

LOCAL BRIDGE LEGISLATION

Following are excerpts from the Connecticut General Statutes and Public Acts, which relate to Local Bridges. They are included as a convenience to the reader of the Local Bridge Program Manual, and are not intended to be a complete list of all relevant Statutes. The reader is cautioned that these are not certified copies, and to check that there have been no revisions to any Statute before relying upon it.

Both the new (under P.A.13-239) and former legislation are listed below for reference.

CGS SECTIONS 13A-175P - 13A-175W: LOCAL BRIDGE PROGRAM

New language excerpted from Public Act 13-239:

Sec. 76. Section 13a-175p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

The following terms, as used in sections 13a-175p to 13a-175u, inclusive, shall have the following meanings unless the context clearly indicates a different meaning or intent:

(1) "Commissioner" means the Commissioner of Transportation.

(2) "Eligible bridge" means a bridge located within one or more municipalities in the state, the physical condition of which requires it be removed, replaced, reconstructed, rehabilitated or improved as determined by the commissioner.

(3) "Eligible bridge project" means the removal, replacement, reconstruction, rehabilitation or improvement of an eligible bridge by one or more municipalities.

(4) "Grant" means any grant made to a municipality pursuant to section 13a-175s, as amended by this act.

[(4)] (5) "Grant percentage" means a percentage established by the commissioner for each municipality by (A) ranking all municipalities in descending order according to each such municipality's adjusted equalized net grand list per capita as defined in section 10-261; and (B) determining a percentage for each such municipality on a scale from not less than [ten] fifteen per cent to not more than [thirty-three] fifty per cent based upon such ranking. In any case where a municipality does not have an adjusted equalized net grand list per capita such municipality shall be deemed to have the adjusted equalized net grand list per capita of the town in which it is located.

[(5)] (6) "Local bridge program" means the local bridge program established pursuant to sections 13a-175p to 13a-175u, inclusive, as amended by this act.

[(6)] (7) "Local Bridge Revolving Fund" means the Local Bridge Revolving Fund created under section 13a-175r, as amended by this act.

[(7)] (8) "Municipality" means any town, city, borough, consolidated town and city, consolidated town and borough, district or other political subdivision of the state, owning or having responsibility for the maintenance of all or a portion of an eligible bridge.

[(8)] (9) "Physical condition" means the physical condition of a bridge based on its structural deficiencies, sufficiency rating and load capacity all as determined by the commissioner.

[(9)] (10) "Priority list of eligible bridge projects" means the priority list of eligible bridge projects established by the commissioner in accordance with the provisions of section 13a-175s, as amended by this act.

[(10)] (11) "Project costs" means the total costs of a project determined by the commissioner to be necessary and reasonable.

[(11) "Project loan" means a loan made to a municipality from the Local Bridge Revolving Fund and evidenced by the municipality's project loan obligation.

(12) "Project loan agreement" means a loan agreement with respect to a project loan as provided for in subsection (c) of section 13a-175s.

(13) "Project loan obligation" means an obligation of a municipality issued to evidence indebtedness under a project loan agreement and payable to the state for the benefit of the Local Bridge Revolving Fund.

(14) "Project grant" means a grant-in-aid made to a municipality pursuant to section 13a-175s.]

[(15)] (12) "Supplemental project obligation" means bonds or serial notes issued by a municipality for the purpose of financing the portion of the costs of an eligible bridge project not met from the proceeds of a [project grant or project loan] grant.

Sec. 77. Section 13a-175q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

The establishment of a program for the removal, replacement, reconstruction, rehabilitation or improvement of local bridges is a matter of state-wide concern affecting the health, safety and welfare of the inhabitants of the state and of persons traveling within the state. It is the policy of the state to establish a timely and efficient method for municipalities to participate in this program and in furtherance thereof, sections 13a-175p to 13a-175u, inclusive, are intended to provide authority for municipalities to approve local bridge projects, and, in connection therewith, to authorize project [loan] agreements, and the issuance of [project loan obligations and] supplemental project obligations. For the purpose of ensuring and encouraging participation by municipalities in the benefits of the local bridge program, the powers of municipalities are expressly enlarged and expanded to include the power to do all things necessary and incident to their participation in the local bridge program under sections 13a-175p to 13a-175u, inclusive, as amended by this act.

Sec. 78. Section 13a-175r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

There is established and created a fund to be known as the "Local Bridge Revolving Fund". The state shall deposit in said fund (1) all proceeds of bonds issued by the state for the purpose of making [project loans and project] grants to municipalities, including proceeds of any special tax obligation bonds which are issued for the purpose of funding the local bridge program, [through project loans and grants,] (2) any and all [payments] repayments of grants or loans made by municipalities, [in respect of project loans including loan interest,] (3) all appropriations for the purpose of making [project loans and project] grants, and (4) any additional moneys from any other source available for deposit into said fund. Moneys deposited in said fund shall be held by the Treasurer separate and apart from all other moneys, funds and accounts. Investment earnings credited to the assets of said fund shall become part of the assets of said fund. Any balance remaining in said fund at the end of any fiscal year shall be carried forward in said fund for the fiscal year next succeeding. Amounts in the Local Bridge Revolving Fund shall be expended only for the purpose of funding [project loans and project] grants or for the purchase or redemption of special tax obligation bonds issued pursuant to sections 13b-74 to 13b-77, inclusive.

Sec. 79. Section 13a-175s of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) The commissioner shall maintain a list of eligible bridges and shall establish a priority list of eligible bridge projects for each fiscal year. In establishing such priority list, the commissioner shall consider the physical condition of each eligible bridge.

[(b) In each fiscal year the commissioner may make project loans to municipalities in the order of the priority list of eligible bridge projects to the extent of moneys available therefor in the Local Bridge Revolving Fund. Each municipality undertaking an eligible bridge project may apply for and receive a project loan or loans. The aggregate amount of project loans made to a municipality with respect to any project shall be equal to the amount requested by the municipality up to an amount not to exceed fifty per cent of the project costs allocable therefor to such municipality.]

(c) Each project loan shall be made pursuant to a project loan agreement between the state, acting by and through the commissioner, and the borrowing municipality and shall be evidenced by a project loan obligation of the borrowing municipality issued in accordance with section 13a-175t. Each project loan agreement shall be in the form prescribed by the commissioner, provided that each project loan agreement shall provide for a project loan obligation bearing interest at the rate of six per cent per annum payable quarterly and maturing no later than ten years from the date of such obligation.]

[(d)] (b) In each fiscal year the commissioner may make [project] grants to municipalities in the order of the priority list of eligible bridge projects to the extent moneys are available therefor. Each municipality undertaking an eligible bridge project may apply for and receive a [project] grant equal to its grant percentage multiplied by the project costs allocable to such municipality. Notwithstanding the provisions of this section, in order to protect the public health and safety, the commissioner may make any grant to a municipality for an eligible bridge project without regard to the priority list if, in the opinion of the commissioner, an emergency exists making the removal, replacement, reconstruction, rehabilitation or improvement of an eligible bridge more urgent than any other eligible bridge project with a higher priority on such list.

[(e)] (c) All applications for [project loans and project] grants for the fiscal year ending June 30, 1985, shall be filed with the commissioner no later than October 1, 1984, and for each succeeding fiscal year all such applications shall be filed with the commissioner no later than [March] May first of the preceding fiscal year. [next preceding.] The commissioner may for good cause extend the period of time in which any such application may be filed.

(d) The terms and conditions of each such grant made by the state, acting by and through the commissioner, may be prescribed by the commissioner. Any such grant made by the commissioner shall not be deemed to be a public works contract, as defined in section 46a-68b, and the requirements for public works contracts provided in chapters 58 and 814c shall not apply to such grant.

[(f) A project grant or project loan] (e) A grant shall not be made to a municipality with respect to an eligible bridge project unless: (1) Each municipality undertaking such project has available to it, or has made arrangements satisfactory to the commissioner to obtain, funds to pay that portion of the project costs for which it is legally obligated and which are not met by [project loans or project] grants; (2) each municipality undertaking such project provides assurances satisfactory to the commissioner that it will undertake and complete such project with due diligence and that it will operate and maintain the eligible bridge properly after completion of

such project; (3) each municipality undertaking such project and seeking a [project loan or a project] grant has filed with the commissioner all applications and other documents prescribed by the commissioner; (4) each municipality undertaking such project and seeking a [project loan or a project] grant has established separate accounts for the receipt and disbursement of the [proceeds of project loans and project] grants; and (5) in any case in which an eligible bridge is owned or maintained by more than one municipality, evidence satisfactory to the commissioner that all such municipalities are legally bound to complete their respective portions of such project. Notwithstanding any provisions of this subsection, the commissioner may make an advance grant to a municipality for the purpose of funding the engineering cost of an eligible bridge project. Such grant shall equal the municipality's grant percentage multiplied by the engineering cost, [which cost shall not exceed fifteen per cent of the construction cost of the project,] provided the amount of such advance shall be deducted from the total grant for the project.

[(g) Notwithstanding the provisions of subsections (b) and (d) of this section, the commissioner may make project grants and project loans with respect to an eligible bridge project without regard to the priority list of eligible bridge projects if a public emergency exists requiring the immediate removal, replacement, reconstruction, rehabilitation or improvement of the eligible bridge of such project to protect the public health and safety.]

(f) No grant for an eligible bridge project made pursuant to this section shall be deemed to be a proposed state action, activity or critical activity, as such terms are defined in section 25-68b, for the purposes of sections 25-68b to 25-68h, inclusive.

Sec. 80. Section 13a-175t of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) A municipality may authorize [(1) the execution and delivery of project loan agreements; (2) the issuance and sale of project loan obligations to finance its obligations under a project loan agreement; and (3)] the issuance and sale of its supplemental project obligations, in accordance with such statutory and other legal requirements as govern the issuance of obligations and the making of contracts by the municipality. Supplemental project obligations shall be general obligations of the issuing municipality and each such obligation shall recite that the full faith and credit of the issuing municipality are pledged for the payment of the principal thereof and interest thereon. Obligations authorized under this section shall be subject to the debt limitation provisions of section 7-374.

[(b) The legislative body of a municipality shall hold at least one public hearing on an eligible bridge project, including the authorization of project loan obligations and supplemental project obligations with respect thereto, prior to its vote on the approval or disapproval of the eligible bridge project and the authorization of financing therefor. Notice of the time, place and purpose of the hearing shall be published in a newspaper having general circulation in the municipality not less than five days prior to the day on which such hearing is to be held. For the purposes of this subsection, such five-day period shall include the day upon which such notice is first published, and shall include any Saturday, Sunday or legal holiday which may intervene between such publication and the day on which such hearing is held, but shall not include the day upon which such hearing is held.

(c) Each project loan obligation issued pursuant to this section shall bear interest at the rate of six per cent per annum payable quarterly, shall mature in such amounts and at such time or times not later than ten years from the date thereof and shall contain such other terms and provisions as the project loan agreement under which it is issued provides.

(d) Project loan obligations and supplemental project obligations shall be general obligations of the issuing municipality and each such obligation shall recite that the full faith and credit of the issuing municipality are pledged for the payment of the principal thereof and interest thereon.
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[(e)] (b) Whenever a municipality has authorized the issuance of [project loan obligations or] supplemental project obligations, it may authorize the issuance of temporary notes in anticipation of the receipt of the proceeds from the issuance of its [project loan obligations or] supplemental project obligations. Such temporary notes may be renewed from time to time by the issuance of other notes, provided that any such renewals shall conform to all legal requirements and limitations applicable thereto, including the requirements and limitations set forth in sections 7-378 and 7-378a.

[(f)] (c) Except as otherwise provided in this section, [project loan obligations,] supplemental project obligations and temporary notes issued in anticipation of the receipt of the proceeds thereof shall be issued by a municipality in accordance with such statutory and other legal requirements as govern the issuance of such obligations generally by such municipality, including, where applicable, the provisions of chapter 109.

Sec. 81. Section 13a-175v of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

If an eligible bridge is owned or maintained by more than one municipality, the municipalities owning or maintaining such eligible bridge may enter into an interlocal agreement concerning such eligible bridge. Such interlocal agreement may provide, among other things, that one municipality shall be responsible for undertaking and completing an eligible bridge project, maintaining such eligible bridge project, applying for a [project loan or a project grant, or both,] grant for such eligible bridge project and [repaying a project loan] the apportionment of costs for such eligible bridge project. A municipality is authorized to enter into such an interlocal agreement by vote of its legislative body and the provisions of sections 7-339a to 7-339l, inclusive, shall not be applicable to such interlocal agreement. Any such interlocal agreement entered into prior to May 27, 1987, is validated.

Sec. 82. Section 13a-175w of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

In any case in which an eligible bridge is owned or maintained by more than one municipality and such municipalities enter into or have entered into an interlocal agreement authorized by section 13a-175v, as amended by this act, the commissioner may deem the municipality which has agreed pursuant to such interlocal agreement to undertake, complete and maintain an eligible bridge project to be the only municipality eligible for a [project grant or a project loan, or both,] grant concerning such eligible bridge project and the commissioner may make a [project loan or a project grant, or both,] grant to such municipality without regard to the ownership or other interests of any other municipality in such eligible bridge.

Former Language:

Sec. 13a-175p. Definitions. The following terms, as used in sections 13a-175p to 13a-175w, inclusive, shall have the following meanings unless the context clearly indicates a different meaning or intent:

- (1) "Commissioner" means the Commissioner of Transportation.
- (2) "Eligible bridge" means a bridge located within one or more municipalities in the State, the physical condition of which requires that it be removed, replaced, reconstructed, rehabilitated or improved as determined by the commissioner.
- (3) "Eligible bridge project" means the removal, replacement, reconstruction, rehabilitation or improvement of an eligible bridge by one or more municipalities.
- (4) "Grant percentage" means a percentage established by the commissioner for each municipality by (A) ranking all municipalities in descending order according to each such municipality's adjusted equalized net grand list per capita as defined in section 10-261; and (B) determining a percentage for each such municipality on a scale from not less than 10% to not more than 33% based upon such ranking. In any case where a municipality does not have an adjusted equalized net grand list per capita such municipality shall be deemed to have the adjusted equalized net grand list per capita of the town in which it is located.
- (5) "Local bridge program" means the local bridge program established pursuant to sections 13a-175p to 13a-175u, inclusive.
- (6) "Local Bridge Revolving Fund" means the Local Bridge Revolving Fund created under section 13a-175r.
- (7) "Municipality" means any town, city, borough, consolidated town and city, consolidated town and borough, district or other political subdivision of the state, owning or having responsibility for the maintenance of all or a portion of an eligible bridge.
- (8) "Physical condition" means the physical condition of a bridge based on its structural deficiencies, sufficiency rating and load capacity all as determined by the commissioner.
- (9) "Priority list of eligible bridge projects" means the priority list of eligible bridge projects established by the commissioner in accordance with the provisions of section 13a-175s.
- (10) "Project costs" means the total costs of a project determined by the commissioner to be necessary and reasonable.
- (11) "Project loan" means a loan made to a municipality from the Local Bridge Revolving Fund and evidenced by the municipality's project loan obligation.
- (12) "Project loan agreement" means a loan agreement with respect to a project loan as provided for in subsection (c) of section 13a-175s.
- (13) "Project loan obligation" means an obligation of a municipality issued to evidence indebtedness under a project loan agreement and payable to the state for the benefit of the Local Bridge Revolving Fund.
- (14) "Project grant" means a grant-in-aid made to a municipality pursuant to section 13a-175s.
- (15) "Supplemental project obligation" means bonds or serial notes issued by a municipality for the purpose of financing the portion of the costs of an eligible bridge project not met from the proceeds of a project grant or project loan.

(P.A. 84-254, S. 8, 62)

Sec. 13a-175q. Local bridge program. The establishment of a program for the removal, replacement, reconstruction, rehabilitation or improvement of local bridges is a matter of statewide concern affecting the health, safety and welfare of the inhabitants of the state and of persons traveling within the state. It is the policy of the state to establish a timely and efficient method for municipalities to participate in this program and in furtherance thereof, sections 13a-175p to 13a-175w, inclusive, are intended to provide authority for municipalities to approve

local bridge projects, and, in connection therewith, to authorize project loan agreements, and the issuance of project loan obligations and supplemental project obligations. For the purpose of ensuring and encouraging participation by municipalities in the benefits of the local bridge program, the powers of municipalities are expressly enlarged and expanded to include the power to do all things necessary and incident to their participation in the local bridge program under sections 13a-175p to 13a-175w, inclusive.

(P.A. 84-254, S. 9, 62)

Sec. 13a-175r. Local Bridge Revolving Fund. There is established and created a fund to be known as the “Local Bridge Revolving Fund”. The state shall deposit in said fund (1) all proceeds of bonds issued by the state for the purpose of making project loans and project grants to municipalities, including proceeds of any special tax obligation bonds which are issued for the purpose of funding the local bridge program through project loans and grants, (2) any and all payments made by municipalities in respect of project loans including loan interest, (3) all appropriations for the purpose of making project loans and project grants, and (4) any additional moneys from any other source available for deposit into said fund. Moneys deposited in said fund shall be held by the treasurer separate and apart from all other moneys, funds and accounts. Investment earnings credited to the assets of said fund shall become part of the assets of said fund. Any balance remaining in said fund at the end of a fiscal year shall be carried forward in said fund for the fiscal year next succeeding. Amounts in the Local Bridge Revolving Fund shall be expended only for the purpose of funding project loans and project grants or for the purchase or redemption of special tax obligation bonds issued pursuant to sections 13b-74 to 13b-77, inclusive.

(P.A. 84-254, S. 10, 62; P.A. 89-240, S. 1, 3)

History: P.A. 89-240 added provisions re proceeds of grants to be deposited in fund, added new Subdiv. (3) re appropriations deposited in fund and relettered Subdiv. (3) as Subdiv. (4).

Sec. 13a-175s. Procedure for making project grants and loans under local bridge program. (a) The commissioner shall maintain a list of eligible bridges and shall establish a priority list of eligible bridge projects for each fiscal year. In establishing such priority list, the commissioner shall consider the physical condition of each eligible bridge.

(b) In each fiscal year the commissioner may make project loans to municipalities in the order of the priority list of eligible bridge projects to the extent of moneys available therefor in the Local Bridge Revolving Fund. Each municipality undertaking an eligible bridge project may apply for and receive a project loan or loans. The aggregate amount of project loans made to a municipality with respect to any project shall be equal to the amount requested by the municipality up to an amount not to exceed 50% of the project costs allocable therefore to such municipality.

(c) Each project loan shall be made pursuant to a project loan agreement between the state, acting by and through the commissioner, and the borrowing municipality and shall be evidenced by a project loan obligation of the borrowing municipality issued in accordance with section 13a-175t. Each project loan agreement shall be in the form prescribed by the commissioner, provided that each project loan agreement shall provide for a project loan obligation bearing interest at the rate of 6% per annum payable quarterly and maturing no later than 10 years from the date of such obligation.

(d) In each fiscal year the commissioner may make project grants to municipalities in the order of the priority list of eligible bridge projects to the extent moneys are available therefore. Each municipality undertaking an eligible bridge project may apply for and receive a project grant equal to its grant percentage multiplied by the project costs allocable to such municipality.

(e) All applications for project loans and project grants for the fiscal year ending June 30, 1985, shall be filed with the commissioner no later than October 1, 1984, and for each succeeding fiscal year all such applications shall be filed with the commissioner no later than March first of the fiscal year next preceding. The commissioner may for good cause extend the period of time in which any such application may be filed.

(f) A project grant or project loan shall not be made to a municipality with respect to an eligible bridge project unless: (1) each municipality undertaking such project has available to it, or has made arrangements satisfactory to the commissioner to obtain, funds to pay that portion of the project costs for which it is legally obligated and which are not met by project loans or project grants; (2) each municipality undertaking such project provides assurances satisfactory to the commissioner that it will undertake and complete such project with due diligence and that it will operate and maintain the eligible bridge properly after completion of such project; (3) each municipality undertaking such project and seeking a project loan or a project grant has filed with the commissioner all applications and other documents prescribed by the commissioner; (4) each municipality undertaking such project and seeking a project loan or a project grant has established separate accounts for the receipt and disbursement of the proceeds of project loans and project grants; and (5) in any case in which an eligible bridge is owned or maintained by more than one municipality, evidence satisfactory to the commissioner that all such municipalities are legally bound to complete their respective portions of such project. Notwithstanding any provisions of this subsection, the commissioner may make an advance grant to a municipality for the purpose of funding the engineering cost of an eligible bridge project. Such grant shall equal the municipality's grant percentage multiplied by the engineering cost, which cost shall not exceed fifteen per cent of the construction cost of the project, provided the amount of such advance shall be deducted from the total grant for the project.

(g) Notwithstanding the provisions of subsections (b) and (d) of this section, the commissioner may make project grants and project loans with respect to an eligible bridge project without regard to the priority list of eligible bridge projects if a public emergency exists requiring the immediate removal, replacement, reconstruction, rehabilitation or improvement of the eligible bridge of such project to protect the public health and safety.

(P.A. 84-254, S. 11, 62; P.A. 88-60, S. 2; P.A. 89-240, S. 2, 3)

History: P.A. 88-60 amended Subsec. (g) to allow the commissioner to make an advance grant to a municipality to fund engineering costs of an eligible bridge project; P.A. 89-240 deleted Subsec. (b) re allocation of funds between projects and fund, deleted Subdiv. (1) of Subsec. (f) re approval by commissioner of preliminary plans and specifications and relettered Subsecs. (c), (d), (e), (f), (g) and (h) as Subsecs. (b), (c), (d), (e), (f), (g)

Sec. 13a-175t. Project loans. Municipal procedures. (a) A municipality may authorize (1) the execution and delivery of project loan agreements; (2) the issuance and sale of project loan obligations to finance its obligations under a project loan agreement; and (3) the issuance and sale of its supplemental project obligations, in accordance with such statutory and other legal requirements as govern the issuance of obligations and the making of contracts by the municipality. Obligations authorized under this section shall be subject to the debt limitation provisions of section 7-374.

(b) The legislative body of a municipality shall hold at least one public hearing on an eligible bridge project, including the authorization of project loan obligations and supplemental project obligations with respect thereto, prior to its vote on the approval or disapproval of the eligible bridge project and the authorization of financing therefore. Notice of the time, place and purpose of the hearing shall be published in a newspaper having general circulation in the municipality not less than five days prior to the day on which such hearing is to be held. For purposes of this subsection, such five-day period shall include the day upon which such notice is first published, and shall include any Saturday, Sunday or legal holiday, which may intervene between such publication and the day on which such hearing is held, but shall not include the day upon which such hearing is held.

(c) Each project loan obligation issued pursuant to this section shall bear interest at the rate of 6% per annum payable quarterly, shall mature in such amounts and at such time or times not later than 10 years from the date thereof and shall contain such other terms and provisions as the project loan agreement under which it is issued provides.

(d) Project loan obligations and supplemental project obligations shall be general obligations of the issuing municipality and each such obligation shall recite that the full faith and credit of the issuing municipality are pledged for the payment of the principal thereof and interest thereon.

(e) Whenever a municipality has authorized the issuance of project loan obligations or supplemental project obligations, it may authorize the issuance of temporary notes in anticipation of the receipt of the proceeds from the issuance of its project loan obligations or supplemental project obligations. Such temporary notes may be renewed from time to time by the issuance of other notes, provided that any such renewals shall conform to all legal requirements and limitations applicable thereto, including the requirements and limitations set forth in sections 7-378 and 7-378a.

(f) Except as otherwise provided in this section, project loan obligations, supplemental project obligations and temporary notes issued in anticipation of the receipt of the proceeds thereof shall be issued by a municipality in accordance with such statutory and other legal requirements as govern the issuance of such obligations generally by such municipality, including, where applicable, the provisions of chapter 109.

(P.A. 84-254, S. 12, 62.; P.A. 87-224, S. 1, 4)

History: P.A. 87-224 amended Subsec. (b) by changing the time notice of a hearing is published from at least ten days to not less than five days prior to the day on which the hearing is held, and by defining the five-day period.

Sec. 13a-175u. Regulations. The commissioner shall adopt such regulations in accordance with the provisions of chapter 54 as may be necessary to give effect to and carry out the purposes of sections 13a-175p to 13a-175t, inclusive.

(P.A. 84-254, S. 13, 62)

Sec. 13a-175v. Interlocal Agreements. If an eligible bridge is located or maintained by more than one municipality, the municipalities owning such eligible bridge may enter into an interlocal agreement concerning such eligible bridge. Such interlocal agreement may provide, among other things, that one municipality shall be responsible for undertaking and completing an eligible bridge project, maintaining such eligible bridge project, applying for a project loan or a project grant, or both, for such eligible bridge project and repaying a project loan for such eligible bridge project. A municipality is authorized to enter into such an interlocal agreement by vote of its legislative body and the provisions of sections 7-339a to 7-339l, inclusive, shall not be applicable to such interlocal agreement. Any such agreement entered into prior to May 27, 1987, is validated.

(P.A. 87-224, S. 2, 4)

Sec. 13a-175w. Eligibility of municipality which enter into interlocal agreement for project loan or grant. In any case in which an eligible bridge is owned or maintained by more than one municipality and such municipalities enter into or have entered into an interlocal agreement authorized by section 13a-175v, the commissioner may deem the municipality which has agreed pursuant to such interlocal agreement to undertake, complete and maintain an eligible bridge project to be the only municipality eligible for a project grant or a project loan, or both, concerning such eligible bridge project and the commissioner may make a project loan or project grant, or both, to such municipality without regard to the ownership or other interests of any other municipality in such eligible bridge.

(P.A. 87-224, S. 3, 4)

Secs. 13a-175x to 13a-175z. Reserved for future use.

PUBLIC ACT 87-584 (TOWN BRIDGE STUDY)

AN ACT CONCERNING MUNICIPAL ASSISTANCE AND ESTABLISHING A LOCAL PROPERTY TAX RELIEF TRUST FUND

Sec. 15. The Department of Transportation shall conduct a state-wide study of town roads and bridges in which the Department shall evaluate and catalog the following:

(1) The age of such roads and bridges; (2) the physical condition of such roads and bridges; (3) the present and future use of such roads and bridges; and (4) the cost of repairing, reconstructing and maintaining such roads and bridges. The Department of Transportation shall provide each municipality in the state with the information collected by the department while cataloging and evaluating such roads and bridges. The Department of Transportation shall, on the basis of such information, recommend a priority list of town road and reconstruction projects. The Department shall submit a report of its findings and recommendations to the governor and the joint standing committees of the general assembly on finance, revenue and bonding and on transportation on or before January 15, 1988.

MISCELLANEOUS BRIDGE & HIGHWAY PROVISIONS

**Sec. 13a-80h. Agreement setting forth responsibilities of municipality and
Commissioner of Transportation re acquisition of real property required for certain bridge**

projects. At the request of any municipality which is undertaking a project to rehabilitate, replace or demolish a bridge which supports a municipal road using state or federal highway funds, the Commissioner of Transportation may enter into an agreement with such municipality which sets forth the responsibilities of the parties in connection with the acquisition of real property, as defined in subsection (a) of section 13a-73, or rights of ingress to and egress from land, which is required for such project. The commissioner shall exercise his authority pursuant to this section in the same manner as authorized and exercised by the commissioner in acquiring real property for state highway purposes subject to the terms of the agreement between the commissioner and the municipality.

(P.A. 95-325, S. 2, 16.)

History: P.A. 95-325 effective July 13, 1995.

Sec. 13a-86a. Geometric design standards for bridges, exceptions. Factors re bridge rehabilitation or new construction. Development or construction of projects by municipal governments. Immunity from liability. (a) In the event site conditions, environmental factors, engineering factors or considerations of community standards and custom would reasonably allow for a departure from the standards for geometric design with respect to bridges established by the American Association of State Highway and Transportation Officials or by the Department of Transportation, the Department may approve exceptions to such standards without waivers.

(b) In choosing between the rehabilitation of an existing bridge and the construction of a new bridge, whether on the existing location or on a new location, the department and any affected municipality shall weigh the following factors:

- (1) The functional classification of the highway;
- (2) the load capacity and geometric constraints of the bridge within its existing footprint and the availability of alternative routes;
- (3) the comparative long-term costs, risks and benefits of rehabilitation and new construction;
- (4) the requirements of state standards for geometric design;
- (5) disruption to homes and businesses;
- (6) environmental impacts;
- (7) the potential effects on the local and state economies;
- (8) cost-effectiveness;
- (9) mobility;
- (10) safety, as determined by factors such as accident history for motorists, pedestrians and bicyclists; and
- (11) the impact on the historic, scenic and aesthetic values of the municipality in which the bridge is or may be located.

(c) The department shall implement policies and programs to allow municipal governments to develop projects or construct projects, or both, in consultation with the department, in accordance with federal laws and regulations if federal funds are used.

(d) The state or a municipality, any state or municipal agency or any employee thereof or any engineer retained in connection with a bridge project shall not be liable for any injury or damage to any person or property caused by the selection of design standards that enable an existing bridge, which was initially constructed not less than twenty-five years prior to the effective date of this act, to be repaired or rehabilitated in substantially the same configuration that existed

before such repair or rehabilitation, provided nothing in this subsection shall be construed to relieve the state, any municipality or any person from liability under section 13a-144 or 13a-149 of the general statutes arising out of structural or design defects in any such bridge or negligence in the maintenance, repair or rehabilitation of any such bridge.

(P.A. 97-214, S. 1.)

Sec. 13a-89. Appeal to commissioner from posted weight restriction. Any person may appeal to the commissioner from the restriction of the use of any bridge imposed by the posting of a maximum weight notice as provided in section 13a-121. Upon such appeal the commissioner shall inspect such bridge and may, after due notice thereof to all parties in interest and hearing thereon, order the authority having control of such bridge to increase its capacity to such extent as he finds public convenience and necessity require. If such authority fails to make such repairs or reconstruction as are necessary so to increase the capacity of such bridge within sixty days after receiving notice from the commissioner to do so, the commissioner may so repair or reconstruct such bridge and the authority having control of such bridge shall be liable for the cost of such repair or reconstruction.

(1949 Rev., S. 2187; 1958 Rev., S. 13-74; 1963, P.A. 226, S. 89.)

History: 1963 act replaced previous provisions: See title history.

Sec. 13a-99. Towns to build and repair highways and bridges. Towns shall, within their respective limits, build and repair all necessary highways and bridges, and all highways to ferries as far as the low water mark of the waters over which the ferries pass, except when such duty belongs to some particular person. Any town, at its annual meeting, may provide for the repair of its highways for periods not exceeding five years and, if any town fails to so provide at such meeting, the selectmen may provide for such repairs for a period not exceeding one year.

(1949 Rev., S. 2117; 1958 Rev., S. 13-2; 1963, P.A. 226, S. 99.)

History: 1963 act replaced previous provisions: See title history.

When towns are liable to maintain bridges on turnpike roads. 4 D. 198; 1 C. 1. Town to maintain road in borough, formerly turnpike. 25 C. 86. Town and turnpike company not both liable to maintain same road. 27 C. 48. Herbage in a highway belongs to the landowner. 28 C. 165. Dedication of highway provable by public use. 29 C. 157; 31 C. 308. Towns have no duty or power to build bridges between this and adjoining states. 29 C. 356. City of Hartford liable for defective sidewalks. 30 C. 118. No municipal corporation obliged to lay out or maintain highways except by statute. 31 C. 213. Legislature may create highway district out of several towns. 170 U. S. 309. Admissibility of evidence that others safely crossed ice. 33 C. 57. Highway surveyor may widen roadway within highway limits. 36 C. 165. Municipalities may remove earth from one highway to another. 38 C. 50. Municipalities not liable for negligence in public duty to repair highways. 38 C. 90; 71 C. 686. Dedication of a system of highways; loss of public rights by laches. 40 C. 410. Town cannot divert spring in highway for watering trough. 44 C. 521. Town liable for nuisance caused in doing lawful act. 45 C. 550; 47 C. 314. Town may change form of dedicated highway. 50 C. 259. Town voluntarily operating drawbridge liable for negligence. 63 C. 587. History of law; duty to repair applies to highways by dedication. 74 C. 360. Care of streets is a governmental duty; no liability except by statute. 74 C. 573; 79 C. 94; 81 C. 392. History of exception where duty belongs to some particular person. 75 C. 695. Of sidewalk, as part of highway. 76 C. 105. See 71 C. 655; 77 C. 307; 80 C. 296. This section measures the liability imposed by section 13a-149. 81 C. 68; 89 C. 30. Building new roadway several feet above old one not repairing. 75 C. 271. Municipality cannot enter private property to abate conditions there which tend to create defect. 80 C. 291. Discretion of municipality as to methods to be used. 79 C. 94. This section does not apply to state aid or trunk line highways. 94 C. 594. Town is under duty to maintain roadway of bridge over railroad, although railroad is obliged to maintain superstructure of bridge. 100 C. 437. Does not apply to defect caused by opening in street made by trolley company in repairing its roadbed. 103 C. 121; id., 605. See note to Sec. 13a-149. Town's obligation for sidewalks not modified by section 13a-144. 109 C. 336. Where town builds road under section 13a-173 as a contractor with the state, jury may reasonably find it entered contract for special benefit and pecuniary profit, thereby depriving itself of governmental immunity from liability. 120 C. 148. Cited. 121 C. 616; 124 C. 344; 160 C. 295. Cited. 193 C. 589. Cited. 226 C. 684, 695. Cited. 12 CA 153, 157. Cited. 29 CA 18, 24, 25.

City becomes responsible for condition of highways when town and city consolidate. 3 CS 418. Cited. 4 CS 401; 5 CS 193. Duty of New Haven not impaired by special act 576 of 1937. 8 CS 204. Cited. 25 CS 305; 27 CS 469, 472.

Sec. 13a-99a. Town roads lying within, intersecting or crossing state highway rights-of-way. (a) Whenever a town road or a portion thereof lies within the limits of a state highway right-of-way or passes over or under a state highway right-of-way, such road or portion thereof shall be state highway property subject to an easement to the town for travel. The local traffic authority, as defined in section 14-297, shall have the jurisdiction over any portion of a town road within an easement created by this subsection.

(b) Any portion of a town road lying within the limits of a state highway right-of-way, which town road is no longer maintained or used by such town, shall be deemed legally abandoned as a public highway and title to such portion of such town road shall vest in the state.

(c) When a town road crosses or intersects a state highway right-of-way at grade level, the responsibility for maintenance of that portion of the town road from the edge of the state highway right-of-way to the edge of the traveled portion of the state highway shall remain with the town; and any liability for neglect or default of maintenance of such portion of the town road shall be in accordance with section 13a-149. When a town road passes over or under a state highway right-of-way, the responsibility for maintenance of the road shall remain with the town; and any liability for neglect or default of such maintenance shall be in accordance with section 13a-149.

(1967, P.A. 209, S. 1-3; P.A. 77-78; P.A. 90-342, S. 4, 5.)

History: P.A. 77-78 added the words "or intersects" in Subsec. (c); P.A. 90-342 added provision in Subsec. (a) providing the local traffic authority with jurisdiction over any portion of a town road within an easement.

Cited. 21 CA 633, 641. Subsec. (a): Cited. 21 CA 633, 641. Subsec. (c): Cited. 21 CA 633, 641, 642.

Sec. 13a-100. Expense of bridges between towns. Necessary bridges between towns, except when otherwise specially provided by law, shall be built and kept in repair by such towns, and the expense thereof shall be apportioned between them according to the total revenue received yearly from direct taxation in each of such towns, as averaged for the three fiscal years next preceding.

(1949 Rev., S. 2119; 1958 Rev., S. 13-4; 1963, P.A. 226, S. 100.)

History: 1963 act replaced previous provisions: See title history.

What constitutes a bridge. 26 C. 583; 44 C. 25; 64 C. 568.

Sec. 13a-101. Bridges over artificial watercourses. Any bridge or passageway over any artificial watercourse on a highway which it is not the duty of the commissioner to maintain shall be constructed and maintained by the person owning or controlling such watercourse and shall be of such width and carrying capacity as are approved by the board of selectmen of the town, provided, if at any time the board of selectmen finds that any such existing bridge or passageway has become insufficient to permit the traveling public to use it with safety, the board of selectmen shall cause such bridge or passageway to be reconstructed so as to make it sufficient or shall cause a new sufficient bridge or passageway to be constructed. The town and the person owning or controlling the watercourse shall each pay an equitable portion of the cost of reconstructing such existing bridge or passageway or of constructing a new sufficient bridge or passageway, which equitable apportionment shall be based upon the respective needs of the town and the person for such change in such bridge or passageway, and the board of selectmen is authorized to enter into an agreement with such person determining the portion to be paid by each, provided, if the board of selectmen and such person cannot agree upon an equitable apportionment of such cost, either may apply to the superior court in the judicial district within which such bridge or passageway is situated, or, if said court is not in session, to any judge

thereof, for a determination of the portion of the cost to be borne by each, and said court or such judge, after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. Such referee, having given at least ten days' notice to the parties interested of the time and place of the hearing, shall hear both parties, shall view the bridge or passageway and take such testimony as such referee deems material, and shall thereupon determine the portion of the cost to be borne by each and forthwith report to the court. If the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon both parties.

(1949 Rev., S. 2200; 1951, S. 1192d; 1957, P.A. 211, S. 1; 1958 Rev., S. 13-9; 1963, P.A. 226, S. 101; P.A. 78-280, S. 2, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted "judicial district" for "county".

See Sec. 13a-90 re bridges over artificial watercourses which Transportation Commissioner is responsible for maintaining.

Sec. 13a-102. Court may direct construction or repair of bridge. When any town neglects to construct or repair a bridge across a river in a highway in such town, or when it is necessary to construct or repair any such bridge between towns or judicial districts and the towns liable therefor neglect, or do not agree, to construct or repair it, the superior court of the judicial district in which either town is situated, on complaint of any person, and legal notice given to the town liable for such construction or repairs, shall inquire by itself or committee into the public necessity and convenience thereof; and, if no sufficient reason is shown to the contrary, and such town or towns do not undertake to construct or repair such bridge within such time as the court directs, it may appoint some suitable person to do the same; and the expense thereof, being allowed by said court, shall be paid by such town or towns. Said court or such committee may estimate the damages, if any, sustained by any person or corporation by the construction of such bridge, due notice having been given to such person or corporation to appear and be heard, and, upon return of the report of any such committee into court, the same proceedings may be had in regard to such report and damages as are provided in sections 13a-52 to 13a-72, inclusive, for persons interested in laying out or altering a highway, in regard to remonstrance and reassessment of damages.

(1949 Rev., S. 2123; 1958 Rev., S. 13-7; 1963, P.A. 226, S. 102; P.A. 78-280, S. 2, 4, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted "judicial district(s)" for "county(ies)".

State's attorney cannot complain. 9 C. 32.

Sec. 13a-105. Contracts for highway construction. When any town has determined to construct or reconstruct any highway, section of highway or bridge, which construction or reconstruction is to be paid for from funds allotted to such town under the provisions of sections 13a-175a to 13a-175f, inclusive, and the commissioner has entered into an agreement with the selectmen of such town, as provided by sections 13a-175e and 13a-175f, said commissioner shall call for bids and award a contract for such construction or reconstruction in the manner provided by section 13a-95, except that, if, in the opinion of said commissioner, it is to the best interest of the state and such town, the commissioner may award to such town a contract for such construction or reconstruction upon such terms and conditions as the commissioner determines, provided the estimated unit prices under any contract so awarded shall not be in excess of ten per cent more than the average unit prices prevailing during the preceding twelve months for similar work in the state and provided such town shall have authorized the selectmen to enter into such contract in the name and on behalf of such town. Nothing in this section shall be construed to eliminate the use of force account work for the repair of town aid highways. The commissioner may, subject to the approval of the selectmen or legislative body of such town, enter into an

agreement with a third party for additional construction or reconstruction works when requested to do so by such third party, provided such third party shall, immediately upon certification by the commissioner, pay to the State Treasurer the full cost to the state of such additional construction or reconstruction works. If under such agreement such additional construction or reconstruction works are carried out by such third party, they shall conform with all requirements and regulations of such town and such as may be prescribed by the commissioner.

(1949 Rev., S. 2178; 1958 Rev., S. 13-65; 1963, P.A. 226, S. 105; 1967, P.A. 701, S. 11; 1971, P.A. 582, S. 1; P.A. 02-89, S. 16.)

History: 1963 act replaced previous provisions: See title history; 1967 act corrected obsolete statutory references; 1971 act added provisions re agreements between commissioner and third party for additional construction or reconstruction work; P.A. 02-89 replaced reference to Sec. 13a-175h with reference to Sec. 13a-175f, reflecting the repeal of Sec. 13a-175h by the same public act, and made technical changes for purposes of gender neutrality.

Sec. 13a-106. Competitive bids not required when material available at price acceptable to commissioner. When any town highway is maintained, improved, constructed or reconstructed on a force account basis by expenditure of funds allocated under sections 13a-175a to 13a-175f, inclusive, the furnishing of gravel, sand or wood posts by competitive bids under section 4a-57 shall not be required when suitable material, meeting Department of Transportation specifications, is available to the town at a unit price acceptable to the commissioner.

(1953, S. 1184d; 1958 Rev., S. 13-66; 1963, P.A. 226, S. 106; 1967, P.A. 701, S. 12; 1969, P.A. 768, S. 89.)

History: 1963 act replaced previous provisions: See title history; 1967 act changed obsolete statutory references; 1969 act substituted commissioner and department of transportation for highway commissioner and department; P.A. 02-89 replaced reference to Sec. 13a-175h with reference to Sec. 13a-175f, reflecting the repeal of Sec. 13a-175h by the same public act.

Sec. 13a-109. Apportionment of cost for work on bridge. The commissioner or any municipality or other person who has performed any work on any bridge for a portion of the cost of which any other municipality or person is liable shall, within thirty days after the completion of such work, mail to each person liable for a portion of the cost of such work a statement of the total cost of such work, showing the proportionate share assessed against each interested party, and such amount assessed against each interested party shall thereupon become due and, if not paid within thirty days, shall bear interest at the rate of six per cent per annum and shall be collectible in an action at law brought to the superior court for the judicial district wherein such bridge is located.

(1949 Rev., S. 2273; 1958 Rev., S. 13-129; 1963, P.A. 226, S. 109; P.A. 78-280, S. 24, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted superior court for "any court of competent jurisdiction" and "judicial district" for "county".

That county or town has no money in its treasury, no defense against action to recover amount due. 70 C. 437.

Sec. 13a-111. Railings on bridges and highways. The party bound to maintain any bridge or highway shall erect and maintain a sufficient railing or fence on the sides of such bridge and on the sides of such parts of such road as are so made or raised above the ground as to be unsafe for travel. The specifications for railings or fences on state highways or bridges required to be erected and maintained pursuant to this section shall be constructed equal to, or better than, the current specifications and policies approved by the Commissioner of Transportation for the installation and maintenance of roadside appurtenances. A railing or fence that is reasonably maintained under said specifications shall be deemed sufficient under the provisions of this section.

(1961, P.A. 43; 1963, P.A. 226, S. 111; P.A. 98-182, S. 14, 22.)

History: 1963 act replaced previous provisions: See title history; P.A. 98-182 deleted the requirement for the commissioner to promulgate regulations, required the specifications for railings or fences to be constructed equal to or better than current specifications and policies, effective July 1, 1998.

See Sec. 13a-152 re damages for failure to maintain railing or fence.

Annotations to former statute: Proof of compliance with former provision deemed to raise conclusive presumption defendant discharged duty. 122 C. 99. Standard not generally applicable; applies only to highways specified. 129 C. 700.

Sec. 13a-120. Traffic authority to maintain warning signs. The traffic authority of any city, town or borough shall erect and maintain suitable warning signs on highways under the jurisdiction of such traffic authority, legible from a distance of one hundred feet and located at a reasonable distance in each direction from schoolhouses or at a reasonable distance from the ends of hard surfaced highways, which signs shall designate the proximity of such schoolhouses or the ends of such hard surfaced highways; and such traffic authority shall erect and maintain similar warning signs in respect to bridges, dangerous curves and intersecting highways. All new and replacement signs, signals or markings erected in accordance with the requirements of this section shall conform to the specifications of the manual on uniform traffic control devices as approved and revised by the State Traffic Commission.

(1949 Rev., S. 2137; 1958 Rev., S. 13-21; 1963, P.A. 226, S. 120; 337.)

History: 1963 acts added mandatory requirement of maintenance of signs in re bridges, curves and intersections required that new and replacement signs, signals, etc. conform to specifications in manual on uniform traffic control devices and restated previous provisions: See title history.

Cited. 225 C. 217, 222.

Sec. 13a-121. Notice of load capacity; appeal. When the load-carrying capacity of any bridge on any highway is such that it will not carry safely any vehicle or combination of vehicle and trailer or semitrailer or any other object within the limits of the weights specified in section 14-267a, the authority having control of such bridge shall maintain notice at each end of such bridge legible at a distance of fifty feet, stating the maximum weight of vehicle which such bridge will carry safely. Any person may appeal from the restriction of the use of such bridge under the provisions of section 13a-89.

(1949 Rev., S. 2186; 1955, S. 1189d; 1958 Rev., S. 13-73; 1963, P.A. 226, S. 121; P.A. 79-188, S. 3, 10.)

History: 1963 act replaced previous provisions: See title history; P.A. 79-188 substituted Sec. 14-267a for reference to repealed Sec. 14-268.

See Sec. 13a-88 re load capacity of bridges.

See Sec. 13a-151 re violation of load capacity of bridge.

See Sec. 14-269 re exemptions from weight restrictions for certain vehicles engaged in construction work.

When read with section 14-222 amounts to a penal statute. Where there was no evidence that the sign on the bridge was legible for fifty feet, the defendants were not proved guilty of reckless driving beyond a reasonable doubt. 24 CS 155.

Sec. 13a-130. Bridges over railroad tracks. The bottom timbers of all bridges constructed over any railroad track shall be not less than eighteen feet above the rails, unless the Commissioner of Transportation requires a lesser height and prescribes the same in writing.

(1949 Rev., S. 2124; 1958 Rev., S. 13-8; 1963, P.A. 226, S. 130; P.A. 75-486, S. 33, 69; P.A. 77-614, S. 571, 587, 610; P.A. 78-303, S. 85, 136.)

History: 1963 act replaced previous provisions: See title history; P.A. 75-486 substituted public utilities control authority for public utilities commission; P.A. 77-614 and P.A. 78-303 substituted commissioner of transportation for public utilities control authority, effective January 1, 1979.

Sec. 13a-149. Damages for injuries by means of defective roads and bridges. Any person injured in person or property by means of a defective road or bridge may recover damages from the party bound to keep it in repair. No action for any such injury sustained on or after October 1, 1982, shall be brought except within two years from the date of such injury. No action for any such injury shall be maintained against any town, city, corporation or borough, unless written notice of such injury and a general description of the same, and of the cause thereof and of the time and place of its occurrence, shall, within ninety days thereafter be given to a selectman or the clerk of such town, or to the clerk of such city or borough, or to the secretary or treasurer of such corporation. If the injury has been caused by a structure legally placed on such road by a railroad company, it, and not the party bound to keep the road in repair, shall be liable therefor. No notice given under the provisions of this section shall be held invalid or insufficient by reason of an inaccuracy in describing the injury or in stating the time, place or cause of its occurrence, if it appears that there was no intention to mislead or that such town, city, corporation or borough was not in fact misled thereby.

(1949 Rev., S. 2126; 1951, S. 1180d; 1958 Rev., S. 13-11; 1959, P.A. 372; 1963, P.A. 226, S. 149; P.A. 76-222, S. 2; P.A. 82-5; P.A. 86-338, S. 14.)

History: 1959 act extended time for giving notice of injury due to snow and ice from ten to thirty days; 1963 act replaced previous provisions: See title history; P.A. 76-222 changed deadline for notice to town officer from sixty to ninety days after injury and deleted special provision re injury from defect caused by ice and/or snow; P.A. 82-5 required that actions for injuries sustained on or after October 1, 1982, be brought within two years of the injury; P.A. 86-338 deleted provision which exempted an injured person from the requirement of giving written notice if an action is commenced by complaint setting forth the same information as required in the notice within the time limited for the giving of such notice.

See Sec. 7-163a re municipal liability for ice and snow on public sidewalks.

See Sec. 7-308 re municipalities' assumption of liability for damages caused by firemen.

Historical review of law. 75 C. 694; 81 C. 68. Nature of liability. 66 C. 360; 71 C. 686; 75 C. 291; 84 C. 657; 103 C. 605; 104 C. 88; 108 C. 555. Elements necessary to support recovery. 81 C. 66; 104 C. 87; 108 C. 555. Purpose of law is protection of travelers. 81 C. 393; 88 C. 151. One departing from traveled way for his own convenience cannot recover. 80 C. 154; 91 C. 542. Statute does not apply to wrongful exclusion from highway. 76 C. 311. One whose negligence contributes to injury cannot recover. 66 C. 36; 79 C. 42; 82 C. 527; 86 C. 506; 89 C. 24; 98 C. 86; 103 C. 605. One may use highway little traveled. 66 C. 36. Stumbling as excuse. 70 C. 554. Plaintiff's use of defective materials in himself repairing bridge. 22 C. 290. Carrying too heavy a load. 47 C. 73; 91 C. 542. Accident or negligence of fellow traveler contributing to injury. 40 C. 238; 71 C. 697; 75 C. 291; 81 C. 241; 86 C. 506; 104 C. 88. Illegal act of person injured as debarring remedy. 82 C. 663. No liability for consequential damage. 17 C. 475; 66 C. 360. Evidence as to damage. 74 C. 475. Allegation of injury to person and property joinable in one count. 22 C. 290. Plaintiff may prove his peril and danger to enhance his damages. 22 C. 290; 27 C. 300. Special damage must be alleged. 43 C. 565. Basis of damages; when punitive allowed. 24 C. 491; 47 C. 74. Injury from branch of tree falling in road not recoverable; 34 C. 9; 85 C. 128; so from weight falling from flagpole. 34 C. 136. Open basement descent held not a defect in sidewalk. 50 C. 536. Nuisance distinguished; 48 C. 220; so defect in plan of street. 69 C. 353; 81 C. 67. Excavation outside limits of highway. 89 C. 24. Reasonable obstructions not defects. 73 C. 199; 75 C. 349; 76 C. 311; 78 C. 145; 82 C. 527; 89 C. 343. Objects calculated to frighten horses. 30 C. 129; 39 C. 381; id., 435. Whether defect exists is question of fact. 37 C. 414; 118 C. 288; 128 C. 272; but see 124 C. 285. Duty extends to highway actually in use; 78 C. 62; highways by dedication; 31 C. 308; 72 C. 231; 73 C. 359; id., 576; 74 C. 360; abandonment of road by turnpike company. 46 C. 216. Defects in bridges; 1 R. 270; id., 448; 2 R. 436; where turnpike company has been dissolved; 18 C. 32; dangerous draw; 69 C. 651; burden of proof. 24 C. 491. Ice and snow on highway. 48 C. 467; 49 C. 134. Sidewalks. 30 C. 118; 40 C. 377; id., 406; id., 456; 78 C. 396; 79 C. 44; ice thereon. 37 C. 615; 44 C. 117; 51 C. 412; 104 C. 85. Knowledge of defect; 94 C. 542; when presumed; 39 C. 228; 40 C. 375; 72 C. 672; 79 C. 385; 89 C. 24; 118 C. 288; 128 C. 272; where defendant itself causes defect; 40 C. 460; 67 C. 434; 98 C. 85; knowledge of policeman; 70 C. 115; 94 C. 692; 118 C. 288; knowledge question of fact; 30 C. 118; 94 C. 693; 104 C. 94; no liability for secret defects. 27 C. 300. Extent of protection required; degree of care. 27 C. 300; 78 C. 396; 79 C. 385; 80 C. 291; 82 C. 530; crosswalks. 79 C. 659. Duty to provide against results of fright of ordinarily gentle horse. 75 C. 288. Duty to erect fence; section 13a-111 distinguished. 75 C. 288; 81 C. 65; 89 C. 24; 105 C. 361. Duty to give warning of dangerous conditions. 36 C. 320; 37 C. 298; 67 C. 428; 69 C. 103; 70 C. 122. Failure in duty question of fact. 39 C. 439; 46 C. 218; 67 C. 433; 69 C. 354; 72 C. 680; 75 C. 289; 85 C. 693. Statutory notice; necessity; 66 C. 387; 81 C. 274; id., 287; in case of railway bound to repair; 54 C. 9; 64 C. 381; 75 C. 693; see 74 C. 475; waiver of notice; 46 C. 61; action may lie at common law, and then notice not necessary; 84 C. 349; id., 654; 94 C. 231; giving of notice must be

alleged in complaint; 81 C. 274; 85 C. 221; 106 C. 62; sufficiency of notice. 46 C. 264; 50 C. 497; 51 C. 421; 53 C. 212; 58 C. 45; 59 C. 219, 225; 63 C. 268; 64 C. 376; 67 C. 437; 72 C. 673; 73 C. 312; 74 C. 437; 81 C. 300; 86 C. 45; 91 C. 181; 92 C. 552; 98 C. 312. Liability of turnpike company; 7 C. 86; of town for defect in borough; 40 C. 205; of borough; 65 C. 311; 77 C. 308; of city. 74 C. 360; 80 C. 296; 85 C. 693. Town not liable where some other party is. 75 C. 693. Platform extending into highway; nuisance. 98 C. 524. Action by town against person causing defect. 74 C. 152; 91 C. 255. Abutting owner not liable for defect in sidewalk. 48 C. 532; 102 C. 401; 108 C. 200. Action against both town and railway. 79 C. 379; 103 C. 121. Railroad "structures." 46 C. 217; 50 C. 216; 54 C. 589; 74 C. 475. Several defects may be alleged in one complaint; 72 C. 667; amending complaint after hearing in damages. 69 C. 554. Burden of proof. 86 C. 506. Admissibility of evidence that others safely crossed sidewalk. 33 C. 57; 89 C. 24. Admissibility of evidence of condition of sidewalk before accident. 104 C. 95. See note to section 13a-99. Liability of municipality where alleged defect is caused by negligence of licensee excavating under a permit. 92 C. 367. Municipality's right of recovery over does not accrue until its liability has been finally adjudicated. *Id.*, 667. Negligence of municipality in allowing minor defect to exist is a question of fact. *Id.*, 365. Snow and ice on sidewalk. 93 C. 548; *id.*, 625; knowledge of city must consist of knowledge of precise defect. *Id.*, 628. Obligation of street railway company operating on trunk line highway. 94 C. 237. Right of town to remove shade tree in highway but outside traveled part. *Id.*, 439. How great a part of width must be kept open for travel; covered tile drain near side of road giving way under weight of motor truck. *Id.*, 538. Limitations of doctrine of no liability for error in plan. *Id.*, 539. Liability of state for defect in trunk line highway is same as that of town in an ordinary road; *id.*, 542; 105 C. 359; and likewise in case of state aid highway. *Id.*, 596. Silent policeman not itself a defect, but may become so if allowed to remain out of position. *Id.*, 694. Excavation in traveled part of highway; contributory negligence where accident happens in sunlight. 98 C. 84. Evidence of other accidents to show municipality's knowledge. 94 C. 693. Ten-day notice required where automobile runs into pile of ice and snow. 96 C. 7; Contributory negligence in having defective lights on automobile. *Id.* Whether defect counted on in complaint is same as that described in statutory notice is a question for the court. 98 C. 314. Embankment six feet from traveled part of highway may be a defect. 105 C. 361. Tree protruding over traveled part of road. 106 C. 63. Definition of defect in highway. 106 C. 63; *id.*, 380. Fire hose left across sidewalk to guard against rekindling of fire not a defect. *Id.*, 381. Complaint containing allegations showing notice was not given within statutory period is demurrable. *Id.*, 394. Whether period for giving notice runs before existence of injury could be known, *quaere.* *Id.*, 394. Whether shoulders of road are within "traveled portion of highway," *quaere.* 108 C. 196. Abutting owner's liability for nuisance on sidewalk or in proximity thereto. *Id.*, 200. Action against both abutting owner and municipality. *Id.* Indemnification of city of New Haven by abutting owner under special charter provision. *Id.*, 70. When act of third party in sanding sidewalk inures to benefit of municipality. *Id.*, 559. State not liable for defect in sidewalk on side of trunk line highway within town. 109 C. 336. Town has no duty to keep in repair shoulders of state highway used by public as footpath. 130 C. 84. Remedy for injuries caused by snow and ice on sidewalk is against city, not abutting owner. 123 C. 453. City not liable for nuisance where sidewalk on grade became dangerous only when icy and city could do nothing practicable by way of construction to make it more safe. 120 C. 499. Duty of city is not to exercise reasonable care to make streets entirely safe, but only to make them reasonably safe. 116 C. 568; 124 C. 284. Failure to warn or safeguard against danger from flagstone upheaved by hurricane constituted violation of statutory duty, when city had ample means and opportunity. 128 C. 483. What constitutes a defect; small cavity at edge of walk not. 124 C. 283. Hidden defect; constructive notice and duty of city to inspect. 128 C. 464. Placing of catch basin and cover is a governmental function but if they create condition rendering street not reasonably safe for public travel, they may be defect within statute. 109 C. 324, 327; 118 C. 427. Unsafe wall abutting sidewalk is not defect within statute. 109 C. 668. Liability is not based on negligence, but on breach of statutory duty; section 52-114 does not apply. 119 C. 479; 133 C. 246. Statute affords exclusive remedy for defects due to neglect rather than positive act of municipality, whether or not defect is a nuisance; apart from statute, municipality is liable for condition it created by positive act on highway amounting to nuisance. 126 C. 402; 131 C. 691; 133 C. 245. Jury to say if municipality should make fence sufficient to guard against skidding; effect on duty of city of failure of railway company to make rails safe. 129 C. 699. Defect must be sole and essential cause of injury; if negligence of plaintiff's intestate or of third party is also a proximate cause, no recovery. 118 C. 480; 124 C. 463. Where injury is result of defect combined with accident or natural cause, municipality is liable unless accident or natural cause was so direct and separate as to be sole proximate cause. 119 C. 168. Fundamental test is whether defect was sole cause in producing damage. Where plaintiff slipped on ice which had filled up long-existing defect, city not liable on ground defect was cause of plaintiff's fall. 130 C. 410; 131 C. 239. Municipality not liable for negligence in performing function of construction and maintenance, but for defective condition which is proximate cause of injury. 131 C. 239. City not liable where maintenance of nuisance by or negligence of another is a proximate cause of injury which concurred with sidewalk defect to bring it about. 134 C. 89. Notice of defect may be imputed to city after passage of time. 118 C. 288; 128 C. 272. Length of time defect in sidewalk must have existed in order to charge municipality with notice is question of fact. 131 C. 239. Statute cited. 110 C. 77; 115 C. 385; *id.*, 716; 121 C. 613; 124 C. 677; 128 C. 710; 129 C. 259; 132 C. 395. Action for death due to highway defect survives; not a penal statute within meaning of section 52-599. 22 C. 80. Whether notices of injury were served and whether they were intended to be or were misleading to city are questions of fact. 113 C. 145. Purpose and elements of notice; entire absence of general description of injury is fatal. 120 C. 577. "Do not know full extent of my injuries" is insufficient description. 123 C. 685. "Got hurt" insufficient. 127 C. 711. Notice alleging "bruises on other parts of legs and body" inaccurate, but not a total failure of description preventing recovery for fracture of spine. 131 C. 430. Notice that decedent fell "upon a sidewalk of a highway known as North Elm Street" is insufficient. 117 C. 70. Notice failing entirely to state cause of injury is invalid; knowledge of facts by officers of city will not obviate necessity of compliance with statute. 117 C. 401. Notice giving cause as "defective sidewalk," without describing defect, is sufficient. 123 C. 152. Special law validating defective notice held constitutional. 124 C. 183. Sixty-day notice held not a condition

precedent where action was based on negligence of railroad company at common law in permitting dangerous condition on bridge. 126 C. 558. Section applies to highway by dedication; common convenience and necessity with respect to establishment of highway reviewed. 130 C. 298. Duty of plaintiff to recite statutory notice given in complaint or to annex it thereto. 134 C. 569. Defect not too slight as matter of law to justify an award of damages. Where hole was made and maintained by state, failure of city to repair was not sole proximate cause. 134 C. 686. Bottle of syrup on walk for forty-five minutes does not warrant finding of constructive notice. 134 C. 694. Whether a condition of highway constitutes defect must be determined in each case upon the basis of its particular circumstances. 135 C. 469. From photographs of raised flagstone in sidewalk and other evidence, jury might reasonably have found that defendant had notice of defect. 135 C. 473. Elapsed time insufficient as a matter of law to sustain a finding of constructive notice and an opportunity of remedying the condition. 135 C. 484. Sidewalk within boundaries of state highway. Where there was no finding that sidewalk was constructed by state, it was held that, as between town and state, the town was liable for plaintiff's injuries. 135 C. 619. When city assumes control of sidewalks, it must exercise reasonable care to keep them in a reasonably safe condition. 136 C. 553. Cited. 137 C. 288. Statute is designed to protect travelers only; provides no right of recovery to an abutting landowner for damage from a defective highway. 138 C. 116. Cited. 138 C. 367; 139 C. 256; 140 C. 279. Constructive notice. 141 C. 126. Cited. 144 C. 282. Breach of duty on part of municipality must be shown. 144 C. 739. Special act of state legislature validating notice given municipality does not constitute breach of cooperation clause in insurance policy by municipality. 145 C. 368. Unlike most negligence actions, plaintiff has burden of proving due care for action brought under this statute. 147 C. 149. If certain portions of street are devoted to purpose other than travel, travelers leaving way provided for them and attempting to cross such reserved portions may not assume such portions are free from danger or unusual conditions. 148 C. 349. Ordinarily the length of time a defect in a sidewalk must exist in order to charge a municipality with notice of its existence is a question of fact. 148 C. 548. Defect must have existed for such a length of time that the city was charged with notice of it and had a reasonable opportunity to remedy the defect. *Id.* What constitutes defect discussed. 150 C. 514. Where statutory notice relied solely on accumulated water, as distinguished from snow and ice, as the claimed defective condition and cause of the accident, and plaintiff testified that he actually lost control of his car on a film of ice, he cannot recover from the city. 151 C. 343. Cited. 153 C. 439; 159 C. 150. Cited. 162 C. 295. Cited. 167 C. 509. Overhanging tree limb which did not obstruct or hinder travel was not a "defect" in the highway. 177 C. 268–270. Cited. 183 C. 473, 475. Sec. 52-572h does not apply to actions for personal injuries based on this statute; liability of defendant under statute is for breach of statutory duty and does not arise from negligence. 184 C. 205, 206, 212. Cited. 186 C. 229, 234; *Id.*, 300, 305; *Id.*, 692–695. Special act limiting liability of New Britain could not stand where clear policy statement in this section that municipal liability for damages should not be limited. 193 C. 589, 594, 601. Cited. 196 C. 509, 512. Cited. 211 C. 370, 381. Cited. 213 C. 307, 316, 325. Cited. *Id.*, 446, 477. P.A. 86-338 cited. 214 C. 1, 6, 7. Cited. *Id.* Cited. 218 C. 1, 5. Cited. 219 C. 179, 184–186, 190–192, 196–198, 201, 203; *Id.*, 641–644. Cited. 224 C. 23, 27. Cited. 225 C. 177–185. P.A. 86-338, tort reform act of 1986, cited. *Id.* Cited. *Id.*, 217, 219–223. P.A. 86-338, tort reform act of 1986, cited. *Id.* Cited. 226 C. 282, 293, 294; *Id.*, 757, 767. Section does not bar an employer from seeking reimbursement under Sec. 31-293(a). 231 C. 370, 371, 373–378. Cited. 235 C. 408, 409, 412. Cited. 240 C. 105. P.A. 86-338 cited. *Id.* In order for liability to obtain under this section, defendant must have notice of an actual defect and not merely notice of potential defects or conditions likely to create a defect. 246 C. 638.

In action pursuant to this section, costs may be taxed against a defendant municipality. 4 CA 30, 32. Savings clause of section must be pleaded and evidence introduced to prove its elements. *Id.*, 315, 317. Cited. 5 CA 104, 105. Cited. 8 CA 169, 173. Cited. 11 CA 1–4, 7, 9. Cited. 15 CA 185, 187. Cited. *Id.*, 668, 669, 675. Cited. 16 CA 213, 215, 216, 221. Cited. 21 CA 633, 635, 640, 642. Cited. 25 CA 67–70, 75, 76, 78, 80, 81. Cited. 26 CA 407–411, 413; *Id.*, 534–538. Cited. 27 CA 487, 488, 490, 492. Cited. 28 CA 449–452, 454, 455, 457. Cited. 29 CA 565, 572; judgment reversed, see 228 C. 358 et seq. Cited. *Id.*, 791, 792, 796, 797. Cited. 30 CA 594, 606. Cited. 31 CA 906. Cited. 33 CA 56, 57, 59. Cited. *Id.*, 754, 755, 758, 759. Cited. 36 CA 158, 159. Cited. 38 CA 14, 15, 17, 19. Cited. 39 CA 289, 303–305. Cited. 40 CA 179, 180, 181. Cited. 45 CA 413. Notice provisions discussed. 47 CA 365. Walkway deemed to be road or bridge since it was on public property leading from city street to public school and there was reasonable anticipation that the public would make use of it. *Id.*, 734. Plaintiff could not prevail on claim that because section contains its own limitation period court improperly relied on Sec. 52-584, which is applicable to negligence cases in general; trial court properly determined statute of limitations was not tolled during plaintiff's illness because this section contains no such tolling provision. 48 CA 60.

Cited. 3 CS 12. Section grants right of action. 4 CS 401. Contributory act of another. 4 CS 481. Civil liability of property owner in absence of an ordinance creating it. *Id.* Complaint based on nuisance. 5 CS 81; *id.*, 268; 16 CS 222. No action at common law in absence of negligence. 5 CS 88. Cited. 5 CS 193. Sidewalk built for travel under normal conditions is devoid of defect. 5 CS 312. Cited. 7 CS 143; *id.*, 297; 9 CS 79; 10 CS 521. Suit against both city and town. 11 CS 114. Cited. 12 CS 267; 283; 309. Action against Waterbury must be read with city charter. 14 CS 403. Terms of statute may not be waived. 15 CS 442. Cited. 17 CS 114; 18 CS 501. Governmental immunity not a defense to action under this section. 18 CS 124. Cited. 20 CS 142. See note to section 13a-144. Action against city under this section and against another defendant for nuisance can be joined but claim must be in alternative. 22 CS 74, 76. Complaint demurrable where plaintiff did not allege exercise of due care. 22 CS 75; or freedom from contributory negligence. *Id.*, 77. Whether path in public park was part of public highway system and was being used by plaintiff as traveler within meaning of this section are questions of fact to be determined on trial of case. 22 CS 456. Cited. 23 CS 132; 152. Where plaintiff brought action under section 7-465 against local board of education to recover for injuries resulting from school bus accident, held action should have been brought under this section. 25 CS 305. Cited. 26 CS 74. Municipality liable for invisible stop sign.

29 CS 352. Cited. 44 CS 45, 47–52.

Notice: What is sufficient. 2 CS 41; 14 CS 365; 18 CS 330; 19 CS 43. Concerning ice and snow. 8 CS 471. Improperly addressed. 5 CS 493; 16 CS 136. Condition precedent to recovery. 7 CS 245. Contents of. 7 CS 379. General description of "defective road." 10 CS 22. How "time" of injury is stated. 12 CS 246. Burden of plaintiff to prove that defective notice was not intended to mislead municipality. 14 CS 106. Requirement not obviated because officer has knowledge of the fact. 15 CS 442. Not required if action based on negligence. 16 CS 222. Commencement of action as alternative to. 17 CS 420. See note to section 13a-152. Dicta that giving of prescribed notice is condition precedent to exercise of right of action. 21 CS 65. Saving clause serves to obviate inaccuracies in description of injuries. Comparison with section 13a-144. 23 CS 113. Redrafted count of complaint, substituted after demurrer, should have alleged requisite notice had been given. 23 CS 147. Purpose of notice requirement. 25 CS 358. Cited. 31 CS 442. Cited. 44 CS 389. Statute applied to the City of New Haven. 2 CS 41; 4 CS 401, 481; 5 CS 88, 193, 312; 6 CS 44, 491; 7 CS 245, 297; 9 CS 79; 29 CS 75. A malfunctioning traffic light is a defect in the highway. 29 CS 108. Although a notice will not be held invalid because of inaccuracy in describing the cause of the injury, where there is in effect no cause of injury stated the notice is invalid. 3 Conn. Cir. Ct. 644, 647.

Sec. 13a-175f. Purchase of materials by Transportation Department and towns. Commissioner to test materials. The Commissioner of Transportation upon reasonable request of the selectmen or other authority having charge of highways of any town shall allow such town to join with the department in the purchase of materials used for the laying out, construction, repair, reconstruction or maintenance of any highway or bridge. The commissioner shall conduct such tests as are necessary to insure the quality of such materials.

(1967, P.A. 701, S. 9; 1969, P.A. 768, S. 118; P.A. 81-463, S. 4, 10.)

History: 1969 act replaced highway commissioner with commissioner of transportation; P.A. 81-463 repealed requirement that the commissioner, upon request of a town, furnish supervision, inspectors and engineers for purposes connected with the laying out, construction and maintenance of highways and bridges and added provisions requiring the commissioner to perform quality testing of materials used for such purposes and allowing towns to join with the department in the purchase of such materials.

See Sec. 13b-31 re Transportation Commissioner's authority to furnish supervision, inspectors and engineers to assist towns in highway and bridge projects.

Sec. 13a-175j. Emergency aid for roads, bridges, and dams to repair damage resulting from natural disaster. Any balance of appropriations in excess of that required to be distributed to the towns, under the formulas set forth in sections 13a-175a to 13a-175d, inclusive, as of June 30, 1977, and annually thereafter, may be made available by the Governor, upon application of the selectman or other authority having charge of highways in any town, to be used to defray, in whole or part, the cost of repairs, improvements, alteration or replacement of roads, bridges and dams in such town which, in the opinion of the Governor, with the advice of the Commissioner of Transportation, in the case of roads or bridges, and the Commissioner of Energy and Environmental Protection, in the case of dams, constitute a threat to public safety as a result of damage resulting from a natural disaster. Any such balance shall not lapse but shall continue to be available and shall not be transferred to the General Fund.

(P.A. 78-182, S. 1, 2.)

Sec. 13b-31. Town highways. The Commissioner of Transportation may, upon application of the selectmen or other authority having charge of highways of any town, furnish supervision, inspectors and engineers for any purpose connected with the laying out, repair, reconstruction or maintenance of any highway or bridge. Any expense incurred in furnishing any such assistance shall be paid by the town to the State Treasurer on certification by the commissioner.

(1969, P.A. 768, S. 72.)

See Sec. 13a-175f re joint purchase of materials for use in highway or bridge projects by Transportation Department and town.

CHAPTER 446I – WATER RESOURCES: STREAM CHANNEL ENCROACHMENT

Sec. 22a-342. (Formerly Sec. 25-4a). Establishment of stream channel encroachment lines. Permits for encroachments, required findings. Fees. The commissioner may establish, along any tidal or inland waterway or flood-prone area considered for stream clearance, channel improvement or any form of flood control or flood alleviation measure, lines beyond which, in the direction of the waterway or flood-prone area, no obstruction, encroachment or hindrance shall be placed by any person, and no such obstruction, encroachment or hindrance shall be maintained by any person unless authorized by said commissioner. The commissioner shall issue or deny permits upon applications for establishing such encroachments based upon his findings of the effect of such proposed encroachments upon the flood-carrying and water storage capacity of the waterways and flood plains, flood heights, hazards to life and property, and the protection and preservation of the natural resources and ecosystems of the state, including but not limited to ground and surface water, animal, plant and aquatic life, nutrient exchange, and energy flow, with due consideration given to the results of similar encroachments constructed along the reach of waterway. Each application for a permit shall be accompanied by a fee as follows: (1) No change in grades and no construction of above-ground structures, four hundred seventy dollars; (2) a change in grade and no construction of above-ground structures, nine hundred forty dollars; and (3) a change in grade and above-ground structures or buildings, four thousand dollars.

(1963, P.A. 435, S. 1; 1971, P.A. 872, S. 45; P.A. 73-590, S. 2, 3; P.A. 90-231, S. 11, 28; P.A. 91-369, S. 26, 36; P.A. 98-209, S. 5; June 30 Sp. Sess. P.A. 03-6, S. 127; June Sp. Sess. P.A. 09-3, S. 416; P.A. 13-205, S. 1.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-590 clarified applicable waterways as “tidal or inland” and required that findings contain effect of encroachment upon water storage capacity, floodplains and upon protection and preservation of natural resources and ecosystems; Sec. 25-4a transferred to Sec. 22a-342 in 1983; P.A. 90-231 required the payment of application fees and provided that on and after July 1, 1995, the fees shall be prescribed by regulations; P.A. 91-369 restated commissioner’s authority to adopt regulations setting the fees required by this section; P.A. 98-209 prohibited hindrances beyond stream channel encroachment lines and prohibited maintenance of obstructions, encroachments or hindrances beyond such lines; June 30 Sp. Sess. P.A. 03-6 increased permit application fees by 50% in Subdivs. (1), (2) and (3) and deleted provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased fees; P.A. 13-205 made commissioner’s establishment of stream channel encroachment lines permissive rather than mandatory.

Sec. 22a-342a. Civil penalty. Any person who places any obstruction, encroachment or hindrance within any stream channel encroachment line established by the Commissioner of Environmental Protection pursuant to section 22a-342 without a permit issued under said section, or is maintaining any such obstruction, encroachment or hindrance placed without such a permit, or in violation of the terms and conditions of such permit shall be liable for a civil penalty of not more than one thousand dollars for each offense. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Commissioner of Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

(P.A. 87-438, S. 2; P.A. 88-230, S. 1, 12; 88-364, S. 42, 123; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4—6; P.A. 98-209, S. 6.)

History: P.A. 88-230 replaced "judicial district of Hartford-New Britain at Hartford" with "judicial district of Hartford", effective September 1, 1991; P.A. 88-364 made technical change; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September

1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 98-209 prohibited maintenance of obstructions, encroachments or hindrances beyond stream channel encroachment lines without a permit.

Cited. 215 C. 616, 625.

Sec. 22a-343. (Formerly Sec. 25-4b). Determination of lines. The commissioner, in establishing such encroachment lines, shall base their location on the boundaries of the area which would be inundated by a flood similar in size to one or more recorded floods which have caused extensive damages in such area or on a size of flood computed by accepted methods applicable generally throughout the state or a region thereof. The determination of the size of the flood and the boundaries of the inundated area shall take into consideration the effects of probable future developments. The position of the lines may vary from the boundaries of the inundated area so as to minimize the area of land to be regulated when a portion of the inundated area does not contribute to the flood-carrying capacity of the waterway. The position of the lines shall, insofar as practical, equitably affect riparian properties and interests depending upon existing topography and shall be interdependent throughout the reaches of the waterway, and shall conform with the requirements of the federal government imposed as conditions for the construction of flood control projects. When the existing waterway, because of natural or man-made constrictions, is such that such lines cannot be established by standard engineering methods, a channel may be adopted, whereby the removal of such constrictions may be anticipated so that reasonable lines can be established by methods applicable to the state generally. When the flood boundary falls along the channel banks, the lines shall be placed at the top of the bank.

(1963, P.A. 435, S. 2; 1971, P.A. 872, S. 46.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; Sec. 25-4b transferred to Sec. 22a-343 in 1983.

Annotation to former section 25-4b: Cited. 179 C. 250, 252.

Annotations to present section: Cited. 215 C. 616, 625, 626.

Sec. 22a-344. (Formerly Sec. 25-4c). Public hearing. Order establishing lines.

Revocation of orders. (a) The commissioner or a hearing examiner, designated by him, shall hold a public hearing to review the proposed encroachment lines along any waterway or flood-prone area prepared in accordance with section 22a-343 with due consideration of the equities involved. Notice of such hearing shall be given by mail to all property owners known to be affected by the proposed lines and shall be published three times in a newspaper having a general circulation in the area involved. The commissioner shall take appropriate steps to inform the public and the interested property owners of the proposals by making suitable maps available in the office of the town clerk of the town wherein the property is located for inspection, study and discussion. After consideration of all testimony and pertinent facts at his disposal and with due regard for the public interest and the rights of respective property owners, the commissioner may approve the location of the lines as proposed or as modified and thereupon shall establish such lines by order. Such order shall be recorded with appropriate maps with the town clerks of the respective towns involved. Notice of such order establishing or altering such line or lines shall be mailed to all persons known to be affected thereby and shall be published three times in a newspaper having a general circulation in the area involved. Any person aggrieved by any order of the commissioner as to the location of such line may appeal therefrom, in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district of New Britain.

(b) Any order of the commissioner that established encroachment lines on or before October 1, 2013, shall be deemed to be revoked.

(1963, P.A. 435, S. 3; 1971, P.A. 872, S. 47; P.A. 76-436, S. 465, 681; P.A. 77-603, S. 105, 125; P.A. 80-483, S. 162, 186; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 99-215, S. 24, 29; P.A. 13-205, S. 13.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner and authorized designated hearing examiners to conduct hearings; P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; P.A. 77-603 replaced previous appeal provisions with requirement that appeals be made in accordance with Sec. 4-183, but retained venue in Hartford county; P.A. 80-483 replaced Hartford county with judicial district of Hartford-New Britain; Sec. 25-4c transferred to Sec. 22a-344 in 1983; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced "judicial district of Hartford" with "judicial district of New Britain", effective June 29, 1999; P.A. 13-205 designated existing provisions as Subsec. (a) and added Subsec. (b) re revocation of orders establishing encroachment lines.

Sec. 22a-345. (Formerly Sec. 25-4d). Nonconforming uses. Taking of existing structures by commissioner. When the establishment of such lines in accordance with sections 22a-342 to 22a-348, inclusive, requires that they be placed through portions of or so as to include entire existing structures within the regulated area, such structures or portions thereof shall be considered as a nonconforming use of the area, except that, if the structure is destroyed or damaged to the extent of more than fifty per cent of the fair market value, such structure shall be replaced or repaired only through a permit from the commissioner, provided the commissioner may define types of structures which may be reconstructed within such lines without a permit. Whenever the commissioner finds that existing structures or encroachments within the lines established constitute a hazard to life and property in the event of flood, he is empowered to take such land and structure as provided by chapter 835 and cause removal of such encroachment.

(1963, P.A. 435, S. 4; 1971, P.A. 872, S. 48.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4d transferred to Sec. 22a-345 in 1983.

Cited. 215 C. 616, 625.

Sec. 22a-346. (Formerly Sec. 25-4e.) Encroachment as nuisance. After the commissioner has established such lines on any waterway or flood plain, any obstruction, encroachment or hindrance of any nature placed within such lines in the direction of the waterway, without specific authorization of the commissioner, shall be considered a public nuisance. The Attorney General shall, at the request of the commissioner, institute proceedings to enjoin and abate any such nuisance.

(1963, P.A. 435, S. 5; 1971, P.A. 872, S. 49.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4e transferred to Sec. 22a-346 in 1983.

See Sec. 22a-362 re structures or fill.

Cited. 215 C. 616, 625.

Sec. 22a-347. (Formerly Sec. 25-4f.) Regulations and procedures. The commissioner may, subject to the provisions of subsection (a) of section 22a-6, adopt, revise and amend such rules, regulations and procedures as are necessary to carry out the purposes of sections 22a-342 to 22a-348, inclusive, in the public interest.

(1963, P.A. 435, S. 6; 1971, P.A. 872, S. 50.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner and added phrase limiting commissioner's power to make and revise regulations and procedures; Sec. 25-4f transferred to Sec. 22a-347 in 1983.

See chapter 54 (Sec. 4-166 et seq.) re administrative procedure.

Cited. 215 C. 616, 625.

Sec. 22a-348. (Formerly Sec. 25-4g.) Municipal powers. (a) The provisions of sections 22a-342 to 22a-348, inclusive, shall not affect the provision of section 7-147 authorizing any town, city or borough to establish such lines within its jurisdiction prior to the establishment of lines by the commissioner, provided the commissioner may alter any lines, however established, upon finding such alterations are necessary to effectuate the purpose of said sections 22a-342 to 22a-348, inclusive, and section 25-69. If the commissioner has established lines within a municipality, the commissioner shall have exclusive jurisdiction over any encroachments within such lines.

(b) Notwithstanding the provisions of subsection (a), any town, city or borough may establish such lines at any time to comply with the eligibility provisions of the National Flood Insurance Program (44 CFR Part 59 et seq.).

(1963, P.A. 435, S. 7; 1971, P.A. 872, S. 51; P.A. 84-16; P.A. 88-327, S. 2, 3.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4g transferred to Sec. 22a-348 in 1983; P.A. 84-16 added Subsec. (b) authorizing towns to establish lines to comply with the National Flood Insurance Program; P.A. 88-327 added provisions to Subsec. (a) re exclusive jurisdiction of commissioner of environmental protection.

Cited. 215 C. 616, 625.

Sec. 22a-349. (Formerly Sec. 25-4h.) Permitted agricultural use. The provisions of sections 22a-342 to 22a-348, inclusive, shall not be deemed to restrict agricultural or farming uses of lands located within the stream channel encroachment lines including the building of fences, provided this section shall not apply to farm buildings and farm structures.

(P.A. 75-114, S. 1, 2.)

History: Sec. 25-4h transferred to Sec. 22a-349 in 1983.

Cited. 215 C. 616, 618, 621, 622, 625—627, 629—632. Cited. 239 C. 124. Cited. 24 CA 163, 167.

Sec. 22a-349a. General permits for minor activities. Regulations. (a) The Commissioner of Environmental Protection may issue a permit for any minor activity regulated under sections 22a-342 to 22a-349, inclusive, except for any activity covered by an individual permit, if the commissioner determines that such activity would cause minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects, and will not cause any increase in flood heights or in the potential for flood damage or flood hazards. Such activities may include routine minor maintenance and routine minor repair of existing structures; replacement of existing culverts; installation of water monitoring equipment, including but not limited to staff gauges, water recording and water quality testing devices; removal of unauthorized solid waste; extension of existing culverts and stormwater outfall pipes; placement of greenhouses or hoopouses lacking concrete foundations; construction of irrigation and utility lines; and safety improvements with minimal environmental impacts within existing rights-of-way of existing roadways. Any person, firm or corporation conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under any other provision of said sections 22a-342 to 22a-349, inclusive, except as provided in subsection (c) of this section. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including but not limited to, management practices and verification and reporting requirements. The general permit may require any person, firm or corporation, conducting any activity under the general permit to report, on a form prescribed by the commissioner, such activity to the commissioner before it shall be covered by the general permit. The commissioner shall prepare, and shall annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(b) Notwithstanding any other procedures specified in said sections 22a-342 to 22a-349, inclusive, any regulations adopted thereunder, and chapter 54, the commissioner may issue, revoke, suspend or modify a general permit in accordance with the following procedures: (1) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (2) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (3) the commissioner may not issue the general permit until after the comment period; and (4) the commissioner shall publish notice of any permit issued in a newspaper having substantial circulation in the affected area or areas. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(c) Subsequent to the issuance of a general permit, the commissioner may require any person, firm or corporation, to apply for an individual permit under the provisions of said sections 22a-342 to 22a-349, inclusive, for all or any portion of the activities covered by the general permit, if in the commissioner's judgment the purposes and policies of such sections would be best served by requiring an application for an individual permit. The commissioner may require an individual permit under this subsection only if the affected person, firm or corporation has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for the decision and a statement that upon the date of issuance of such notice the general permit as it applies to the individual activity will terminate.

(d) Any general permit issued under this section shall require that any person, firm or corporation intending to conduct an activity covered by such general permit shall, at least sixty

days before initiating such activity, give written notice of such intention to the inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission and conservation commission of any municipality which will or may be affected by such activity, and to the department which shall make such notices available to the public. The general permit shall specify the information which must be contained in the notice. An inland wetlands agency, planning and zoning commission, conservation commission or any person may submit written comments to the commissioner concerning such activity not later than twenty-five days prior to the date that the activity is proposed to begin.

(e) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.

(P.A. 91-263, S. 4, 8; P.A. 92-162, S. 16, 25.)

History: P.A. 92-162 amended Subsec. (d) to provide that any person may submit comments to the commissioner concerning regulated activities permitted under this section prior to commencement of such activities and changed the deadline for such comments from thirty days prior to such commencement to twenty-five days.

CGS CHAPTER 467A: FLOOD MANAGEMENT

Sec. 25-68b. Definitions. As used in sections 25-68b to 25-68h, inclusive:

(1) "Activity" means any proposed state action in a floodplain or any proposed state action that impacts natural or man-made storm drainage facilities that are located on property that the commissioner determines to be controlled by the state;

(2) "Base flood" means that flood which has a one per cent chance of being equaled or exceeded in any year, as defined in regulations of the National Flood Insurance Program (44 CFR 59 et seq.) or that flood designated by the commissioner pursuant to section 25-68c. Any flood so designated by the commissioner shall have at least a one per cent chance of being equaled or exceeded in any year. Such flood may be designated as the A or V zones on maps published by the National Flood Insurance Program. The "base flood for a critical activity" means the flood that has at least a .2 per cent chance of being equaled or exceeded in any year. Such flood may be designated as the B zone on maps published for the National Flood Insurance Program;

(3) "Commissioner" means the Commissioner of Environmental Protection;

(4) "Critical activity" means any activity, including, but not limited to, the treatment, storage and disposal of hazardous waste and the siting of hospitals, housing for the elderly, schools or residences, in the .2 per cent floodplain in which the commissioner determines that a slight chance of flooding is too great;

(5) "Floodplain" means that area located within the real or theoretical limits of the base flood or base flood for a critical activity;

(6) "Flood-proofing" means any combination of structural or nonstructural additions, changes or adjustments which reduce or eliminate flood damage to real estate or improved real property, to water and sanitary facilities, and to structures and their contents;

(7) "Freeboard" means a safety factor, expressed in feet above a calculated flood level, that compensates for unknown factors contributing to flood heights greater than the calculated height, including, but not limited to, ice jams, debris accumulations, wave actions, obstructions of bridge openings and floodways, the effects of urbanization on the hydrology of a watershed, loss of flood storage due to development and sedimentation of a watercourse bed;

(8) "Proposed state action" means individual activities or a sequence of planned activities proposed to be undertaken by a state department, institution or agency, any state or federal grant or loan proposed to be used to fund a project that affects land use, or proposed transfer of real property belonging to the state.

(P.A. 84-536, S. 1. ; P.A. 05-174, S. 1.)

History: P.A. 05-174 redefined "activity" in Subdiv. (1) and added Subdiv. (8) re definition of "proposed state action".

Sec. 25-68c. Powers and duties of commissioner. The commissioner shall have the following powers and duties under sections 25-68b to 25-68h, inclusive:

- (1) To coordinate, monitor and analyze the floodplain management activities of state and local agencies;
- (2) To coordinate flood control projects within the state and be the sole initiator of a flood control project with a federal agency;
- (3) To act as the primary contact for federal funds for floodplain management activities sponsored by the state;
- (4) To regulate actions by state agencies affecting floodplains except conversion by The University of Connecticut of commercial or office structures to an educational structure;
- (5) To regulate proposed state actions that impact natural or man-made storm drainage facilities located on property that the commissioner determines to be controlled by the state, including, but not limited to, programs that regulate flood flows within a floodplain and site development that increases peak runoff rates;
- (6) To designate a repository for all flood data within the state;
- (7) To assist municipalities and state agencies in the development of comprehensive floodplain management programs;
- (8) To determine the number and location of state-owned structures and uses by the state in the floodplain and to identify measures to make such structures and uses less susceptible to flooding including flood-proofing or relocation;
- (9) To mark or post the floodplains within lands owned, leased or regulated by state agencies in order to delineate past and probable flood heights and to enhance public awareness of flood hazards;
- (10) To designate the base flood or base flood for a critical activity where no such base flood is designated by the National Flood Insurance Program. The commissioner may add a freeboard factor to any such designation;
- (11) To require that any flood control project be designed to provide protection equal to or greater than the base flood.

(P.A. 84-536, S. 2; P.A. 95-230, S. 44, 45; P.A. 05-174, S. 2.)

History: P.A. 95-230 amended Subdiv. (4) to add exception for The University of Connecticut, effective June 7, 1995 ; P.A. 05-174 added new Subdiv. (5) re commissioner's power to regulate proposed state actions that impact natural or man-made storm drainage facilities located on state property and redesignated existing Subdivs. (5) to (10) as Subdivs. (6) to (11).

Sec. 25-68d. Certification of activity or critical activity within or affecting the floodplain. Application for exemption. Exemption. (a) No state agency shall undertake an activity or a critical activity within or affecting the floodplain without first obtaining an approval or approval with conditions from the commissioner of a certification submitted in accordance with subsection (b) of this section or exemption by the commissioner from such approval or approval with conditions in accordance with subsection (d) of this section.

(b) Any state agency proposing an activity or critical activity within or affecting the floodplain shall submit to the commissioner information certifying that:

(1) The proposal will not obstruct flood flows or result in an adverse increase in flood elevations, significantly affect the storage or flood control value of the floodplains, cause an adverse increase in flood velocities, or an adverse flooding impact upon upstream, downstream or abutting properties, or pose a hazard to human life, health or property in the event of a base flood or base flood for a critical activity;

(2) The proposal complies with the provisions of the National Flood Insurance Program, 44 CFR 59 et seq., and any floodplain zoning requirements adopted by a municipality in the area of the proposal and the requirements for stream channel encroachment lines adopted pursuant to the provisions of section 22a-342;

(3) The agency has acquired, through public or private purchase or conveyance, easements and property in floodplains when the base flood or base flood for a critical activity is elevated above the increment authorized by the National Flood Insurance Program or the flood storage loss would cause adverse increases in such base flood flows;

(4) The proposal promotes long-term nonintensive floodplain uses and has utilities located to discourage floodplain development;

(5) The agency has considered and will use to the extent feasible flood-proofing techniques to protect new and existing structures and utility lines, will construct dikes, dams, channel alterations, seawalls, breakwaters or other structures only where there are no practical alternatives and will implement stormwater management practices in accordance with regulations adopted pursuant to section 25-68h; and

(6) The agency has flood forecasting and warning capabilities consistent with the system maintained by the National Weather Service and has a flood preparedness plan.

(c) The commissioner shall make a decision either approving, approving with conditions or rejecting a certification not later than ninety days after receipt of such certification, except that in the case of an exemption any decision shall be made ninety days after the close of the hearing. If a certification is rejected, the agency shall be entitled to a hearing in accordance with the provisions of sections 4-176e, 4-177, 4-177c and 4-180.

(d) Any state agency proposing an activity or critical activity within or affecting the floodplain may apply to the commissioner for exemption from the provisions of subsection (b) of this section. Such application shall include a statement of the reasons why such agency is unable to comply with said subsection and any other information the commissioner deems necessary. The commissioner, at least thirty days before approving, approving with conditions or denying any such application, shall publish once in a newspaper having a substantial circulation in the affected area notice of: (1) The name of the applicant; (2) the location and nature of the requested exemption; (3) the tentative decision on the application; and (4) additional information the commissioner deems necessary to support the decision to approve, approve with conditions or deny the application. There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination to either approve the application, approve the application with conditions or deny the application. The commissioner may hold a public hearing prior to approving, approving with conditions or denying any

application if in the discretion of the commissioner the public interest will be best served thereby, and the commissioner shall hold a public hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected. The commissioner may approve or approve with conditions such exemption if the commissioner determines that (A) the agency has shown that the activity or critical activity is in the public interest, will not injure persons or damage property in the area of such activity or critical activity, complies with the provisions of the National Flood Insurance Program, and, in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity. An activity shall be considered to be in the public interest if it is a development subject to environmental remediation regulations adopted pursuant to section 22a-133k and is in or adjacent to an area identified as a regional center, neighborhood conservation area, growth area or rural community center in the State Plan of Conservation and Development pursuant to chapter 297, or (B) in the case of a flood control project, such project meets the criteria of subparagraph (A) of this subdivision and is more cost-effective to the state and municipalities than a project constructed to or above the base flood or base flood for a critical activity. Following approval for exemption for a flood control project, the commissioner shall provide notice of the hazards of a flood greater than the capacity of the project design to each member of the legislature whose district will be affected by the project and to the following agencies and officials in the area to be protected by the project: The planning and zoning commission, the inland wetlands agency, the director of civil defense, the conservation commission, the fire department, the police department, the chief elected official and each member of the legislative body, and the regional planning agency. Notice shall be given to the general public by publication in a newspaper of general circulation in each municipality in the area in which the project is to be located.

(e) The use of a mill that is located on a brownfield, as defined in section 32-9kk, shall be exempt from the certification requirements of subdivision (4) of subsection (b) of this section, provided the agency demonstrates: (1) The activity is subject to the environmental remediation requirements of the regulations adopted pursuant to section 22a-133k, (2) the activity is limited to the areas of the property where historical mill uses occurred, (3) any critical activity is above the five-hundred-year flood elevation, and (4) the activity complies with the provisions of the National Flood Insurance Program.

(f) The failure of any agency to comply with the provisions of this section or any regulations adopted pursuant to section 25-68c shall be grounds for revocation of the approval of the certification.

(g) The provisions of this section shall not apply to any proposal by the Department of Transportation or the Department of Economic and Community Development for a project within a drainage basin of less than one square mile.

(h) The provisions of subsections (a) to (d), inclusive, and (f) and (g) of this section shall not apply to the following critical activities above the one-hundred-year flood elevation that involve state funded housing reconstruction, rehabilitation or renovation, provided the state agency that provides funding for such activity certifies that it complies with the provisions of the National Flood Insurance Program and the requirements of this subsection: (1) Projects involving the renovation or rehabilitation of existing housing on the Department of Economic and Community Development's most recent affordable housing appeals list; (2) construction of minor structures to an existing building for the purpose of providing handicapped accessibility pursuant to the State Building Code; (3) construction of open decks attached to residential structures, properly anchored in accordance with the State Building Code; (4) the demolition and reconstruction of existing housing for persons and families of low and moderate income, provided there is no increase in the number of dwelling units and (A) such reconstruction is limited to the footprint of the existing foundation of the building or buildings used for such purpose, or which could be used for such purpose subsequent to reconstruction, or (B) such reconstruction is on a parcel of

land where the elevation of such land is above the one-hundred-year flood elevation, provided there is no placement of fill within an adopted Federal Emergency Management Agency flood zone.

(P.A. 84-536, S. 3; P.A. 88-317, S. 87, 107; P.A. 05-174, S. 3; 05-288, S. 112, 113; P.A. 07-233, S. 9; P.A. 09-141, S. 1; 09-235, S. 1; P.A. 10-139, S. 1.)

History: P.A. 88-317 added references in Subsec. (c) to Secs. 4-176e, 4-177c and 4-180, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 05-174 added provisions re approval with conditions and made technical changes in Subsecs. (a), (c) and (d) and replaced former provision re notice and hearing with new provisions re procedural requirements for state agency exemption in Subsec. (d); P.A. 05-288 made technical changes in Subsecs. (a) and (d), effective July 13, 2005; P.A. 07-233 amended Subsec. (d)(4)(A) to specify types of activities considered to be in the public interest, effective July 1, 2007; P.A. 09-141, effective June 25, 2009, and P.A. 09-235, effective July 9, 2009, both added exemption from certification requirements for use of mill located on a brownfield, codified as new Subsec. (e), and redesignated existing Subsecs. (e) and (f) as Subsecs. (f) and (g); P.A. 10-139 made technical changes in Subsecs. (b)(2) and (e)(3), added Department of Economic and Community Development exemption in Subsec. (g) and added Subsec. (h) re exemptions for critical activities above the one-hundred-year flood elevation that involve state funded housing reconstruction, rehabilitation or renovation, effective July 1, 2010.

Sec. 25-68e. Suspension. The provisions of sections 25-68b to 25-68h, inclusive, and any regulations adopted thereunder may be suspended by the commissioner during any disaster emergency proclaimed by the Governor pursuant to section 28-9a or during an emergency declaration or major disaster declaration declared by the President of the United States under Public Law 93-288.

(P.A. 84-536, S. 4.)

Sec. 25-68f. Floodplain designation. Where more than one flood zone has been designated for an area, the most stringent designation shall be used in fulfilling the provisions of sections 25-68b to 25-68h, inclusive.

(P.A. 84-536, S. 5.)

Sec. 25-68g. Immunity. The state, any municipality or any officer or employee thereof shall not be liable for any damage resulting from reliance on any decision made pursuant to section 25-68d.

(P.A. 84-536, S. 6.)

Sec. 25-68h. Regulations. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of sections 25-68b to 25-68h, inclusive. Such regulations shall include, but not be limited to, (1) standards for stormwater management and flood flows and (2) procedures for certification or exemption of a proposal in accordance with section 25-68d.

(P.A. 84-536, S. 7.)

Sec. 25-68i. Guidelines for municipal ordinances re floodplains. The Commissioner of Environmental Protection shall develop guidelines to be used by municipalities in revising ordinances restricting flood storage and conveyance of water for floodplains, as defined in section 8-2l, that are not tidally influenced. Such guidelines shall include, but not be limited to, a model ordinance that may be used by municipalities to comply with the provisions of section 8-2l. The commissioner shall make the guidelines available to the public.

(P.A. 04-144, S. 4.)

Sec. 25-68j. Hazard mitigation and floodplain management grant program: Definitions.

As used in sections 25-68k to 25-68n, inclusive:

(1) "Eligible applicant" means any municipality, regional planning agency organized under the provisions of chapter 127, any regional council of elected officials organized under the provisions of chapter 50, or any regional council of government organized under the provisions of sections 4-124i to 4-124p, inclusive;

(2) "Hazard mitigation" means activities that include, but are not limited to, actions taken to reduce or eliminate long-term risk to human life, infrastructure and property resulting from natural hazards including, but not limited to, flooding, high winds and wildfires; and

(3) "Floodplain management" means activities that include, but are not limited to, actions taken to retain the existing capacity of designated floodplain areas to store and convey flood waters.

(P.A. 04-144, S. 8.)

Sec. 25-68k. Hazard mitigation and floodplain management grant program: Administration by Commissioner of Environmental Protection. (a) The Commissioner of Environmental Protection shall establish and administer a hazard mitigation and floodplain management grant program to reimburse eligible applicants for costs incurred in the reduction or elimination of long-term risks to human life, infrastructure and property from natural hazards, including, but not limited to, flooding, high winds and wildfires, and in the retention of present capacity of designated floodplain areas to store and convey flood waters. Each grant shall be in an amount equal to ninety per cent of the costs to be incurred for such activities. Application for a grant shall be made in writing to the commissioner in such form as the commissioner may prescribe and shall include a description of the purpose, objectives and budget of the activities to be funded by the grant. If the applicant is a municipality, the chief executive officer of the municipality applying for the grant may designate the town planner, the director of public works, the police chief, the fire chief or the emergency management director of such municipality as the agent to make the application.

(b) The Commissioner of Environmental Protection shall establish, by regulations adopted in accordance with chapter 54, relative priorities for the approval of grants under this section. Such priorities may take into account the differing needs of eligible applicants, the need for consistency and equity in the distribution of grant awards and the extent to which particular projects may advance the purposes of this section. The commissioner shall accord highest priority to projects which involve (1) the preparation or revision of hazard mitigation plans by municipalities, or (2) participation in the community rating system of the National Flood Insurance Program. The commissioner shall accord secondary priority to projects which involve (A) the execution of hazard mitigation projects by municipalities in accordance with approved hazard mitigation plans; or (B) administering and providing financial assistance for the hazard mitigation and floodplain management grant program established under this section. The commissioner may establish further criteria for the approval of grants under this section. Not later than February 1, 2005, the commissioner shall develop and disseminate a pamphlet that describes the evaluation process for grant applications under this section. In awarding grants under this section, the commissioner shall consult with any person the commissioner deems necessary.

(c) The commissioner shall authorize grant awards under this section on or before July thirty-first and December thirty-first of each fiscal year in which payment of a grant is to be made.

(d) The commissioner shall allocate not less than sixty per cent of the moneys in the hazard mitigation and floodplain management account in any fiscal year for grants under this section.

(P.A. 04-144, S. 9.)

History: P.A. 04-144 effective July 1, 2004.

Sec. 25-68l. Awarding of grants. (a) On and after July 1, 2005, within available appropriations, the Commissioner of Environmental Protection shall make grants to municipalities under section 25-68k.

(b) If the commissioner finds that any grant awarded pursuant to this section is being used for other purposes or to supplant a previous source of funds, the commissioner may require repayment.

(P.A. 04-144, S. 10; June Sp. Sess. P.A. 09-3, S. 483.)

History: June Sp. Sess. P.A. 09-3 amended Subsec. (a) to add "within available appropriations" and to delete reference to hazard mitigation and floodplain management account.

Sec. 25-68m. Reports re activities paid for under grant. (a) Recipients of grants under section 25-68k shall submit a report to the Commissioner of Environmental Protection, in such form as the commissioner prescribes, not later than September first of the fiscal year following the fiscal year such grant was received. Such report shall contain a description of activities paid for with financial assistance under the grant. The chief executive officer of a municipality that receives a grant may designate the town planner, the director of public works, the police chief, the fire chief or the emergency management director of such municipality as the agent to make such report.

(b) On or before January 1, 2007, and annually thereafter, the Commissioner of Environmental Protection shall prepare a report on grants made under section 25-68k for the preceding fiscal year. Each such report shall include: (1) A description of the grants made, including the amount and purposes and the municipalities to which they were made; and (2) any findings or recommendations concerning the operation and effectiveness of the grant program.

(P.A. 04-144, S. 11; P.A. 05-288, S. 114.)

History: P.A. 05-288 made a technical change in Subsec. (b), effective July 13, 2005.

Sec. 25-68n. Regulations. The Commissioner of Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of sections 25-68j to 25-68m, inclusive.

(P.A. 04-144, S. 12.)

History: P.A. 04-144 effective July 1, 2004.

CGS CHAPTER 467A: ENDANGERED SPECIES

Sec. 26-310. Actions by state agencies which affect endangered or threatened species or species of special concern or essential habitats of such species. (a) Each state agency, in consultation with the commissioner, shall conserve endangered and threatened species and their essential habitats, and shall ensure that any action authorized, funded or performed by such agency does not threaten the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat designated as essential to such species, unless such agency has been granted an exemption as provided in subsection (c) of this section. In fulfilling the requirements of this section, each agency shall use the best scientific data available.

(b) Each state agency responsible for the primary recommendation or initiation of actions on land or in aquatic habitats which may significantly affect the environment, as defined in section 22a-1c, shall ensure that such actions are consistent with the provisions of sections 26-303 to 26-312, inclusive, and shall take all reasonable measures to mitigate any adverse impacts of such actions on endangered or threatened species or essential habitat. The Secretary of the Office of

Policy and Management shall consider the consistency of such proposed actions with the provision of said sections 26-303 to 26-312, inclusive, in determining whether or not an environmental impact evaluation prepared pursuant to section 22a-1b satisfies the requirements of sections 22a-1a to 22a-1h, inclusive, and regulations adopted pursuant to said sections.

(c) If the Secretary of the Office of Policy and Management, in consultation with the commissioner, determines that a proposed action violates subsections (a) or (b) of this section and there are no feasible and prudent alternatives the state agency may apply to the commissioner for an exemption. The commissioner may grant an exemption after considering the following factors: (1) The agency did not make an irreversible or irretrievable commitment of resources after initiation of consultation with the department that forecloses the opportunity for formulating and implementing feasible and prudent alternatives, (2) the benefits of the action clearly outweigh the benefits of alternative courses of action, consistent with conserving the species or its essential habitat, and such action is in the public interest, (3) the action is of regional or state-wide significance, and (4) the agency plans to take reasonable mitigation and enhancement measures necessary and appropriate to minimize the adverse impacts of the action upon the species or essential habitat, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement.

(d) If the Secretary of the Office of Policy and Management, in consultation with the commissioner, determines that a proposed action would not appreciably reduce the likelihood of the survival or recovery of an endangered or threatened species, but would result in the incidental taking of such species, the commissioner shall provide the state agency with a written statement that: (1) Specifies the impact of such incidental taking on the species; (2) specifies feasible and prudent measures and alternatives that shall be implemented as part of the proposed project in order to ensure that the action does not appreciably reduce the likelihood of the recovery of the species; and (3) sets forth terms and conditions including, but not limited to, reporting requirements to ensure compliance with this subsection. Any taking that is in compliance with the measures and alternatives specified pursuant to this subsection shall not be prohibited by sections 26-303 to 26-312, inclusive.

(P.A. 89-224, S. 8, 22.)

History: (Revisor's note: In 1993 an incorrect reference in Subsec. (b) to Sec. 36-312 was changed editorially by the Revisors to Sec. 26-312).

AUDITS FOR RECIPIENTS OF STATE FINANCIAL ASSISTANCE

Sec. 4-230. Definitions. As used in sections 4-230 to 4-236, inclusive:

- (1) "Cognizant agency" means a state agency which is assigned by the secretary the responsibility for implementing the requirements of sections 4-230 to 4-236, inclusive;
- (2) "Secretary" means the Secretary of the Office of Policy and Management;
- (3) "State financial assistance" means assistance that a non-state entity receives or administers which is provided by a state agency or pass-through entity in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, but does not include direct state cash assistance to individuals or payments to a vendor;
- (4) "State agency" means any department, board, commission, institution or other agency of the state;
- (5) "Generally accepted accounting principles" has the meaning specified in the generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA);
- (6) "Generally accepted government auditing standards" (GAGAS) means the generally accepted government auditing standards issued by the Comptroller General of the United States that are applicable to financial audits;
- (7) "Independent auditor" means a public accountant who is licensed to practice in the state and meets the independence standards included in generally accepted government auditing standards;
- (8) "Internal controls" means a process, effected by an entity's board of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in: (A) Reliability of financial reporting, (B) effectiveness and efficiency of operations and (C) compliance with applicable laws and regulations;
- (9) "Municipality" means a town, consolidated town and city, consolidated town and borough, city or borough, including a local board of education as described in subsection (c) of section 7-392;
- (10) "Audited agency" means a fire district, fire and sewer district, sewer district or other municipal utility, the Metropolitan District of Hartford County, a regional board of education, a regional planning agency, any other political subdivision of similar character which is created or any other agency created or designated by a municipality to act for such municipality whose average annual receipts from all sources exceed two hundred thousand dollars or any tourism district established under section 32-302;
- (11) "Nonprofit agency" means any organization that is not a for-profit business and provides services contracted for by (A) the state or (B) a non-state entity. It also means private institutions of higher learning which receive state financial assistance;
- (12) "Major state program" means any program, excluding an exempt program, for which total expenditures of state financial assistance by a nonstate entity during the applicable year exceed the larger of (A) one hundred thousand dollars or (B) one per cent of the total amount of state financial assistance expended, excluding expenditures of an exempt program by the nonstate entity during the audited year;
- (13) "Public accountant" means an individual who meets the standards included in generally accepted government auditing standards for personnel performing government audits and the licensing requirements of the State Board of Accountancy;

(14) "Subrecipient" means a nonstate entity that receives state financial assistance from a pass-through entity, but does not include an individual who receives such assistance;

(15) "Tourism district" means a district established under section 32-302;

(16) "Nonstate entity" means a municipality, tourism district, audited agency or nonprofit agency;

(17) "Pass-through entity" means a nonstate entity that provides state financial assistance to a subrecipient;

(18) "Program-specific audit" means an audit of a single state program conducted in accordance with the regulations adopted under section 4-236;

(19) "Expended" and "expenditures" have the meanings attributed to those terms in generally accepted accounting principles, except that (A) state financial assistance received which does not specify a required use shall be assumed to be fully expended in the fiscal year of receipt, and (B) exempt programs shall be assumed to be expended in the fiscal year that the state financial assistance is received;

(20) "Exempt program" means any of the following programs: Education cost sharing, pursuant to sections 10-262f to 10-262j, inclusive; public and nonpublic school pupil transportation, pursuant to sections 10-54, 10-97, 10-266m, 10-273a, 10-277 and 10-281; special education, excess costs equity and excess costs student-based, pursuant to subsection (e) of section 10-76d, subsections (a), (b) and (c) of section 10-76g and section 10-253; school building grants-principal and interest subsidy, pursuant to chapter 173 and section 10-264h; and school construction grants pursuant to public act 97- 265 and public act 97-11 of the June 18 Special Session*; and

(21) "Vendor" means a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a state program. Such goods or services may be for an organization's own use or for the use of beneficiaries of the state program.

(P.A. 91-401, S. 1, 20; P.A. 97-238, S. 5; P.A. 98-143, S. 17, 24; P.A. 00-66, S. 9.)

*Public act 97-265 is entitled "An Act Concerning Authorization of State Grant Commitments for School Building Projects and Clarification and Separation of the Grant and Bond Program for School Building Projects and the Grant and Bond Program for Interest Payment Subsidies" and public act 97-11 of the June 18 special session is entitled "An Act Concerning Computerized Information Sharing, the Mashantucket Pequot and Mohegan Fund, Early Retirement, School Construction, State Buildings, Nursing Homes, Executive and Legislative Councils, Commissions and Task Forces, Appropriations for the Fiscal Years Ending June 30, 1997, 1998 and 1999, Spring and Well Water Collection, Project Concern, Notice Requirements for Psychiatric Admissions, the Tax on Net Direct Subscriber Charges of Health Care Centers, Elimination of Certain Wage Inequities, Sheriffs' Fees and Expenses of the Connecticut Siting Council". (See Reference Tables captioned "Public Acts of 1997" and "Public Acts of June 18, 1997", respectively, in Volume 16 which list the sections amended, created or repealed by the acts.)

History: P.A. 97-238 redefined "audited agency" to include tourism districts; P.A. 98-143 revised definitions in Subdivs. (3), (5) to (8), inclusive, and (11) to (14), inclusive, and added new Subdivs. (15) to (21), inclusive, defining "tourism district", "nonstate entity", "pass-through entity", "program-specific audit", "expended" and "expenditures", "exempt program" and "vendor", effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998; P.A. 00-66 made a technical change in Subdiv. (19).

Sec. 4-231. When single audits required or program-specific audits. (a)(1) Each nonstate entity which expends a total amount of state financial assistance equal to or in excess of one hundred thousand dollars in any fiscal year of such nonstate entity beginning on or after July 1, 1998, shall have either a single audit or a program-specific audit made for such fiscal year, in accordance with the provisions of subdivision (2) or (3) of this subsection and the requirements of regulations adopted pursuant to section 4- 236. If a provision of the general statutes or an administrative rule, regulation, guideline, standard or policy, which is effective on July 1, 1992,

requires a nonstate entity to conduct a biennial audit, the audit required under this section shall be conducted on the same biennial basis and shall cover both years of the biennial period.

(2) If the total amount of state financial assistance expended in any such fiscal year is for a single program, such nonstate entity may elect to have a program-specific audit made in lieu of a single audit.

(3) If the total amount of state financial assistance expended in any such fiscal year is for more than one program, such entity shall have a single audit made for such fiscal year.

(b) Notwithstanding any provision of the general statutes or any regulation adopted under any provision of the general statutes, each nonstate entity that expends total state financial assistance of less than one hundred thousand dollars in any fiscal year of such nonstate entity beginning on or after July 1, 1998, shall be exempt with respect to such year from complying with any statutory or regulatory requirements concerning financial or financial and compliance audits that would otherwise be applicable.

(c) No provision of this section shall be deemed to exempt a nonstate entity from complying with any statutory or regulatory provision requiring the entity to (1) maintain records concerning state financial assistance or (2) provide access to such records to a state agency.

(P.A. 91-401, S. 2, 20; P.A. 92-121, S. 1, 3; May 25 Sp. Sess. P.A. 94-1, S. 43, 130; P.A. 98-143, S. 18, 24.)

History: P.A. 92-121 amended Subsec. (a) by requiring each municipality and audited agency subject to the federal Single Audit Act to have a comprehensive audit each fiscal year and delaying the compliance of the single comprehensive audit for certain nonprofit agencies for one year; May 25 Sp. Sess. P.A. 94-1 amended Subdiv. (1) of Subsec. (a) by making technical changes, effective July 1, 1994; P.A. 98-143 deleted all former provisions and substituted new provisions re auditing requirements, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998.

Sec. 4-232. Designation of independent auditor to conduct audit. Audit report filing.

(a) Each nonstate entity which is required to be audited pursuant to sections 4-230 to 4-236, inclusive, shall designate an independent auditor to conduct such audit. Not later than thirty days before the end of the fiscal period for which the audit is required, the nonstate entity shall file the name of such auditor with the cognizant agency. If a nonstate entity fails to make such filing, the cognizant agency may designate an independent auditor to conduct the audit.

(b) (1) Upon the completion of the audit, pursuant to sections 4-230 to 4-236, inclusive, the nonstate entity shall file copies of the audit report with state grantor agencies, the cognizant agency and if applicable, pass-through entities. Once filed, such report shall be made available by the nonstate entity for public inspection. Copies of the report shall be filed not later than thirty days after completion of such report, if possible, but not later than six months after the end of the audit period. The cognizant agency may grant an extension of not more than thirty days, if the auditor making the audit and the chief executive officer of the nonstate entity jointly submit a request in writing to the cognizant agency stating the reasons for such extension at least thirty days prior to the end of such six-month period. If the reason for the extension relates to deficiencies in the accounting system of the nonstate entity, the request shall be accompanied by a corrective action plan. The cognizant agency may, after a hearing with the auditor and officials of the nonstate entity, grant an additional extension if conditions warrant.

(2) Any nonstate entity, or auditor of such nonstate entity, which fails to have the audit report filed on its behalf within six months after the end of the fiscal year or within the time granted by the cognizant agency may be assessed, by the Secretary of the Office of Policy and Management, a civil penalty of not less than one thousand dollars but not more than ten thousand dollars. In addition to, or in lieu of such penalty, the cognizant agency may assign an auditor to perform the audit of such nonstate entity. In such case, the nonstate entity shall be responsible for the costs related to the audit. The secretary may, upon receipt of a written request from an official of the nonstate entity or its auditor, waive all such penalties if the secretary determines that there

appears to be reasonable cause for the entity not having completed or provided the required audit report.

(P.A. 91-401, S. 3, 20; P.A. 98-143, S. 19, 24.)

History: P.A. 98-143 designated existing provisions as Subsec. (a), amended Subsec. (a) by substituting "nonstate entity" for "municipality, audited agency and nonprofit agency" and deleting requirement that auditor be subject to approval of cognizant agency and added new Subsec. (b) re filing of audit report, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998.

Sec. 4-233. Conduct and scope of audits. When corrective action required. (a) Each audit required by sections 4-230 to 4-236, inclusive, shall:

(1) Be conducted in accordance with generally accepted government auditing standards, except that, for the purposes of said sections such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations; and

(2) Except in the case of program-specific audits, cover the entire operations, including financial operations, of the nonstate entity, except that such audit may exclude public hospitals.

(b) Each such audit shall determine and report whether: (1) The financial statements of the nonstate entity are presented fairly in all material respects in conformity with generally accepted accounting principles; (2) the schedule of expenditures of state financial assistance of the nonstate entity is presented fairly in all material respects in relation to the financial statements taken as a whole; (3) in addition to the requirements of generally accepted government auditing standards, the auditor has performed procedures to obtain an understanding of internal control over state programs sufficient to (A) plan the audit to support a low assessed level of control risk for major state programs, (B) plan the testing of internal control over major state programs to support a low assessed level of control risk for the assertions relevant to the compliance requirement for each major state program, and (C) perform testing of internal controls; and (4) the nonstate entity has complied with laws, regulations and grant or contract provisions that may have a material effect upon individual compliance requirements for each major state program. In complying with the requirements of subdivision (4) of this subsection, the independent auditor shall select and test a representative number of transactions from each major state program. Each audit report shall identify which programs were tested for compliance.

(c) (1) When the total expenditures of a nonstate entity's major state programs are less than fifty per cent of such nonstate entity's total expenditures of state financial assistance, excluding exempt program expenditures, the independent auditor shall select and test additional programs as major state programs as may be necessary to achieve audit coverage of at least fifty per cent of the nonstate entity's total expenditures of state financial assistance, excluding exempt program expenditures. The provisions of this subsection shall be carried out in accordance with the regulations adopted pursuant to section 4-236 and shall be subject to the provisions of subdivision (2) of this subsection.

(2) In achieving the audit coverage in accordance with subdivision (1) of this subsection, no more than two programs which each have total state financial assistance expenditures of twenty-five thousand dollars or more but not more than one hundred thousand dollars shall be tested, if such programs are required to be tested to achieve the audit coverage of subdivision (1) of this subsection.

(d) If an audit conducted pursuant to this section finds any material noncompliance by a nonstate entity with applicable laws, regulations and grant or contract provisions, or finds any reportable condition or material weakness with respect to the internal controls of the nonstate entity concerning the matters described in subsection (b) of this section, the nonstate entity shall

submit to appropriate state officials a plan for corrective action to eliminate such material noncompliance, reportable condition or material weakness.

(P.A. 91-401, S. 4, 20; P.A. 98-143, S. 20, 24.)

History: P.A. 98-143 substituted "nonstate entity" for "municipality, audited agency or nonprofit agency" throughout the section, amended Subsec. (a)(2) by inserting exception for program-specific audits, substantially amended the audit determination and report requirements of Subsec. (b) and deleted former Subsecs. (c) to (g), inclusive, substituting new Subsec. (c) re audit coverage of expenditures of state financial assistance and new Subsec. (d) re corrective action to eliminate material noncompliance, reportable condition or material weakness, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998.

Sec. 4-234. Audits in lieu of financial or financial and compliance audits. Additional audits. (a) An audit conducted in accordance with sections 4-230 to 4-236, inclusive, shall be in lieu of any financial or financial and compliance audit of state financial assistance programs which a nonstate entity is required to conduct under any other state law or regulation. To the extent that such audit provides a state agency with the information it requires to carry out its responsibilities under state law or regulations, a state agency shall rely upon and use such information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

(b) Notwithstanding the provisions of subsection (a) of this section, a state agency shall conduct any additional audits which it deems necessary to carry out its responsibilities, upon a written determination by the executive authority of the agency, based on evidence of fiscal irregularities or noncompliance with applicable laws and regulations, and after consulting with the cognizant agency. The provisions of sections 4-230 to 4-236, inclusive, do not authorize a cognizant agency or any nonstate entity, or any subrecipient thereof, to constrain, in any manner, such state agency from carrying out such additional audits. As used in this subsection and subsection (d) of this section, "executive authority" shall be construed as defined in section 4-37e.

(c) The provisions of sections 4-230 to 4-236, inclusive, do not (1) limit the authority of state agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of state financial assistance programs or (2) limit the authority of any state agency auditor or other state audit official.

(d) A state agency that performs or contracts for audits in addition to the audits conducted for recipients of state financial assistance pursuant to sections 4-230 to 4-236, inclusive, shall, consistent with other applicable law, pay for the cost of such additional audits. Such additional audits may include, but shall not be limited to, economy and efficiency audits, program results audits and program evaluations. The state agency shall use the results of the single audit as a basis for any additional requirements, and shall not duplicate the single audit unless the executive authority of such agency determines in writing that such duplication is necessary.

(P.A. 91-401, S. 5, 20; P.A. 98-143, S. 21, 24.)

History: P.A. 98-143 substituted "nonstate entity" for "municipality, audited agency or nonprofit agency" in Subsecs. (a) and (b), amended Subsec. (a) by substituting "state financial assistance programs" for "an individual state assistance program" and deleted former Subsec. (e) re requirement that audits be conducted in conjunction with federal Single Audit Act, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998.

Sec. 4-235. Designation of cognizant agencies. Pass-through entities and subrecipients. (a) The secretary shall designate cognizant agencies for audits conducted pursuant to sections 4-230 to 4-236, inclusive.

(b) A cognizant agency shall: (1) Ensure through coordination with state agencies, that audits are made in a timely manner and in accordance with the requirements of sections 4-230 to 4-236,

inclusive; (2) ensure that corrective action plans made pursuant to section 4-233 are transmitted to the appropriate state officials; and (3) (A) coordinate, to the extent practicable, audits done by or under contract with state agencies that are in addition to the audits conducted pursuant to sections 4-230 to 4-236, inclusive; and (B) ensure that such additional audits build upon the audits conducted pursuant to said sections.

(c) (1) Each pass-through entity which is subject to the audit requirements of sections 4-230 to 4-236, inclusive, shall:

(A) Advise subrecipients of requirements imposed on them by state laws, regulations, and the provisions of contracts or grant agreements, and any supplemental requirements imposed by the pass-through entity;

(B) If the subrecipient is subject to an audit in accordance with the requirements of said sections 4-230 to 4-236, inclusive, review such audit and ensure that prompt and appropriate corrective action is taken with respect to material findings of noncompliance with individual compliance requirements or reportable conditions or material weaknesses in internal controls pertaining to state financial assistance provided to the subrecipient by the pass-through entity; or

(C) If the subrecipient is not subject to an audit in accordance with the requirements of said sections 4-230 to 4-236, inclusive, monitor the activities of subrecipients as necessary to ensure that state financial assistance is used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements.

(2) Each pass-through entity, as a condition of receiving state financial assistance, shall require each of its subrecipients to permit the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with sections 4-230 to 4-236, inclusive.

(P.A. 91-401, S. 6, 20; P.A. 98-143, S. 22, 24.)

History: (Revisor's note: In 1997 the Revisors changed Subsec. (b)(3)(B) from "ensure that such additional audits build upon the audits conducted pursuant said sections" to "ensure that such additional audits build upon the audits conducted pursuant to said sections", thereby correcting a clerical error made during the codification of P.A. 91-401); P.A. 98-143 amended Subsec. (b) by deleting provision requiring cognizant agency to act in conjunction with federal cognizant agency designated pursuant to federal Single Audit Act, inserting "through coordination with state agencies," in Subdiv. (1) and deleting "the audit reports and" following "ensure that" in Subdiv. (2), and added new Subsec. (c) re requirements for pass-through entities, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998.

Sec. 4-236. Regulations. (a) The secretary shall, in consultation with the Auditors of Public Accounts, appropriate state officials and representatives of nonstate entities, adopt regulations pursuant to the provisions of chapter 54 to implement the provisions of sections 4-230 to 4-235, inclusive.

(b) The secretary shall also adopt regulations, in accordance with the provisions of chapter 54, (1) concerning the recovery of grant funds based on audit findings, as the secretary deems appropriate for any grantee which is found as a result of an audit to not be in compliance with the standards established pursuant to section 4-233, and (2) establishing uniform standards which prescribe the cost accounting principles to be used in the administration of state financial assistance by the recipients of such assistance.

(P.A. 91-401, S. 7, 20; P.A. 98-143, S. 23, 24; P.A. 00-125, S. 1, 2.)

History: P.A. 98-143 amended Subsec. (a) by substituting "state officials and representatives of nonstate entities" for "state, municipal and audited agency officials and representatives of nonprofit agencies" and deleting criteria required to be included in regulations, effective June 4, 1998, and applicable to audits conducted for fiscal years commencing on and after July 1, 1998; P.A. 00-125 amended Subsec. (a) to make a technical change, and amended Subsec. (b) to make existing language re regulations Subdiv. (1) and to add Subdiv. (2) re cost accounting principles, effective May 26, 2000.

Sec. 7-396a. Audits of agencies receiving state grants. (a) Any agreement for a state grant entered into between a state agency and a public or private agency shall provide for an audit acceptable to such state agency of any grant expenditures made by such public or private agency and, unless otherwise provided by the state agency, the cost of such audit may be considered an allowable expense under such grant agreement. The Auditors of Public Accounts shall have access to all records and accounts of such public or private agency for the fiscal year in which such grant is made. A copy of any audit performed under the provisions of this section shall be filed with the Auditors of Public Accounts.

(b) Notwithstanding the provisions of subsection (a) of this section, in the case of an agreement for a state grant entered into between a state agency and a public or private agency where the state agency has received funding for such grant from the federal government, the cost of any required audit shall be considered an allowable expense under such grant agreement, provided the cost of such audit is an allowable expense under the federal grant regulations.

(P.A. 76-68, S. 6, 7; P.A. 84-316, S. 1, 2; P.A. 85-613, S. 20, 154; P.A. 87-573, S. 9, 11; P.A. 88-61, S. 1, 2; P.A. 89- 81, S. 2.)

History: P.A. 84-316 added Subsec. (c) re payment of cost of audits; P.A. 85-613 made technical changes; P.A. 87- 573 inserted a reference to reporting requirements in Subsec. (a), effective July 1, 1987, and applicable to audits for fiscal years beginning on or after that date; P.A. 88-61 authorized in Subsec. (b) the cost of the annual audits of state agency grants to be considered an allowable expense under grant agreements; P.A. 89-81 deleted former Subsec. (a), transferring provisions to Subsec. (c) of Sec. 2-90, and relettered remaining Subsecs.

WAGES & LABOR

Sec. 31-52. Preference to state citizens in construction of public buildings.
Enforcement of violations. (a) In the employment of mechanics, laborers and workmen in the construction, remodeling or repairing of any public building, by the state or any of its agents or by persons contracting therewith, preference shall be given to citizens of the state, and, if they cannot be obtained in sufficient numbers, then to citizens of the United States. Any contractor who knowingly and willfully employs any person in violation of any provision of this subsection shall be fined two hundred dollars for each week or fraction of a week each such person is so employed.

(b) Each contract for the construction or repair of any building under the supervision of the state or any of its agents shall contain the following provisions: "In the employment of labor to perform the work specified herein, preference shall be given to citizens of the United States, who are, and continuously for at least three months prior to the date hereof have been, residents of the labor market area, as established by the Labor Commissioner, in which such work is to be done, and if no such qualified person is available, then to citizens who have continuously resided in the county in which the work is to be performed for at least three months prior to the date hereof, and then to citizens of the state who have continuously resided in the state at least three months prior to the date hereof." In no event shall said provisions be deemed to abrogate or supersede, in any manner, any provision regarding residence requirements contained in a collective bargaining agreement to which the contractor is a party.

(c) No person who receives an award or contract for public works projects from the state, or who receives an order or contract for which a portion of funds is derived from the state, shall knowingly employ nonresidents of the state while residents who may qualify for such work are reasonably available for employment. In the employment of nonresidents, the construction supervisor or construction inspector assigned to the public works project shall verify that the contracting employer, by reasonable efforts, sought to obtain construction job applicants from existing employment sources in Connecticut.

(d) The agent contracting on behalf of the state or any political subdivision thereof shall investigate promptly any alleged violation of this section or section 31-52a. If said agent finds

evidence of such a violation, he shall immediately notify the alleged violator of such evidence and allegations. If the alleged violator fails to take corrective action within one week, or to produce evidence which satisfies said agent that no violation has occurred, said agent shall (1) institute a civil action to recover as liquidated damages for the violation of the contract an amount equal to the wages paid to any employees employed in violation of this section or section 31-52a and cost of suit, including reasonable attorney's fees and (2) notify the office of the state's attorney in the judicial district for the area in which such work was performed so that appropriate criminal action may be instituted against the alleged violator.

(e) In contracts so financed preference in employment shall be given to citizens of the United States or any possession thereof.

(f) Nothing in this section shall abrogate or supersede any provision regarding residence requirements in a collective bargaining agreement to which the contractor is a party.

(1949 Rev., S. 7371; 1967, P.A. 757, S. 1; P.A. 78-280, S. 68, 127; P.A. 83-530, S. 2, 3; 83-552, S. 2; P.A. 97-263, S. 13.)

History: 1967 act clarified provisions and specified that one hundred dollar fine applies for each week or fraction of a week during which a person is employed in violation of Subsec. (a) where previously hundred dollar fine was the maximum fine for each offense, substituted labor market areas for towns under Subsec. (b) and added Subsecs. (c) to (e) re employment of state residents in preference to nonresidents, hiring preference to U.S. citizens and procedure to be followed in investigation of and action on violations; P.A. 78-280 required notification of state's attorney in the appropriate judicial district rather than notification of prosecuting attorney in the appropriate circuit, circuit courts having been abolished pursuant to P.A. 76-436, under Subsec. (d)(2); P.A. 83-530 added a new Subsec. (f) which prohibits this section from abrogating or superseding any residence requirement in a collective bargaining agreement to which the contractor is a party; P.A. 83-552 amended Subsec. (b) to provide that collective bargaining agreement is not superseded by preference provisions of contract; P.A. 97-263 amended Subsec. (a) to increase amount of fine from one hundred to two hundred dollars.

See Sec. 7-112 re applicability of this section to construction, remodeling, etc. of public buildings by political subdivisions of state.

Commissioner's duty under statute is carried out when he has caused proper preference clause to be inserted in contract. 26 CS 384, 386.

Sec. 31-52a. Residents' preference in work on other public facilities. (a) In the employment of mechanics, laborers or workmen in connection with any public works project, including, but not limited to, construction, remodeling or repairing of any public facility, structure, except public buildings covered by section 31-52, site preparation or site improvement, appurtenances or highways or in preparation or improvement of any land or waterway on or in which a structure is situated or to be constructed by the state or any of its agents or by persons contracting therewith, preference shall be given to persons who are residents of the state, and, if they cannot be obtained in sufficient numbers, then to residents of other states. Nothing herein shall abrogate or supersede any provision regarding residence requirements in a collective bargaining agreement to which the contractor is a party. Any contractor who knowingly and willfully employs any person in violation of any provision of this section shall be fined two hundred dollars for each week or a fraction of a week each such person is employed.

(b) Each contract for any such project covered by this section under the supervision of the state or any of its agents shall contain the following provision: "In the employment of mechanics, laborers or workmen to perform the work specified herein, preference shall be given to residents of the state who are, and continuously for at least six months prior to the date hereof have been, residents of this state, and if no such person is available then to residents of other states."

(1967, P.A. 757, S. 2.)

Sec. 31-52b. Exceptions. The provisions of sections 31-52 and 31-52a shall not apply where the state or any subdivision thereof may suffer the loss of revenue granted or to be granted

from any agency or department of the federal government as a result of said sections or regulative procedures pursuant thereto.

(1967, P.A. 757, S. 3.)

Sec. 31-53. Construction, alteration or repair of public works projects by state or political subdivision; wage rates; certified payroll. Penalties for violations. (a) Each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project by the state or any of its agents, or by any political subdivision of the state or any of its agents, shall contain the following provision: "The wages paid on an hourly basis to any mechanic, laborer or workman employed upon the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such employee to any employee welfare fund, as defined in subsection (h) of this section, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such employees to any such employee welfare fund shall pay to each employee as part of his wages the amount of payment or contribution for his classification on each pay day."

(b) Any person who knowingly or willfully employs any mechanic, laborer or workman in the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project for or on behalf of the state or any of its agents, or any political subdivision of the state or any of its agents, at a rate of wage on an hourly basis which is less than the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed, remodeled, refinished, refurbished, rehabilitated, altered or repaired, or who fails to pay the amount of payment or contributions paid or payable on behalf of each such employee to any employee welfare fund, or in lieu thereof to the employee, as provided by subsection (a), shall be fined not less than two thousand five hundred dollars but not more than five thousand dollars for each offense and (1) for the first violation, shall be disqualified from bidding on contracts with the state or any political subdivision until the contractor or subcontractor has made full restitution of the back wages owed to such persons and for an additional six months thereafter and (2) for subsequent violations, shall be disqualified from bidding on contracts with the state or any political subdivision until the contractor or subcontractor has made full restitution of the back wages owed to such persons and for not less than an additional two years thereafter. In addition, if it is found by the contracting officer representing the state or political subdivision thereof that any mechanic, laborer or workman employed by the contractor or any subcontractor directly on the site for the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as required by this section, the state or contracting political subdivision thereof may (A) by written notice to the contractor, terminate such contractor's right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the state or the contracting political subdivision for any excess costs occasioned the state or the contracting political subdivision thereby or (B) withhold payment of money to the contractor or subcontractor. The contracting department of the state or the political subdivision thereof shall within two days after taking such action notify the Labor Commissioner in writing of the name of the contractor or subcontractor, the project involved, the location of the work, the violations involved, the date the contract was terminated, and steps taken to collect the required wages.

(c) The Labor Commissioner may make complaint to the proper prosecuting authorities for the violation of any provision of subsection (b).

(d) For the purpose of predetermining the prevailing rate of wage on an hourly basis and the amount of payment or contributions paid or payable on behalf of each employee to any employee

welfare fund, as defined in subsection (h), in each town where such contract is to be performed, the Labor Commissioner shall (1) hold a hearing at any required time to determine the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each person to any employee welfare fund, as defined in subsection (h), upon any public work within any specified area, and shall establish classifications of skilled, semiskilled and ordinary labor, or (2) adopt and use such appropriate and applicable prevailing wage rate determinations as have been made by the Secretary of Labor of the United States under the provisions of the Davis-Bacon Act, as amended.

(e) The Labor Commissioner shall determine the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of such employee to any employee welfare fund, as defined in subsection (h), in each locality where any such public work is to be constructed, and the agent empowered to let such contract shall contact the Labor Commissioner, at least ten but not more than twenty days prior to the date such contracts will be advertised for bid, to ascertain the proper rate of wages and amount of employee welfare fund payments or contributions and shall include such rate of wage on an hourly basis and the amount of payment or contributions paid or payable on behalf of each employee to any employee welfare fund, as defined in subsection (h), or in lieu thereof the amount to be paid directly to each employee for such payment or contributions as provided in subsection (a) for all classifications of labor in the proposal for the contract. The rate of wage on an hourly basis and the amount of payment or contributions to any employee welfare fund, as defined in subsection (h), or cash in lieu thereof, as provided in subsection (a), shall, at all times, be considered as the minimum rate for the classification for which it was established. Prior to the award of any contract subject to the provisions of this section, such agent shall certify in writing to the Labor Commissioner the total dollar amount of work to be done in connection with such public works project, regardless of whether such project consists of one or more contracts. Upon the award of any contract subject to the provisions of this section, the contractor to whom such contract is awarded shall certify, under oath, to the Labor Commissioner the pay scale to be used by such contractor and any of his subcontractors for work to be performed under such contract.

(f) Each employer subject to the provisions of this section or section 31-54 shall (1) keep, maintain and preserve such records relating to the wages and hours worked by each employee and a schedule of the occupation or work classification at which each mechanic, laborer or workman on the project is employed during each work day and week in such manner and form as the Labor Commissioner establishes to assure the proper payments due to such employees or employee welfare funds under this section or section 31-54, and (2) submit monthly to the contracting agency a certified payroll which shall consist of a complete copy of such records accompanied by a statement signed by the employer which indicates that (A) such records are correct; (B) the rate of wages paid to each mechanic, laborer or workman and the amount of payment or contributions paid or payable on behalf of each such employee to any employee welfare fund, as defined in subsection (h) of this section, are not less than the prevailing rate of wages and the amount of payment or contributions paid or payable on behalf of each such employee to any employee welfare fund, as determined by the Labor Commissioner pursuant to subsection (d) of this section, and not less than those required by the contract to be paid; (C) the employer has complied with the provisions of this section and section 31-54; (D) each such employee is covered by a workers' compensation insurance policy for the duration of his employment, which shall be demonstrated by submitting to the contracting agency the name of the workers' compensation insurance carrier covering each such employee, the effective and expiration dates of each policy and each policy number; (E) the employer does not receive kickbacks, as defined in 41 USC 52, from any employee or employee welfare fund; and (F) pursuant to the provisions of section 53a-157a, the employer is aware that filing a certified payroll which he knows to be false is a class D felony for which the employer may be fined up to five thousand dollars, imprisoned for up to five years, or both. This subsection shall not be construed to prohibit a general contractor from relying on the certification of a lower tier subcontractor, provided the general contractor shall not be exempted from the provisions of

section 53a- 157a if he knowingly relies upon a subcontractor's false certification. Notwithstanding the provisions of section 1-210, the certified payroll shall be considered a public record and every person shall have the right to inspect and copy such records in accordance with the provisions of section 1-212. The provisions of sections 31-59(a), 31-59(b), 31- 66 and 31-69 which are not inconsistent with the provisions of this section or section 31-54 shall apply to this section. Failing to file a certified payroll pursuant to subdivision (2) of this subsection is a class D felony for which the employer may be fined up to five thousand dollars, imprisoned for up to five years, or both.

(g) The provisions of this section shall not apply where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of any public works project is less than four hundred thousand dollars or where the total cost of all work to be performed by all contractors and subcontractors in connection with any remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project is less than one hundred thousand dollars.

(h) As used in this section, section 31-54 and section 31-89a, "employee welfare fund" means any trust fund established by one or more employers and one or more labor organizations or one or more other third parties not affiliated with the employers to provide from moneys in the fund, whether through the purchase of insurance or annuity contracts or otherwise, benefits under an employee welfare plan; provided such term shall not include any such fund where the trustee, or all of the trustees, are subject to supervision by the Commissioner of Banking of this state or any other state or the Comptroller of the Currency of the United States or the Board of Governors of the Federal Reserve System, and "benefits under an employee welfare plan" means one or more benefits or services under any plan established or maintained for employees or their families or dependents, or for both, including, but not limited to, medical, surgical or hospital care benefits; benefits in the event of sickness, accident, disability or death; benefits in the event of unemployment, or retirement benefits.

(1949 Rev., S. 7372; March, 1950, S. 3018d, 3019d; 1961, P.A. 486, S. 1; 1963, P.A. 240, S. 1; 1967, P.A. 494, S. 1; P.A. 73-566, S. 1; P.A. 75-90, S. 1, 2; P.A. 77-442; 77-614, S. 161, 610; P.A. 79-325; P.A. 80-482, S. 200, 348; P.A. 83- 537, S. 2; P.A. 85-355, S. 1-3; P.A. 87-9, S. 2, 3; P.A. 91-74, S. 1; 91-407, S. 40, 42; P.A. 93-392, S. 1; 93-435, S. 65, 95; P.A. 97-263, S. 14.)

History: 1961 act added provisions re political subdivision and employee welfare funds and added Subsecs. (f) and (g) re records and schedules which must be kept and re inapplicability of provisions where total cost of work is less than five thousand dollars; 1963 act substituted "alteration" for "remodeling" and "public works project" for references to public buildings; 1967 act added Subsec. (h) defining "employee welfare fund" and "benefits under an employee welfare plan" and substituted references to Subsec. (h) for references to Sec. 31-78; P.A. 73-566 amended Subsec. (b) to add provisions re termination of contract when discovery is made that employees are being paid less than the amount required under contract; P.A. 75-90 added references to remodeling, refinishing, refurbishing and rehabilitation of projects in Subsecs. (a), (b) and (g); P.A. 77-442 added Subdiv. (2) in Subsec. (d) requiring commissioner to adopt and use appropriate and applicable prevailing wage rate determinations made by U.S. Secretary of Labor; P.A. 77-614 replaced bank commissioner with banking commissioner within the department of business regulation and made banking department the division of banking within that department, effective January 1, 1979; P.A. 79-325 replaced former provisions of Subsec. (g) which had rendered section inapplicable where total cost of project is less than fifty thousand dollars with provision rendering provisions inapplicable to new construction projects where total cost is less than fifty thousand dollars and to remodeling, refinishing etc. projects where total cost is less than ten thousand dollars; P.A. 80-482 restored banking division as independent department with commissioner as its head following abolition of business regulation department; P.A. 83-537 amended Subsec. (e) to require the local agent to contact the labor commissioner, to ascertain proper wage rates and payment levels, at least ten but not more than twenty days prior to putting the contract out to bid; P.A. 85-355 amended Subsec. (e) to require the agent to certify the total cost of work to be done on the public works project, and to require the contractor to certify the pay scale to be used on the project after having been awarded the contract and amended Subsec. (g) to make the prevailing wage requirements inapplicable to projects costing less than two hundred thousand dollars if new construction, or to projects costing less than fifty thousand dollars if remodeling; pursuant to P.A. 87-9 "banking commissioner" was changed editorially by the Revisors to "commissioner of banking"; P.A. 91-74 made a technical change in Subsec. (a), amended Subsec. (b) to increase fines from one hundred dollars to not less than two thousand five hundred dollars but not more than five thousand dollars and amended Subsec. (g) by changing the cost thresholds from two hundred thousand dollars to four hundred thousand dollars and from fifty thousand dollars to one hundred thousand dollars; P.A. 91-407 changed effective date of P.A. 91-74 from October 1, 1991, to July 1, 1991; P.A. 93-392 deleted reference to Sec. 51-53

in Subsec. (a) and added Subdiv. (2) in Subsec. (f) requiring employers subject to the state prevailing wage laws to file weekly certified payrolls with the contracting public agency and designating such certified payrolls as public records; P.A. 93-435 made technical change in Subsec. (a) to reinstate language in existence prior to amendment made by P.A. 93-392, effective June 28, 1993; P.A. 97-263 amended Subsec. (b) to add Subdivs. (1) and (2) disqualifying bidders from bidding on contracts with the state until certain requirements are met and to add provision permitting the withholding of payment of money to the contractor or subcontractor, amended Subsec. (d) to change "employee" to "person", amended Subsec. (f) to require monthly submission of certified payroll and to make failure to file a certified payroll a class D felony, and amended Subsec. (h) by redefining "employee welfare fund" to include one or more other third parties not affiliated with the employers.

See Sec. 7-112 re applicability of section to construction, remodeling or repair of public buildings by state agencies and political subdivisions of the state.

See Sec. 31-53a re (1) payments to mechanics, laborers and workmen from accrued payments withheld under the terms of a contract terminated pursuant to subsection (b) of this section, and their right of action and intervention, (2) the Labor Commissioner's duty to prepare and distribute lists of persons or firms found to be in violation of this section or barred from federal contracts pursuant to the Davis-Bacon Act, and (3) limitation on awarding of contracts to such persons or firms.

Where an employee is working under a contract which violates the statute or fails to provide for pay at least equal to the prevailing wages as fixed by the board, the state is in no position to claim that, if he is injured, compensation should not be based on the prevailing wage as so determined. 135 C. 498. Cited. 223 C. 573, 574, 578, 580, 582-587, 591-594.

Cited. 36 CA 29, 32, 38-40.

Subsec. (a): Cited. 223 C. 573, 581, 583, 585. Cited. 36 CA 29, 38, 40.

Subsec. (b): Cited. 223 C. 573, 583, 585. Cited. 36 CA 29, 30.

Subsec. (d): Cited. 223 C. 573, 584, 587, 590.

Subsec. (e): Cited. 223 C. 573, 584, 585.

Subsec. (f): Cited. 223 C. 573, 581, 584, 585, 592-594.

Subsec. (h): Cited. 44 CA 397.

Sec. 31-53a. List of violators. Limitation on awarding of contracts. Distribution of accrued payments. Right of action. (a) The State Comptroller or the contracting authority acting pursuant to section 31-53 is hereby authorized and directed to pay to mechanics, laborers and workmen from any accrued payments withheld under the terms of a contract terminated pursuant to subsection (b) of said section 31-53 any wages found to be due such mechanics, laborers and workmen pursuant to said section 31-53. The Labor Commissioner is further authorized and directed to distribute a list to all departments of the state and political subdivisions thereof giving the names of persons or firms whom he has found to have disregarded their obligations under said section 31-53 and section 31-76c to employees and subcontractors on public works projects or to have been barred from federal government contracts in accordance with the provisions of the Davis-Bacon Act, 49 Stat. 1011 (1931), 40 USC 276a-2. No contract shall be awarded by the state or any of its political subdivisions to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until a period of up to three years, as determined by the Labor Commissioner, has elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of a contract terminated pursuant to subsection (b) of section 31-53 are insufficient to reimburse all the mechanics, laborers and workmen with respect to whom there has been a failure to pay the wages required pursuant to said section 31-53, such mechanics, laborers and workmen shall have the right of action and of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such mechanics, laborers

and workmen accepted or agreed to accept less than the required wages or that such persons voluntarily made refunds.

(P.A. 73-566, S. 2; P.A. 78-362, S. 1, 3; P.A. 91-74, S. 2; 91-407, S. 40, 42; P.A. 93-392, S. 2; P.A. 97-263, S. 15.)

History: P.A. 78-362 required that list distributed by commissioner to departments of the state and to its political subdivisions contain names of those who have been barred from federal government contracts in accordance with provisions of Davis-Bacon Act in Subsec. (a); P.A. 91-74 amended Subsec. (a) by increasing the period of ineligibility from three years to five years; P.A. 91-407 changed effective date of P.A. 91-74 from October 1, 1991, to July 1, 1991; P.A. 93-392 amended Subsec. (a) to add reference to Sec. 31-76c, to require that list distributed by labor commissioner to departments of the state and to its political subdivisions contain names of those who have violated overtime laws of the state on public works projects and to decrease the period of ineligibility from five to a maximum of three years, as determined by the commissioner; P.A. 97-263 incorporated changes to Sec. 31-53 by reference.

Cited. 223 C. 573, 574, 577, 580-583, 587, 592, 593.

Sec. 31-54. Rate of wages for work on state highways. The Labor Commissioner shall hold a hearing at any required time to determine the prevailing rate of wages upon any highway contract within any specified area on an hourly basis and the amount of payment or contributions paid or payable on behalf of each employee to any employee welfare fund, as defined in section 31-53, upon any classifications of skilled, semiskilled and ordinary labor. Said commissioner shall determine the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each employee to any employee welfare fund, as defined in section 31-53, in each locality where any highway or bridge is to be constructed, and the Commissioner of Transportation shall include such rate of wage on an hourly basis and the amount of payment or contributions paid or payable on behalf of each employee to any employee welfare fund, as defined in section 31-53, or in lieu thereof, in cash as part of wages each pay day, for each classification of labor in the proposal for the contract and in the contract. The rate and the amount so established shall, at all times, be considered as the minimum rate of wage on an hourly basis and the amount of payment or contributions to an employee welfare fund, or cash in lieu thereof, for the classification for which it was established. Any contractor who pays any person at a lower rate of wage on an hourly basis or the amount of payment or contributions paid or payable on behalf of each employee to any employee welfare fund, as defined in section 31-53, or where he is not obligated by any agreement to make payment or contributions to the employee welfare funds, as defined in section 31-53, and fails to pay the amount of such payment or contributions directly to the employee as a part of his wages each pay day, than that so established for the classifications of work specified in any such contract shall be fined not more than two hundred dollars for each offense. The provisions of this section shall apply only to state highways and bridges on state highways.

(1949 Rev., S. 2206; March 1950, S. 1194d; 1961, P.A. 486, S. 2; 1967, P.A. 494, S. 2; 1969, P.A. 768, S. 260; P.A. 97-263, S. 17.)

History: 1961 act added establishment of rate on hourly basis and provisions re employee welfare funds; 1967 act replaced references to Sec. 31-78 with references to Sec. 31-53; 1969 act replaced highway commissioner with commissioner of transportation; P.A. 97-263 increased amount of fine from one hundred to two hundred dollars.

See Sec. 7-112 re applicability of this section to construction, remodeling, etc. of public buildings by political subdivisions of state.

Sec. 31-55. Posting of wage rates by contractors doing state work. Every contractor or subcontractor performing work for the state subject to the provisions of section 31-53 or 31-54 shall post the prevailing wages as determined by the Labor Commissioner in prominent and easily accessible places at the site of work or at such place or places as are used to pay its employees their wages.

(1955, S. 3020d; P.A. 97-263, S. 16.)

History: P.A. 97-263 incorporated changes to Secs. 31-53 and 31-54 by reference.

Sec. 31-56. Hours of labor on state bridges. Each contract entered into by the Commissioner of Transportation for the construction, alteration or repair of a state bridge shall contain a provision to the effect that no person shall be employed to work or be permitted to work more than forty-eight hours in any week on any work provided for in such contract. The operation of such limitation of hours of work may be suspended during an emergency, upon the approval of the Commissioner of Transportation.

(1949 Rev., S. 2208; 1963, P.A. 240, S. 2; 1969, P.A. 768, S. 261.)

History: 1963 act added reference to alteration of bridges; 1969 act replaced highway commissioner with commissioner of transportation.

Sec. 31-57b. Awarding of contracts to occupational safety and health law violators prohibited. No contract shall be awarded by the state or any of its political subdivisions to any person or firm or any firm, corporation, partnership or association in which such persons or firms have an interest (1) which has been cited for three or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the bid, provided such violations were cited in accordance with the provisions of any state occupational safety and health act or the Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction or (2) which has received one or more criminal convictions related to the injury or death of any employee in the three-year period preceding the bid. Any person who knowingly provides false information concerning the information required pursuant to this section shall be assessed a civil penalty of not less than five hundred dollars nor more than five thousand dollars and shall be disqualified from bidding on or participating in a contract with the state or any of its political subdivisions for five years from the date of the final determination that the information is false. Any political subdivision or any state agency receiving false information pursuant to this section shall notify the Commissioner of Administrative Services and, upon receipt of such notice, the commissioner shall conduct a hearing in accordance with the provisions of chapter 54. Upon a determination that false information was provided, the commissioner shall impose a civil penalty in accordance with the provisions of this section. Such civil penalty shall be paid to the Treasurer or to an official of the political subdivision, as the case may be. Any civil penalty imposed pursuant to this section may be collected in a civil proceeding by any official of a political subdivision authorized to institute civil actions or, in the case of the state, by the attorney general, upon complaint of the Commissioner of Administrative Services.

(P.A. 89-367, S. 6.)

Sec. 31-57d. Disqualification of certain contractors from bidding on, applying for or participating in public works contracts with the state: Disqualification by Commissioner of Transportation; procedure; causes. Exception permitting disqualified contractor to participate in contract or subcontract. (a) As used in this section, the term "contractor" shall mean any person, firm or corporation which has contracted or seeks to contract with the state, or to participate in such a contract, in connection with any public works of the state or a political subdivision of the state.

(b) Disqualification of a contractor is a serious action that shall be used only in the public interest and for the state government's protection and not for purposes of punishment or in lieu of other applicable enforcement or compliance procedures. The causes for and consequences of disqualification under this section shall be separate from and in addition to causes for and consequences of disqualification under sections 4b- 95, 31-53a, 31-57a and 31-57b.

(c) The Commissioner of Transportation may disqualify any contractor, for up to two years, from bidding on, applying for, or participating as a subcontractor under, contracts with the state,

acting through the Department of Transportation, for one or more causes set forth under subsection (d) of this section. The commissioner may initiate a disqualification proceeding only after consulting with the Attorney General and shall provide notice and an opportunity for a hearing to the contractor who is the subject of the proceeding. The hearing shall be conducted in accordance with the contested case procedures set forth in chapter 54. The commissioner shall issue a written decision within ninety days of the last date of such hearing and state in the decision the reasons for the action taken and, if the contractor is being disqualified, the period of such disqualification. The existence of a cause for disqualification does not require that the contractor be disqualified. In determining whether to disqualify a contractor, the commissioner shall consider the seriousness of the contractor's acts or omissions and any mitigating factors. The commissioner shall send the decision to the contractor by certified mail, return receipt requested. The written decision shall be a final decision for the purposes of sections 4-180 and 4-183.

(d) Causes for disqualification from bidding on, or participating in, contracts shall include the following:

(1) Conviction or entry of a plea of guilty or nolo contendere for or admission to commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction or entry of a plea of guilty or nolo contendere or admission to the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a state contractor;

(3) Conviction or entry of a plea of guilty or nolo contendere or admission to a violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals on a public or private contract or subcontract;

(4) A willful failure to perform in accordance with the terms of one or more public contracts, agreements or transactions;

(5) A history of failure to perform or of unsatisfactory performance of one or more public contracts, agreements or transactions; or

(6) A willful violation of a statutory or regulatory provision or requirement applicable to a public contract, agreement or transaction.

(e) For purposes of a disqualification proceeding under this section, conduct may be imputed as follows:

(1) The fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor and the contractor knew of or had reason to know of such conduct. The term "other seriously improper conduct" shall not include advice from an attorney, accountant or other paid consultant if it was reasonable for the contractor to rely on such advice.

(2) The fraudulent, criminal or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the contractor who participated in, knew of or had reason to know of the contractor's conduct.

(3) The fraudulent, criminal or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating

contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement and these contractors knew of or had reason to know of such conduct.

(f) The commissioner may reduce the period or extent of disqualification, upon the contractor's request, supported by documentation, for the following reasons:

- (1) Newly discovered material evidence;
- (2) Reversal of the conviction upon which the disqualification was based;
- (3) Bona fide change in ownership or management;
- (4) Elimination of other causes for which the disqualification was imposed; or
- (5) Other reasons the commissioner deems appropriate.

(g) The commissioner may grant an exception permitting a disqualified contractor to participate in a particular contract or subcontract upon a written determination that there is good cause, in the interest of the public, for such action.

(P.A. 93-220, S. 2, 3.)

History: P.A. 93-220 effective July 2, 1993.