:

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that it be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered. Mr. Clerk, would you please return to the call of the Calendar. Mr. Majority Leader.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, if the Clerk might call the first Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

The roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber? An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber? Mr. President, those items placed on the first Consent Calendar begin on Calendar page 5. Calendar Number 392, House Bill 6433.

Calendar 397, Substitute for House Bill 5915.

Calendar 405, House Bill 5536.

Calendar page 6, Calendar 406, House Bill 5873.

Calendar 457, substitute for House Bill 6264.

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Calendar page 12. Calendar Number 599,  
substitute for House Bill 6463.

Calendar page 13, Calendar 608, House Bill 6640.

Calendar page 14, Calendar 611, substitute for  
House Bill 6341.

Calendar 612, substitute for House Bill 6286.

Calendar 620, substitute for House Bill 5664.

Calendar page 15, Calendar 622, substitute for  
House Bill 6496.

Calendar page 16, Calendar 628, House Bill 5809.

Calendar 630, substitute for House Bill 5519.

Calendar page 23, Calendar Number 284, substitute  
for Senate Bill 290.

Calendar page 24, Calendar 103, Senate Bill 754.

Calendar 120, Senate Bill 818.

Calendar 136, Senate Bill 789.

Calendar page 26, Calendar 179, substitute for  
Senate Bill 951.

Calendar page 27, Calendar 207, substitute for  
Senate Bill 950.

Calendar page 29, Calendar 252, substitute for  
Senate Bill 1068.

Calendar page 34, Calendar Number 420, Senate

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Bill 325.

And Calendar page 40, Calendar Number 541, House  
Bill 6076.

Mr. President, that completes the items placed on  
the first Consent Calendar.

THE CHAIR:

On the first Consent Calendar, the machine is  
open.

THE CLERK:

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to  
the Chamber? The Senate is now voting by roll call on  
the Consent Calendar. Will all Senators please return  
to the Chamber?

THE CHAIR:

Have all the Senators voted? Seeing that all  
Senators have voted, the machine will be closed.  
Clerk, please announce the tally.

THE CLERK:

Motions on adoption to the Consent Calendar,  
number 1.

Total Number Voting 36

Those voting Yea 36

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Those voting Nay 0

Those absent and not voting 0

THE CHAIR:

The Consent Calendar is adopted. Mr. Majority  
Leader.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, a few  
more items to be marked "go." First, Calendar page  
29, Calendar 249, House Bill 6185. Calendar page 35,  
Calendar 424, Senate Bill 1045. Calendar page 36,  
Calendar 429, Senate Bill 940. Thank you, Mr.  
President.

THE CHAIR:

Thank you, sir. Mr. Clerk.

THE CLERK:

Turning to Calendar page 29, Calendar Number 249,  
Files number 49 and 285, House Bill 6185, AN ACT  
CONCERNING PENALTIES FOR VIOLATIONS OF CERTAIN  
PERSONNEL FILE STATUTES as amended by House Amendment,  
Schedule "A". Favorably Reported, Committee on Labor  
and Judiciary.

THE CHAIR:

Senator Prague.



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guests come to the well. House members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber please.

SPEAKER DONOVAN:

Have all members voted? Have all the members voted? Please check the board to make your votes were properly cast. If all the members have voted the machine will be locked and the Clerk will please take a tally. Will the Clerk please announce the tally.

THE CLERK:

House Bill 6576.	
Total number voting	139
Necessary for pass	70
Those voting Yea	139
Those voting Nay	0
Those absent or not voting	12

SPEAKER DONOVAN:

Bill is passed. Will Clerk please call Calendar 417.

CLERK:

On page 41, Calendar 417. House Bill Number

6640, AN ACT INCREASING THE PENALTY FOR FOREIGN CORPORATIONS AND OTHER ENTITIES THAT TRANSACT BUSINESS OR CONDUCT AFFAIRS IN THIS STATE WITHOUT AUTHORITY, favorable report of the Committee on Finance, Revenue, and Bonding.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

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

SPEAKER DONOVAN:

Questions in acceptance of the Joint Committee's favorable reporting passage of the bill. Will you remark, sir.

REP. FOX (146th):

Thank you, Mr. Speaker. This bill comes to us from the Office of the Secretary of State. What it does is it increases the penalty that may be charged from \$165 to \$300 on foreign business entities who -- who conduct business in this state. It would apply to -- excuse me, conduct business in this state without registration. It applies to foreign stock and nonstock corporations, limited partnerships, limited

liability companies, registered liability partnerships, and statutory trusts. It's -- as was testified before the Judiciary Committee this amount from \$165 has not been raised in approximately 20 years. It did get out of the Judiciary Committee unanimously and I would urge passage of this bill.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark on the bill? Representative O'Neill.

REP. O'NEILL: (69th):

Yes. Thank you, Mr. Speaker. And this bill is in some ways similar to the one we just acted on previously in which the numbers have not been increased for awhile. When businesses transact business without registering with the Secretary of State, they frequently are also in violation of other statutes, considerable retraction laws, various licensing laws, that they don't register with anybody they just set up shop here and the penalty of \$165 a month is relatively modest if you can make a lot of money in a short period of time, move in, move out.

Then that's an incentive I think for those sort of fly-by-night type companies to try to transact business here. Hopefully this penalty is enough of an

increase to be a disincentive to them and also to provide the Secretary of State's Office perhaps with more of an incentive to try to collect it since the penalty is now worth going after in a -- being a larger amount of money. And of course anybody who comes into Connecticut, does not register as a business entity, and is competing with those businesses who have done so, is at -- doing so with a certain competitive advantage and puts out local industries at a disadvantage. So I think that this would hopefully it will discourage those kind of fly-by-night organizations, be helpful to the business communities here in the State of Connecticut. And I would urge adoption. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Remark further on the bill. Remark further on the bill. If not, staff and guests come to the well. House members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber.

SPEAKER DONOVAN:

Has every -- have all the members voted? Have all the members voted?

Have all the members voted? Have all the members voted? If all the members have voted please check the board and make sure your votes were properly cast. If all the members have voted the machine will be locked and the Clerk will please take a tally.

Would the Clerk please announce the tally.

THE CLERK:

House Bill 6640

Total number voting 138

Necessary for passage 70

Those voting Yea 138

Those voting Nay 0

Those absent and not voting 13

SPEAKER DONOVAN:

Bill passes.

Clerk please call Calendar 409.

THE CLERK:

On page 14, Calendar 409, substitute for House Bill Number 5883, AN ACT CONCERNING THE UNLICENSED PRACTICE OF MASSAGE THERAPY, favorable report of the Committee on Judiciary.

SPEAKER DONOVAN:

**JOINT  
STANDING  
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**JUDICIARY  
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10:00 A.M.

SENATOR MCDONALD: Thank you. Anything further?  
Thanks very much.

SENATOR STILLMAN: Thank you very much. I'm off to  
Public Health. Thank you.

SENATOR MCDONALD:.. Good to see you advocating on  
behalf of constituents. Susan Bysiëwicz.

SECRETARY BYSIEWICZ: Good morning, Senator  
McDonald, members of the Committee. I am, for  
the record, Secretary of the State Susan  
Bysiewicz and I'm here to support and thank  
your Committee for raising three bills to  
assist in streamlining filing and, also, to  
assist in raising revenue for our state in our  
Commercial Recording Division.

HB 6643

HB 6644

House Bill 6640 increases the penalty for  
foreign corporations and other entities that  
transact business or operate in Connecticut  
without the appropriate authority to do so.  
Foreign business entities are required, under  
our state statutes, to file in our office and  
that way, if a consumer or a person in our  
state would like to file a lawsuit, we know  
where that business entity exists. The bill  
almost doubles the penalty that is currently  
in our state statutes. This penalty has not  
been raised in more than 20 years. And the  
Attorney General and I have worked together to  
go after foreign corporations that have not  
properly registered. And we have raised over  
three million dollars in fines and penalties.  
We think it would be a further deterrent for  
foreign companies to operate in our state  
without the appropriate authority. And we  
think that this bill, if passed, has the  
potential to raise an additional million  
dollars a year so that would bring in two  
million dollars of revenue to our state each



year, after this law goes into effect. And I am here today to urge its passage.

House Bill 6643 is simply a technical change to our state law. Our law requires that business entities file a name of an agent for service of process. And this bill makes the time frame for the resignation of an agent for service of process consistent to 30 days for all business entities that file with our office.

And finally, House Bill 6644 concerning business entity filings really modernizes the process for filing a business registrations and information with our office, making the use of the Internet mandatory except in hardship cases. Right now, we require that all business entities file annually with our office, and in preparation for this, we mail out, every month, filing notices to companies. And we would like to E-mail companies and have them file with us via E-mail. If we were to pass this, we would join other states that already mandate on-line filing, and those other states are Delaware, New Jersey, Florida and Missouri. Entities which file annual reports after July 1st of each calendar year pay an additional late filing fee of a hundred dollars. We think, in addition to streamlining things for our office, it would also create a greener world for us in the Secretary of the State's office and there would be a hardship exception for any businesses who don't have the capacity to file on-line. So I thank you for your attention and would be happy to entertain any questions.

SENATOR MCDONALD: Well, thank you very much. Actually just on that last point, what would the hardship exceptions be and how would they

...

SECRETARY BYSIEWICZ: For instance, a small business that didn't have a computer to file on-line, all they would have to do is tell us and we would continue to mail their filing forms to them. Right now, for the Committee's information, we have approximately 300,000 business entities that register with our office. We started a voluntary on-line filing program and we have about 40,000 emails for businesses within our office. And it's our goal to get 90 percent of our business entities filing on-line.

SENATOR MCDONALD: Well, thanks very much for your testimony and for bringing these bills to our attention, we appreciate it very much.  
Senator Kissel.

SENATOR KISSEL: Thank you very much, Mr. Chairman. Madam Secretary, as always, it's wonderful to see you. Earlier this week I had a primary engagement on Wednesday downstairs but my legislative aide was able to attend the small business forum that you had --

SECRETARY BYSIEWICZ: Oh, in your district, yes.

SENATOR KISSEL: She said that you did a great job so thank you so much for coming up to north central Connecticut. Regarding the raising of the fines for out-of-state companies that don't comply with Connecticut law. As I -- and I heard the press conference that you had with the Attorney General and I could see -- or actually, this was on the radio -- I could hear that it might be misinterpreted as anti-business based upon the way they sort of cut and pasted the snippets from the press conference.

HB 6640

SECRETARY BYSIEWICZ: Actually, let me be --

SENATOR KISSEL: -- and so I just want to get that on the record and clarify that. How can we enhance the enforcement, raise funds, but not chill the business climate here in Connecticut?

SECRETARY BYSIEWICZ: The beautiful thing about this legislation, Senator Kissel, is that it is very pro-business for our Connecticut businesses because it rewards the businesses that are playing by the rules and only penalizes the companies who are out-of-state businesses who are coming into our state, doing business and then leaving. And they are unfairly competing with our businesses here in Connecticut. As a town that is very close to the Massachusetts border, Senator, I'm sure you would appreciate that, often, Massachusetts contractors come into Enfield, do work and they are not paying the same kinds of registration fees that businesses in Connecticut are. And they are unfairly, in essence, competing with Connecticut businesses. And if they do shoddy work, if that Massachusetts company does shoddy work, then the Connecticut consumer has no redress because we don't know where to find that company. And that is the reason that these laws are in place in the first place. These fines have been in place. The level is \$165 per month for that company that hasn't registered. We are suggesting, that since 20 years has elapsed that that \$165 fine was put into our statutes, that the fine be raised to \$300. And we think it would approximately double the revenue we could raise for our state and encourage all companies from out-of-state to compete fairly with our in state

companies.

SENATOR KISSEL: Well to tie in with your initiative, there's legislation that I'm working on with the leadership of this Committee regarding automobile recyclers. They put their name and number in some of the local papers, but they may be from out-of-state. Who knows what they end up doing with some of these automobiles, they could end up in our woods, things like that. So that's definitely a group you could end up targeting. I know, and you know our family, my wife, Cindy and my father-in-law and mother-in-law, they have a small florist business up in Enfield (inaudible) and nothing irks the local businesses that around Easter time, these trucks will just come in from out-of-state, sell their wares --

SECRETARY BYSIEWICZ: FTD, by the way, was one of our big targets that we announced at a press conference that the Attorney General and I had. They were, I think, the second or third biggest violator, because they were coming in from out-of-state, so please tell your family's business that we're on it.

SENATOR KISSEL: All right. On the case. Well, thank you so much for coming to testify.

SENATOR MCDONALD: Is there anything further? If not, thanks very much. Oh, I'm sorry.  
Representative O'Neill.

REP. O'NEILL: Just a couple of quick questions about this. First off, I'm assuming that this only applies to for-profit organizations? As I'm looking through the proposed bill or the draft that we have in front of us, it appears as if it's just for-profits, but I just wanted

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to be sure.

SECRETARY BYSIEWICZ: It also applies to out-of-state non-stock companies.

REP. O'NEILL: Okay, so it would apply to the non-stock companies. And the part that I'm referring to there is the requirement that -- this is the operating here without filing (inaudible) increase in penalty to \$300. Would the requirement for electronic filing apply to non-stock companies as well?

SECRETARY BYSIEWICZ: Yes.

REP. O'NEILL: Okay. On the one hand, I figure, HB 6644 you know, I understand the hardship exception except that just about every public library has access to a computer. Many places, you can go to K-Mart and they have little computer cafes. So it's just getting increasingly difficult to say I don't have a computer, therefore I can't do something electronically. That's becoming -- you've got to be somehow physically isolated or, perhaps, limited in that you can't get around.

SECRETARY BYSIEWICZ: And you also have to, Representative O'Neill -- it's not just access to a computer in a public library, you also have to be able to pay on-line for your filing fees, so that's the other part of the equation.

REP. O'NEILL: And this is going to be done by credit cards, I assume?

SECRETARY BYSIEWICZ: Yes. And some companies actually have accounts with us, too, if they are frequent filers.

REP. O'NEILL: In terms of raising the fee -- because I actually last year assembled the costs for a company that had not filed. And in fact, they'd been suspended in their home state, out of compliance with their home state's filing requirements and they're still operating and doing things and advertising here in Connecticut. They apparently -- my guess is, they weren't paying any sales tax on services that were taxable that they provided and goods that they sold. And they weren't complying with our worker compensation laws, I suspect, as well, based upon what little I came across about them. So that when somebody is non-compliant with this filing requirement at your office, my guess is that it frequently, or it could be -- I'm just curious, do you pass along to the DRS the fact that this company was doing business but wasn't filed --

HB 6640

SECRETARY BYSIEWICZ: Yes, often. And we actually have a collaborative and cooperative relationship with DRS, so sometimes we find out about non-complying companies through them. Sometimes it is a business competitor who lets us know or sometimes, as you suggest, Representative O'Neill, a lawyer or an accountant is doing work for a company and realizes that the appropriate filings have not been made. And I want you to know that when a company voluntarily comes forward to us and says: oh my gosh, we just realized that we have not filed, our office takes that into consideration and we work out with that company that comes forward on their own what we think is an equitable arrangement. So that companies that come forward on their own are not treated as harshly as the ones that we find out about on our own.

REP. O'NEILL: And also, I think, especially those that are required to register with the Consumer Protection Department, home improvement contractor types, do you pass the information on to Consumer Protection when you've discovered some company that's not compliant?

SECRETARY BYSIEWICZ: I know -- I think that question is better directed to the Attorney General because we work together. I'm not aware that we share that information but I do think that his office works very closely with the Department of Consumer Protection.

REP. O'NEILL: And in the particular incident that I encountered was that I happened to have a constituent who was being harassed by a company demanding money for services they did not perform. So they had an invalid contract, they had all kinds of things. And then as I looked at and tried to figure out who to talk to, I discovered that they hadn't complied with a single Connecticut law in years and had, apparently, been doing business. That was the other question. How do you -- the months, how do you count the months, how do you establish when they first started doing business? What's the way you do that?

SECRETARY BYSIEWICZ: And I'm going to introduce for the record, Attorney Seth Klaskin. He's the head of our Commercial Recording Division and he oversees this and I think he is best able to answer that question.

SETH KLASKIN: Thank you, Secretary. Thank you members of the Committee. The way that the penalty is assessed is that it's assessed on a monthly basis from the month when an unregistered foreign entity first begins

transacting business in Connecticut and ending with the month that the entity ultimately registers. Each intervening year will be assessed in full. The assessment is delineated as a monthly figure in order to insure that the commencing year and the year of registration, only the bookend years are not assessed in full, if the facts warrant. So there have been contractors who have come in and were claiming we only did one job this year, we did two jobs that year, and they were cherry picking to try and diminish the penalty. That's not how we anticipate going forward.

SECRETARY BYSIEWICZ: Right, they wanted to say, okay, well we did this one job this month and then a year later we did another job this month so we owe you for two months. No, no, no. You know, the first job all the way through. When you start transacting the business, the clock starts ticking.

REP. O'NEILL: And do you, and maybe this would be an Attorney General question, but -- because in my situation, this particular entity, organization had been, I think, doing business for years, but the thing came to my attention, say, in June of last year. So I suspect that they had been in business for a couple, three, four, several years. Do you, for example, demand copies of their business records to see if you can find evidence that they were, in fact, transacting business in Connecticut earlier or do you just sort of start from when the lawyer or the competitor or the customer brings it to your attention?

SECRETARY BYSIEWICZ: We, actually -- I'm sorry. I will let our attorney answer that one, but yes, we do ask them for documents, absolutely,



but go ahead.

SETH KLASKIN: Generally, there are different ways that we find out about a company that's conducting business in Connecticut without authority. One way is when they come forward to register and they have to fill out our form, our initial certificate for authority and they voluntarily state the year they started transacting. And another way that we've recently worked out in cooperation with the DRS and also the Attorney General's office is that we have worked out an agreement where the DRS will be supplying us with contractor bond lists from out of state contractors who come into Connecticut to perform work here. They have to give a bond, but in many cases, they are not complying with their requirement to also register here and provide an agent for service, which tends to harm our consumers.

SECRETARY BYSIEWICZ: And, Representative O'Neill, I will also let you know that, on occasion, we've had businesses who paid their taxes to DRS, they just didn't realize they also had to file with us. So there are a variety of ways that we get documents. So we could actually have gotten documentation from DRS, you know, that an entity was paying taxes to us starting at a particular date but they hadn't registered. So we know exactly when they started their business with us from other state documents.

REP. O'NEILL: Thank you, Mr. Chairman.

SENATOR MCDONALD: Thanks very much. Anything further? Thanks for your time.

We're now going to begin the public portion of the public hearing. And we have a number of

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 17  
5266 - 5611**

**2009**



Susan Bysiewicz  
SECRETARY OF THE STATE  
CONNECTICUT

**TESTIMONY OF SECRETARY OF THE STATE  
SUSAN BYSIEWICZ  
JUDICIARY COMMITTEE  
March 20, 2009**

HB 6644

Good Morning Chairman Lawlor, Chairman McDonald, and other members of the Judiciary Committee. For the record, my name is Susan Bysiewicz, and I am the Secretary of the State. Thank you for the opportunity to testify before you today regarding my support of several important issues.

**H.B. No. 6640 An Act Increasing the Penalty for Foreign Corporations and Other Entities That Transact Business or Conduct Affairs In This State Without Authority**

When a foreign business entity, such as a corporation, limited partnership, limited liability company, registered limited liability partnership or statutory trust, transacts business in the State of Connecticut, that entity is legally required to register with the Office of the Secretary of the State. By doing so, the entity preserves a record of its presence and lists the required information in the event that some action it has undertaken results in a lawsuit. Of course, every year, some entities fail to file. When that occurs, the business entity will be required both to properly file and pay a penalty. This bill raises that penalty from \$165 to \$300 per month. The penalty is assessed on a monthly basis from the month when an unregistered foreign entity first begins transacting business in Connecticut and ending with the month that the entity ultimately registers. Each intervening year will be assessed in full. The assessment is delineated as a monthly figure in order to ensure that the commencing year and the year of registration – only the ‘bookend years’ – are not assessed in full if the facts warrant. Further, it must be said, that the penalty has not been raised in roughly 20 years. As such, increasing the penalty now will encourage compliance and that will greatly aid in protecting the Connecticut consumers who do business with these foreign entities, as well as bring in much needed revenue without hurting the business community.

**H.B. No. 6643 AN ACT CONCERNING THE RESIGNATION OR ABSENCE OF AN AGENT FOR SERVICE OF PROCESS FOR CERTAIN BUSINESS ENTITIES**

One of the most basic requirements of a business entity filing is to name an agent for the service of process. The agent named serves as the recipient for any lawsuits to be served on the company. This bill simplifies Connecticut business law by making the timeframe for the resignation of an agent for service of process consistent to make the resignation effective 30 days after filing for all business entities that file with the Office of the Secretary of the State.