



Agency Legislative Proposal - 2020 Session

Document Name: 102820_DOB_FIDStatutoryModernization

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matt Smith

Phone: (860) 240-8105

E-mail: matthew.smith@ct.gov

Lead agency division requesting this proposal: Financial Institutions Division

Agency Analyst/Drafter of Proposal: Matt Saunig

Title of Proposal: Financial Institutions Statutory Modernization

Statutory Reference: 36a-86; 36a-437a

Proposal Summary:

This proposal modernizes The Banking Law of Connecticut by making several changes that will streamline certain approvals and make a technical revision.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

This proposal modernizes and streamlines certain application processes. This will create additional efficiencies. Moreover, since there are no application fees associated with the applications at issue, this proposal does not result in any revenue loss to the Department.

◇ **Origin of Proposal**

New Proposal

Resubmission

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*



PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: Department of Banking Agency Contact (<i>name, title, phone</i>): Matt Smith, Director of Government Relations and Consumer Affairs, (860) 240-8105 Date Contacted:
Approve of Proposal <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None.
State None.
Federal None.
Additional notes on fiscal impact Since there are no application fees associated with the applications at issue, this proposal does not result in any revenue loss to the Department.

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Section 1 makes a technical revision. Sections 2 and 3 streamline and modernize application processes, creating efficiencies for the Department and reducing regulatory burden.



◇ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

The Department will monitor the results of this proposal and it is expected that there will be a reduction in the number of applications the Department will process.

[Insert fully drafted bill here](#)



Section 1. Subdivision (3) of subsection (h) of section 36a-437a of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2020*):

(h)(3) The bylaws may be amended by the adoption at a meeting of an amendment resolution by two-thirds of the directors of the credit union. Written notice of the meeting and text of the proposed amendment shall be given to each director at least seven days prior to the meeting. The Connecticut credit union shall file with the commissioner, within ten days after its adoption, one copy of any proposed amendment [to the commissioner]. In the case of a proposed amendment requiring the commissioner's approval, the commissioner shall, within thirty days after such filing, determine whether such proposed amendment is consistent with the provisions and purposes of sections 36a-435a to 36a-472a, inclusive. The thirty-day period may be extended by the commissioner, in writing, if the commissioner determines that the proposed amendment raises issues that require additional information or additional time for analysis.

Sec. 2. Subsection (g) of section 36a-437a of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2020*):

(g) (1) The certificate of incorporation of a Connecticut credit union may, with the approval of the commissioner, be amended at any time by the adoption at a meeting of an amendment resolution by two-thirds of the directors of the credit union. Written notice of such meeting, together with the text of the proposed amendment shall be given to each director at least seven days prior to the meeting.

(2) [An original] A copy of the certificate of amendment shall be filed with the commissioner. The certificate of amendment shall set forth: (A) The name of the Connecticut credit union; (B) the amendment; and (C) a statement of the number of directors' votes required to take such action and the number of votes cast in favor of the amendment.

(3) The commissioner, upon determining that the certificate of incorporation, as amended, meets the requirements of sections 36a-435a to 36a-472a, inclusive, shall [endorse the commissioner's approval thereon, and return the original certificate of amendment to the Connecticut credit union] approve the amendment. Upon receipt of the [certificate of amendment] approval of such amendment, the Connecticut credit union shall file the original certificate of amendment with the Secretary of the State, and such amendment shall become effective upon filing.



Sec. 3. Section 36a-86 of the general statutes is amended by repealed and the following is substituted in lieu thereof (*effective July 1, 2020*):

(a) The governing board of each Connecticut bank shall annually procure an audit or examination by certified public accountants or holders of certificates of authority as public accountants selected by vote of the governing board or a duly authorized committee thereof, and such accountants shall agree to provide related working papers, policies and procedures to the commissioner, if requested. The accountants shall thoroughly examine the books, records, accounts and affairs of such bank and submit a signed report of the audit or examination showing the condition of the bank to the governing board of such bank within a reasonable period of time following the conclusion of the audit or examination. The signed report shall be kept on file in such bank and such governing board shall file the following documents with the commissioner not later than the earlier of (1) one hundred twenty days following the close of such bank's fiscal year, or (2) the date prescribed by federal law for such bank to file such audit or examination with the applicable federal banking regulator, unless the commissioner extends such deadline for good cause shown: (A) A copy of the signed report; (B) any written communication regarding matters that the accountants are required to communicate to the audit committee of the bank; and (C) any written communication from the accountants to the governing board noting significant deficiencies and material weaknesses in internal controls of the bank. Members of the governing board of such Connecticut bank shall not be personally liable for any loss suffered by such bank through the wrongdoing or negligence of any officer or employee, which wrongdoing or negligence should have been discovered by the accountants in the performance of their duties, provided such members shall have exercised due care to procure thorough and substantial audits by the accountants.

(b) Notwithstanding the provisions of subsection (a) of this section, the governing board of a Connecticut bank that is a subsidiary of a holding company may procure and file annually with the commissioner a signed consolidated report of the audit or examination of the holding company in lieu of that of the Connecticut bank, provided (1) prior to the engagement of an accountant, the governing board of such Connecticut bank has voted to allow and accept as adequate, a consolidated report of the audit or examination of the holding company; (2) the accountants selected to provide such consolidated report have agreed to provide related working papers, policies and procedures to the commissioner, if requested; [and the commissioner has approved, conditionally or unconditionally, the substitution of such consolidated report; (2)] (3) the accountants shall thoroughly examine the books, records, accounts and affairs of the Connecticut bank and shall submit a signed consolidated report to the governing board of such Connecticut bank within a reasonable



period of time following the conclusion of the audit or examination; and ~~[(3)]~~ (4) the signed consolidated report shall be kept on file in such Connecticut bank and a copy shall be filed with the commissioner.

(c) The commissioner may require, by providing notice, the governing board of a Connecticut bank that is a subsidiary of a holding company to file an audit or examination of the bank pursuant to subsection (a) of this section instead of a consolidated report pursuant to subsection (b) if good cause exists.



Agency Legislative Proposal - 2020 Session

Document Name:

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State Agency: Department of Banking

Liaison: Matthew Smith

Phone: 860-240-8105

E-mail: Matthew.Smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey L. Serrano

Title of Proposal: An Act Concerning Consumer Collection Agencies

Statutory Reference: 36a-800

Proposal Summary:

This proposal makes technical and conforming changes to the consumer collection agency statutes.

PROPOSAL BACKGROUND

◇ Reason for Proposal

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

Section 1 of this proposal amends Section 36a-800 to amend the definition of “consumer debtor” to ensure that both real property and personal property tax debt collection activities come within the scope of consumer collection activities requiring licensure for third-party collection agencies and debt buyers. Currently, there appears to be a loophole for debt buyers of real property tax debt to evade the consumer collection agency licensing requirements.

◇ Origin of Proposal

New Proposal

Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

N/A

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:
Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) None.
State None.
Federal None.
Additional notes on fiscal impact N/A

◇ **POLICY and PROGRAMMATIC IMPACTS** (Please specify the proposal section associated with the impact)

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◇ EVIDENCE BASE

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

Section 1. Section 36a-800 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

As used in this section and sections 36a-801 to 36a-814, inclusive, unless the context otherwise requires:

(1) “Advertise” or “advertising” has the same meaning as provided in section 36a-485;

(2) “Branch office” means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a consumer collection agency;

(3) “Consumer collection agency” means any person (A) engaged as a third party in the business of collecting or receiving payment for others on any account, bill or other indebtedness from a consumer debtor, (B) engaged in the business of debt buying, or (C) engaged in the business of collecting or receiving tax payments, including, but not limited to, property tax and federal income tax payments, from a property tax debtor or federal income tax debtor on behalf of a municipality or the United States Department of the Treasury, including, but not limited to, any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person, municipality or taxing authority of such indebtedness for the purpose of evading the provisions of this section and sections 36a-801 to 36a-814, inclusive. “Consumer collection agency” includes persons who furnish collection systems carrying a name which simulates the name of a consumer collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the consumer debtor, property tax debtor or federal income tax debtor to make payments directly to the creditor rather than to such fictitious agency. “Consumer collection agency” further includes any person who, in attempting to collect or in collecting such person’s own accounts or



claims from a consumer debtor, uses a fictitious name or any name other than such person's own name which would indicate to the consumer debtor that a third person is collecting or attempting to collect such account or claim. "Consumer collection agency" does not include (i) an individual employed on the staff of a licensed consumer collection agency, or by a creditor who is exempt from licensing, when attempting to collect on behalf of such consumer collection agency, (ii) persons not primarily engaged in the collection of debts from consumer debtors who receive funds in escrow for subsequent distribution to others, including, but not limited to, real estate brokers and lenders holding funds of borrowers for payment of taxes or insurance, (iii) any public officer or a person acting under the order of any court, (iv) any member of the bar of this state, (v) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent, (vi) a bank or out-of-state bank, as defined in section 36a-2, and (vii) a subsidiary or affiliate of a bank or out-of-state bank, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent debt secured by real property. Any person not included in the definition contained in this subdivision is, for purposes of sections 36a-645 to 36a-647, inclusive, a "creditor", as defined in section 36a-645;

(4) "Consumer debtor" means any natural person, not an organization, who has incurred indebtedness or owes a debt for personal, family or household purposes, including current or past due child support, who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a [personal] property tax or who has incurred indebtedness or owes a debt to the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

(5) "Control person" has the same meaning as provided in section 36a-485;



(6) “Creditor” means a person, including, but not limited to, a municipality or the United States Department of the Treasury, that retains, hires, or engages the services of a consumer collection agency;

(7) “Debt buying” means collecting or receiving payment on any account, bill or other indebtedness from a consumer debtor for such person’s own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired;

(8) “Federal income tax” means all federal taxes levied on the income of a natural person or organization by the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

(9) “Federal income tax debtor” means any natural person or organization who owes a debt to the United States Department of the Treasury;

(10) “Main office” means the main address designated on the system;

(11) “Municipality” means any town, city or borough, consolidated town and city, consolidated town and borough, district as defined in section 7-324 or municipal special services district established under chapter 105a;

(12) “Organization” means a corporation, partnership, association, trust or any other legal entity or an individual operating under a trade name or a name having appended to it a commercial, occupational or professional designation;

(13) “Property tax” has the meaning given to the term in section 7-560;

(14) “Property tax debtor” means any natural person or organization who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a property tax; and

(15) “Unique identifier” has the same meaning as provided in section 36a-485.



Statement of Purpose: To include both real property tax and personal property tax within the scope of consumer collection agencies.



Agency Legislative Proposal - 2020 Session

Document Name:

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matthew Smith

Phone: 860-240-8105

E-mail: Matthew.Smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Jeffrey T. Schuyler; Mellissa M. Desmond

Title of Proposal: An Act Concerning Consumer Credit Licenses

Statutory Reference: 36a-598, 36a-485, 36a-486, 36a-490(b)(1), 36a-540(a), 36a-566(a), 36a-583(a)(1), 36a-658(a), 36a-671(h), 36a-719a(a), 36a-801(i), 36a-848(b), 36a-847(a), 36a-850, 36a-851

Proposal Summary:

Section 1 amends Section 36a-598 to permit a start-up company that seeks to engage in the business of money transmission in Connecticut to provide a statement of condition as part of the licensure application in lieu of financial statements.

Sections 2 and 3 implement mortgage loan originator temporary authority for individuals who either have been licensed as mortgage loan originators in another state or employed as federal registered loan originators, in accordance with Section 106 of Public Law 115–174. Section 2 adds the definition of “out-of-state mortgage loan originator” to the mortgage licensing statutes. Section 3 provides temporary authority for individuals previously licensed with another state as a mortgage loan originator or registered as a loan originator to conduct mortgage loan origination business while their application is pending with the Banking Commissioner.

Sections 4 through 12, inclusive, clarify the definition of “change of control” for purposes of filing with the Commissioner an advance change notice with respect to a change of a director, general partner or executive officer of a mortgage lender, mortgage correspondent lender, mortgage broker, lead generator, sales finance, small loan company, check casher, money transmission, debt adjuster, debt negotiator, mortgage servicer, consumer collection agency or student loan servicer licensee.

Sections 13 amends Section 36a-847(a) to clarify that banks and credit unions and their subsidiaries are exempt from the student loan servicer statutes, Section 36a-846 to 36a-854, inclusive, of the Connecticut General Statutes.



Section 14 amends Section 36a-850 to place requirements on student loan servicers regardless of whether or not they are required to maintain a license.
Section 15 repeals the Banking Commissioner’s investigative authority set forth in Section 36a-851 concerning student loan servicers because such authority already exists in Section 36a-17.

PROPOSAL BACKGROUND

◇ Reason for Proposal

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
- (3) Have certain constituencies called for this action?
- (4) What would happen if this was not enacted in law this session?

This proposal: (1) requires start-up companies seeking a money transmission license to file relevant financial information as part of the license application. Currently we require audited financial statements which a start-up company would not yet have; (2) conforms state law to federal law in Connecticut permitting transitional licensing for licensed mortgage loan originators and registered mortgage loan originators not currently licensed in Connecticut; (3) clarifies the term “change of control” which requires advance change notices to be filed with the Commissioner; and (4) clarifies exemptions and requirements within the student loan servicer statutes. These changes reduce regulatory burden on our licensees.

- ◇ **Origin of Proposal** **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name:
Agency Contact (name, title, phone):
Date Contacted:

Approve of Proposal **YES** **NO** **Talks Ongoing**



Summary of Affected Agency's Comments

Will there need to be further negotiation? YES NO

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

None.

State

None.

Federal

None.

Additional notes on fiscal impact

N/A

◇ **POLICY and PROGRAMMATIC IMPACTS** (Please specify the proposal section associated with the impact)

None.

◇ **EVIDENCE BASE**

What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

AN ACT CONCERNING CONSUMER CREDIT LICENSES

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a) Each application for an initial or renewal license required under sections 36a-595 to 36a-612, inclusive, shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the



commissioner. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of sections 36a-595 to 36a-612, inclusive. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager responsible for the actions of the licensee, including, but not limited to, information related to such person's personal history and experience and any administrative, civil or criminal findings by any governmental jurisdiction. As part of an application, the commissioner may, (1) in accordance with section 29-17a, conduct a state or national criminal history records check of the applicant, any control person of the applicant, the qualified individual and any branch manager, and, (2) in accordance with section 36a-24b, (A) require the submission of fingerprints of any such person to the Federal Bureau of Investigation or other state, national or international criminal databases, and (B) investigate the financial condition of any such person and require authorization from any such person for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. An application for an initial license shall also include:

(i) A copy of the applicant's audited financial statements for the most recent fiscal year. If the applicant is a wholly-owned subsidiary of another corporation, the applicant shall include the most recent audited consolidated annual financial statements of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and the most recent audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year. If the applicant is publicly traded, the applicant shall include a copy of the most recent 10-K report that such applicant filed with the Securities and Exchange Commission or, if the applicant is a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report that was filed with the Securities and Exchange Commission. If the applicant or parent company of a wholly-owned subsidiary applicant is publicly traded on a foreign exchange, the applicant shall include a copy of documentation similar to the 10-K report that



was filed with the applicable securities regulator. [;] If the applicant or parent company of a wholly-owned subsidiary applicant is a start-up company, only an initial statement of condition shall be required;

(ii) A list of the applicant's permissible investments, the book and market values of such investments, and the dollar amount of the applicant's aggregate outstanding money transmissions (I) as of the date of the financial statement filed in accordance with clause (i) of this subparagraph; and (II) as of a date no earlier than thirty business days prior to the filing of the application;

(iii) (I) The surety bond required by subsection (a) of section 36a-602, if applicable;

(II) A list of the investments maintained in accordance with subsection (d) of section 36a-602, if applicable, and the book and market values of any such investments as of the date of the financial statement filed in accordance with clause (i) of this subparagraph; and as of a date no earlier than thirty business days prior to the filing of the application;

(iv) A statement describing the type of money transmission business that will be conducted by the applicant in this state and whether such money transmission will include the transmission of monetary value in the form of virtual currency;

(v) The name and address of any financial institution used by the applicant for its money transmission business in this state;

(vi) For each authorized delegate, a sample of the contract evidencing the proposed arrangement between the applicant and the authorized delegate; and

(vii) Any other information the commissioner may require.

(b) The commissioner may deem an application for a license to engage in the business of money transmission in this state abandoned if the applicant fails to respond to any request for information required under sections 36a-595 to 36a-612, inclusive, or any regulations adopted pursuant to said sections. The commissioner shall notify the applicant on the system that if the applicant fails to submit such information not later than sixty days after such request, the application shall be deemed abandoned. An application filing fee



paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-595 to 36a-612, inclusive.

(c) Except as otherwise specified in subsections (d) and (e) of this section, each applicant, licensee, control person and qualified individual shall file with the system any change in the information most recently submitted to the system by such licensee, control person or qualified individual in connection with the application or license, or, if the information cannot be filed on the system, notify the commissioner, in writing, of such change in the information not later than fifteen days after the date the applicant, licensee, control person or qualified individual has reason to know of such change.

(d) (1) A money transmission license shall not be transferable or assignable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or a change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

(2) No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee may not use its legal name if the commissioner disapproves use of such name. No licensee shall use any name or address other than the name and address specified on the license issued by the commissioner. A licensee may change the name of the licensee or the address of the office specified on the most recent filing with the system if, at least thirty calendar days prior to such change, the licensee files such change with the system and provides a bond rider, endorsement or addendum, as applicable, to the surety bond on file with the commissioner that reflects the new name or address, and the commissioner does not disapprove such change, in writing, or request further information within such thirty-day period.



(3) The commissioner may automatically suspend any license for a violation of this subsection. After a license has been automatically suspended pursuant to this subsection, the commissioner shall (A) give the licensee notice of the automatic suspension, pending proceedings for revocation of or refusal to renew the license pursuant to section 36a-608 and an opportunity for a hearing in accordance with section 36a-51, and (B) require the licensee to take or refrain from taking action as the commissioner deems necessary to effectuate the purpose of this section.

(e) A licensee shall file with the system or, if the information cannot be filed on the system, provide a written notice to the commissioner not later than one business day after the licensee has reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization or the filing of a petition under the United States Bankruptcy Code for bankruptcy or reorganization by any control person, qualified individual or authorized delegate of the licensee;

(2) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(3) The commencement of a proceeding to revoke or suspend its license to engage in money transmission in another state or a foreign country, or other formal or informal regulatory action by any governmental agency against the licensee or any control person, qualified individual or authorized delegate of the licensee and the reasons therefor;

(4) The commencement of any action by the Attorney General or the attorney general of any other state against the licensee or any control person, qualified individual or authorized delegate of the licensee and the reasons therefor;

(5) The cancellation or other impairment of the licensee's bond or other security, including notice of claims filed against the licensee's bond or other security;



(6) A conviction or indictment of the licensee or of any control person or qualified individual of the licensee for a misdemeanor involving the money transmission business or a felony; or

(7) A conviction or indictment of an authorized delegate for a misdemeanor involving the money transmission business or a felony.

Sec. 2. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

As used in this section and sections 36a-486 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b, unless the context otherwise requires:

(1) “Advance fee” means any consideration paid or given, directly or indirectly, by a consumer to a person for a residential mortgage loan prior to the closing of such residential mortgage loan, including, but not limited to, loan fees, points, broker’s fees or commissions, transaction fees or similar prepaid finance charges;

(2) “Advertise”, “advertisement” or “advertising” means the use of any announcement, statement, assertion or representation that is placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the Internet, or by other electronic means of distributing information, by personal contact, or in any other way;

(3) “Branch office” means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator;

(4) “Control person” means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) in the case of a corporation, directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this



subdivision, “control” means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

(5) “Depository institution” has the same meaning as provided in Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and includes any Connecticut credit union, federal credit union or out-of-state credit union;

(6) “Dwelling” means a “dwelling”, as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, that is located in this state;

(7) “Employee” means an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person. For purposes of the definition of “registered mortgage loan originator”, “employee” has the foregoing meaning or such other meaning as the federal banking agencies may issue in connection with such agencies’ implementation of such agencies’ responsibilities under the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

(8) “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration and the Federal Deposit Insurance Corporation;

(9) “First mortgage loan” means a residential mortgage loan that is secured by a first mortgage;

(10) “Immediate family member” means a spouse, child, sibling, parent, grandparent or grandchild and includes stepparents, stepchildren, stepsiblings and adoptive relationships;

(11) “Independent contractor” means an individual retained on a basis where the individual is not an employee of any person in connection with the services such individual provides and whose compensation is reported or required to be reported on an Internal Revenue Service Form 1099 issued by the retaining person;

(12) “Individual” means a natural person;

(13) “Lead” means any information identifying a potential consumer of a residential mortgage loan;



(14) “Lead generator” means a person who, for or with the expectation of compensation or gain: (A) Sells, assigns or otherwise transfers one or more leads for a residential mortgage loan; (B) generates or augments one or more leads for another person; or (C) directs a consumer to another person for a residential mortgage loan by performing marketing services, including, but not limited to, online marketing, direct response advertising or telemarketing;

(15) “Loan processor or underwriter” means an individual who performs clerical or support duties. The term “clerical or support duties” includes, subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(16) “Main office” means the main address designated on the system;

(17) “Mortgage broker” (A) means a person who (i) for compensation or gain or with the expectation of compensation or gain (I) takes a residential mortgage loan application, or (II) offers or negotiates terms of a residential mortgage loan, and (ii) is not the prospective source of the funds for the residential mortgage loan, and (B) does not include (i) an individual who is licensed as a mortgage loan originator acting as a mortgage loan originator on behalf of such mortgage loan originator’s sponsoring mortgage lender, mortgage correspondent lender, mortgage broker or exempt registrant, or (ii) an individual exempt from mortgage loan originator licensure under subdivision (2) of subsection (b) of section 36a-486 when acting within the scope of such exemption;

(18) “Mortgage correspondent lender” means a person engaged in the business of making residential mortgage loans in such person’s own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement;



(19) “Mortgage lender” means a person engaged in the business of making residential mortgage loans in such person’s own name utilizing such person’s own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement;

(20) “Mortgage loan originator” means an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan. “Mortgage loan originator” does not include (i) an individual engaged solely as a loan processor or underwriter; (ii) a person who only performs real estate brokerage activities and is licensed in accordance with chapter 392, unless the person is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (iii) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Paragraph 53D of 11 USC 101; or (iv) any individual who solely renegotiates terms for existing mortgage loans on behalf of a mortgagee and who does not otherwise act as a mortgage loan originator, unless the United States Department of Housing and Urban Development, the Bureau of Consumer Financial Protection or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires such individual to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act;

(21) “Office” means a branch office or a main office;

(22) “Out-of-state mortgage loan originator” means an individual who maintains a unique identifier through the system and holds a valid mortgage loan originator license issued pursuant to the law of any state other than this state;

[(22)] (23) “Person” means a natural person, corporation, company, limited liability company, partnership or association;



[(23)] (24) “Principal amount of the loan” means the gross amount the borrower is obligated to repay including any prepaid finance charge that is financed, and any other charge that is financed;

[(24)] (25) “Real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including (A) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property; (B) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property; (C) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction; (D) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (E) offering to engage in any activity, or act in any capacity, described in this subdivision;

[(25)] (26) “Registered mortgage loan originator” means any individual who (A) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (B) is registered with and maintains a unique identifier through the system;

[(26)] (27) “Residential mortgage loan” means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

[(27)] (28) “Residential real estate” means any real property located in this state, upon which is constructed or intended to be constructed a dwelling;

[(28)] (29) “Secondary mortgage loan” means a residential mortgage loan that is secured, in whole or in part, by a mortgage, provided such property is subject to one or more prior mortgages;

[(29)] (30) “Simulated check” means a document that imitates or resembles a check but is not a negotiable instrument;

[(30)] (31) “Sponsored” means employed or retained as an independent contractor;



[(31)] (32) “Table funding agreement” means an agreement wherein a person agrees to fund mortgage loans to be made in another person’s name and to purchase such loans after they are made;

[(32)] (33) “Trigger lead” means a consumer report obtained pursuant to subparagraph (B) of subdivision (1) of subsection (c) of Section 604 of the Fair Credit Reporting Act, 15 USC 1681b, as amended from time to time, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit;

[(33)] (34) “Unique identifier” means a number or other identifier assigned by protocols established by the system; and

[(34)] (35) “Warehouse agreement” means an agreement to provide credit to a person to enable the person to have funds to make residential mortgage loans and hold such loans pending sale to other persons.

Sec. 3. Section 36a-486 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) No person shall engage in the business of making residential mortgage loans or act as a mortgage broker in this state unless such person has first obtained a license for its main office and for each branch office where such business is conducted in accordance with the provisions of sections 36a-485 to 36a-498e, inclusive, 36a-534a and 36a-534b. Any activity subject to licensure pursuant to sections 36a-485 to 36a-498e, inclusive, 36a-534a or 36a-534b, shall be conducted from an office located in a state, as defined in section 36a-2. Any such person who is an individual shall also obtain a mortgage loan originator license prior to conducting such business unless such individual does not engage directly in the activities of a mortgage loan originator or conducts such business pursuant to the temporary authority provided in subsection (e) of this section. A person, other than a licensed mortgage loan originator acting on behalf of a mortgage lender or mortgage correspondent lender, shall be deemed to be engaged in the business of making residential mortgage loans if such person advertises, causes to be advertised, solicits or offers to make residential mortgage loans, either directly or indirectly. A person, other than a licensed mortgage loan originator acting on behalf of a mortgage broker, shall



be deemed to be acting as a mortgage broker if such person advertises or causes to be advertised that such person will negotiate, solicit, place or find a residential mortgage loan, either directly or indirectly. A mortgage correspondent lender shall not be deemed to be acting as a mortgage lender if such mortgage correspondent lender makes a loan utilizing its own funds in a situation where another person does not honor such person's commitment to fund the loan. A licensed lead generator shall not be deemed to be acting as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator when engaged in the activities of a lead generator, as described in section 36a-485 if such person does not: (1) Obtain compensation or gain contingent upon the consummation of a residential mortgage loan or the receipt of a residential mortgage loan application, or (2) utilize financial criteria particular to the consumer or the residential mortgage loan transaction to selectively place a lead or to steer a consumer to a specific person for a residential mortgage loan.

(b) (1) No person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker shall engage the services of a mortgage loan originator or of a loan processor or underwriter required to be licensed under this section unless such mortgage loan originator or loan processor or underwriter is licensed under section 36a-489 or acting pursuant to the temporary authority provided in subsection (e) of this section. An individual, unless specifically exempted under subdivision (2) of this subsection or acting pursuant to the temporary authority provided in subsection (e) of this section, shall not engage in the business of a mortgage loan originator on behalf of a licensee or a person exempt under section 36a-487 with respect to any residential mortgage loan without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489. An individual, unless specifically exempted under subdivision (2) of this subsection, shall be deemed to be engaged in the business of a mortgage loan originator if such individual: (A) Acts as a mortgage loan originator in connection with any residential mortgage loan on behalf of a licensee or person exempt under section 36a-487; or (B) makes any representation to the public through advertising or other means of communication that such individual can or will act as a mortgage loan originator on behalf of a licensee or person exempt under section 36a-487. Each licensed mortgage loan originator and each licensed loan processor



or underwriter shall register with and maintain a valid unique identifier issued by the system. No individual may act as a mortgage loan originator for more than one person at the same time. No loan processor or underwriter licensee may be sponsored by more than one person at a time. The license of a mortgage loan originator or a loan processor or underwriter is not effective during any period when such mortgage loan originator or [a] loan processor or underwriter is not sponsored by a licensed mortgage lender, mortgage correspondent lender or mortgage broker, or by a person registered as an exempt registrant under subsection (d) of section 36a-487, or during any period in which the license of the mortgage lender, mortgage correspondent lender or mortgage broker with whom such originator or loan processor or underwriter is associated has been suspended. Either the mortgage loan originator, the loan processor or underwriter or the sponsor may file a notification of the termination of sponsorship with the system.

(2) The following are exempt from this section: (A) A registered mortgage loan originator or an employee of an institution or subsidiary described in subdivision [(25)] (26) of section 36a-485, who is not required to be registered under Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., when acting for such institution or subsidiary; (B) an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of such individual; (C) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, unless the context demonstrates that such individual engaged in such activities with a degree of habitualness or repetition; (D) a Connecticut licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (E) an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan as an employee of a federal, state or local government agency or housing finance agency exempt from licensure pursuant to section 36a-487, and



who does so only pursuant to such individual's official duties as an employee of such agency; (F) an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan as an employee of an organization that has obtained bona fide nonprofit status from the commissioner and is exempt from licensure pursuant to section 36a-487, and who does so only pursuant to such individual's official duties as an employee of such organization; and (G) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that is not the individual's residence but is owned by such individual, unless the context demonstrates that such individual engaged in such activities with a degree of habitualness or repetition.

(3) No individual shall engage in the activities of a loan processor or underwriter unless such individual obtains and maintains a license as a loan processor or underwriter under section 36a-489. The following individuals are exempt from the foregoing license requirement:

(A) An employee of a licensed mortgage lender, mortgage correspondent lender or mortgage broker who engages in loan processor or underwriter activities (i) in connection with residential mortgage loans either originated or made by such licensee, and (ii) at the direction of and subject to the supervision of a licensed mortgage loan originator of such licensee;

(B) An employee of a person exempt from licensure under subdivision (1), (2) or (3) of subsection (a) of section 36a-487 who engages in loan processor or underwriter activities at the direction of and subject to the supervision of either a licensed mortgage loan originator or a registered mortgage loan originator of such exempt person; or

(C) Any individual engaged, in any capacity, in loan processor or underwriter activities in connection with a residential mortgage loan originated by an individual not required to be licensed or registered as a mortgage loan originator under this part.

(4) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of



business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

(5) On and after January 1, 2018, no person shall, directly or indirectly, act as a lead generator without first obtaining a license under section 36a-489, unless such person is exempt from licensure. The following persons shall be exempt from licensure as a lead generator:

(A) Any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union, provided such bank or credit union is federally insured;

(B) Any wholly owned subsidiary of any such bank or credit union;

(C) Any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same such bank or credit union;

(D) Any person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker in this state, provided such exemption shall not be effective during any period in which the license of such person is suspended;

(E) A consumer reporting agency, as defined in Section 603 (f) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time; and

(F) An employee of a person licensed as a lead generator or exempt from licensure as a lead generator, while engaged in lead generator activities on behalf of such person.

(c) If the United States Department of Housing and Urban Development, the Bureau of Consumer Financial Protection or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires an individual described in subparagraph (B) (iv) of subdivision (20) of section 36a-485 to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act, such individual may continue to act in such individual's current capacity, provided such individual files an application for a mortgage loan originator license not later than the date sixty days from



the date of such determination by the United States Department of Housing and Urban Development, the Bureau of Consumer Financial Protection or a court of competent jurisdiction.

(d) Each residential mortgage loan taken, offered, negotiated, solicited, arranged, placed, found, made, processed or underwritten without a license shall constitute a separate violation for purposes of section 36a-50.

(e) (1) On and after the effective date of Section 106 of Public Law 115-174, an individual who is employed by a person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker in this state shall have temporary authority to act as a mortgage loan originator in this state for the period of time described in subdivision (3) of this subsection, provided the individual (A) has not had (i) an application for a loan originator license denied in any governmental jurisdiction, or (ii) a loan originator license revoked or suspended in any governmental jurisdiction; (B) has not been subject to, or served with, a cease and desist order in any governmental jurisdiction or by the Bureau of Consumer Financial Protection pursuant to 12 USC 5113(c); (C) has not been convicted of a misdemeanor or felony that would preclude licensure in this state under subdivision (1) of subsection (b) of section 36a-489; (D) has submitted an application for licensure as a mortgage loan originator in this state pursuant to subsection (c) of section 36a-488; and (E) was registered in the system as a registered loan originator, as defined in 12 USC 5102, during the one-year period immediately preceding the date on which the individual submits in connection with the application for licensure as a mortgage loan originator in this state, the individual's personal history and experience, including authorization to obtain an independent credit report, criminal background check and information relating to administrative, civil or criminal findings by any governmental jurisdiction.

(2) On and after the effective date of Section 106 of Public Law 115-174, an out-of-state mortgage loan originator employed by a person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker in this state, shall have temporary authority to act as a mortgage loan originator in this state for the period described in subdivision (3) of this subsection, provided the individual (A) meets the requirements of subparagraphs (A) to (D), inclusive, of subdivision (1) of this subsection; and (B) was an out-of-state mortgage



loan originator during the thirty-day period immediately preceding the date on which the individual submits in connection with the application for licensure as a mortgage loan originator in this state, the individual's personal history and experience, including authorization to obtain an independent credit report, criminal background check and information relating to administrative, civil or criminal findings by any governmental jurisdiction.

(3) The period of temporary authority described in subdivisions (1) and (2) of this subsection shall commence on the date the registered loan originator or out-of-state mortgage loan originator submits the information required by subsection (c) of section 36a-488 and shall end on the earliest of (A) the date the individual withdraws the application to be a licensed mortgage loan originator in this state; (B) the date the commissioner denies the application; (C) the date the commissioner issues the mortgage loan originator license; or (D) one hundred twenty days after the date the individual submits the application, provided such application is identified as incomplete on the system.

(4) Any person employing an individual who has temporary authority to act as a mortgage loan originator in this state pursuant to this subsection shall be subject to the laws of this state to the same extent as if the employed individual is licensed as a mortgage loan originator in this state. Any individual who has temporary authority to act as a mortgage loan originator in this state pursuant to this subsection and who engages in residential mortgage loan origination activities shall be subject to the laws of this state to the same extent as if the individual is licensed as a mortgage loan originator in this state.

Sec. 4. Subdivision (1) of subsection (b) of section 36a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(b) (1) A mortgage lender, mortgage correspondent lender, mortgage broker or lead generator license shall not be transferable or assignable. Any change in any control person of the licensee, except a change of director, general partner or executive officer that is not the result of an acquisition or change [in] of control of the licensee, shall be the subject of an advance change notice filed on the system not later than thirty days prior to the effective date of such change and no such change shall occur without the commissioner's



approval. For purposes of this section, “change of control” means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 5. Subsection (a) of section 36a-540 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) Each license shall specify the location at which the business is to be conducted. Such license shall not be transferable or assignable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change [in] of control of the licensee, shall be the subject of an advance change notice filed on the system not later than thirty days prior to the effective date of such change and no such change shall occur without the commissioner’s approval. For purposes of this section, “change of control” means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 6. Subsection (a) of section 36a-566 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) No license issued under section 36a-556 shall be assignable or transferable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner’s approval. For purposes of this section, “change of control” means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 7. Subdivision (1) of subsection (a) of section 36a-583 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):



(a) (1) A license issued under section 36a-581 shall not be transferable or assignable. A change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change in control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 8. Subsection (a) of section 36a-658 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) Each license shall state the location at which the business is to be conducted and shall state fully the name of the licensee. If the licensee desires to engage in the business of debt adjustment in more than one location, the licensee shall procure a license for each location where the business is to be conducted. A license issued under section 36a-656 shall not be transferable or assignable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 9. Subsection (h) of section 36a-671 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(h) The license shall not be transferable or assignable. Any change in any control person of the [license] licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on



the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 10. Subsection (a) of section 36a-719a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) A mortgage servicer license shall not be transferable or assignable. Any change in any control person of a licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons. Any licensee who intends to permanently cease acting as a mortgage servicer at any time during a license period for any cause, including, but not limited to, bankruptcy or voluntary dissolution, shall file a request to surrender the license in accordance with subsection (c) of section 36a-51, for each office at which the licensee intends to cease to do business, on the system, not later than fifteen days after the date of such cessation, provided this requirement shall not apply when a license has been suspended pursuant to section 36a-51. No surrender shall be effective until accepted by the commissioner.

Sec. 11. Subsection (i) of section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(i) No person licensed to act within this state as a consumer collection agency shall do so under any other name or at any other place of business than that named in the license. No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee may not use its legal name if the commissioner disapproves use of such name. A licensee may change the name of the licensee or



address of the office specified on the most recent filing with the system if, at least thirty calendar days prior to such change, (1) the licensee files such change with the system and provides a bond rider, endorsement or addendum, as applicable, to the surety bond on file with the commissioner that reflects the new name or address, and (2) the commissioner does not disapprove such change, in writing, or request further information from the licensee within such thirty-day period. Not more than one place of business shall be maintained under the same license but the commissioner may issue more than one license to the same licensee upon compliance with the provisions of sections 36a-800 to 36a-814, inclusive, as to each new licensee. A license shall not be transferable or assignable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons. Any licensee holding, applying for, or seeking renewal of more than one license may, at its option, file the bond required under section 36a-802 separately for each place of business licensed, or to be licensed, or a single bond, naming each place of business, in an amount equal to twenty-five thousand dollars for each place of business. The commissioner may automatically suspend a license for any violation of this subsection. After a license has been automatically suspended pursuant to this section, the commissioner shall (A) give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 36a-804 and an opportunity for a hearing on such action in accordance with section 36a-51, and (B) require such licensee to take or refrain from taking such action as the commissioner deems necessary to effectuate the purposes of this section.

Sec. 12. Subsection (b) of section 36a-848 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):



(b) A license shall not be transferable or assignable. Any change in any control person of the licensee, except a change of a director, general partner or executive officer that is not the result of an acquisition or change of control of the licensee, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 13. Subsection (a) of section 36a-847 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(a) (1) No person shall act as a student loan servicer, directly or indirectly, without first obtaining a license for its main office and for each branch office where such business is conducted from the commissioner under subsection (b) of this section, [, unless such person is exempt from licensure pursuant to subdivision (2) of this subsection.] Any activity subject to licensure pursuant to sections 36a-846 to 36a-854, inclusive, shall be conducted from an office located in a state, as defined in section 36a-2.

(2) The provisions of sections 36a-846 to 36a-854, inclusive, shall not apply to the following persons: [are exempt from student loan servicer licensing requirements] (A) Any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union; (B) any wholly owned subsidiary of any such bank or credit union; and (C) any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

Sec. 14. Section 36a-850 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

No [person who is required to be licensed and who is subject to the provisions of sections 36a-846 to 36a-854, inclusive,] student loan servicer and no control person of a student loan servicer shall, directly or indirectly:

(1) Employ any scheme, device or artifice to defraud or mislead student loan borrowers;



- (2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;
- (3) Obtain property by fraud or misrepresentation;
- (4) Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;
- (5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;
- (6) Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer licensee regularly reports information to a credit bureau;
- (7) Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer licensee may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower;
- (8) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the commissioner or another governmental agency;
- (9) Fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable student loan servicing laws and regulations; or
- (10) Fail to comply with the service standards set by the commissioner in accordance with section 59 of public act 16-65*.



Sec. 15. Section 36a-851 of the general statutes is repealed. (*Effective October 1, 2020*)

Statement of Purpose: To (1) ease the financial reporting requirements of certain money transmission license applicants, (2) allow mortgage loan originators who have been licensed as a mortgage loan originator in another state or employed as a federal registered loan originator to temporarily act as a mortgage loan originator in this state, (3) define the circumstances constituting a “change in control” for purposes of filing certain advance change notices with the commissioner, (4) exempt banks, credit unions and their subsidiaries from student loan servicer requirements, and (5) repeal redundant investigative authority within the student loan servicer provisions.



Agency Legislative Proposal - 2020 Session

Document Name:

(If submitting electronically, please label with date, agency, and title of proposal – 092620_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matthew Smith
Phone: 860-240-8105
E-mail: Matthew.Smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Jeffrey T. Schuyler

Title of Proposal: An Act Concerning Shared Appreciation Agreements

Statutory Reference: 36a-485

Proposal Summary:
 This proposal provides the Banking Commissioner with regulatory authority over entities and individuals that make, originate or broker shared appreciation agreements, transactions in which funds are advanced to a consumer in exchange for an equity interest in residential property or the future repayment of an amount secured by a security interest in the residential property. This proposal amends Section 36a-485 to add a definition of the term “shared appreciation agreement” and includes shared appreciation agreements in the definition of “residential mortgage loan”.

PROPOSAL BACKGROUND

◇ Reason for Proposal

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

To better protect Connecticut residents, this proposal ensures that cash advances secured by a security interest in residential property, and which require repayment or an ownership interest in residential property, are subject to the same licensure and regulatory compliance as residential mortgage loans.

- ◇ **Origin of Proposal** **New Proposal** **Resubmission**



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:
Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

◇ **FISCAL IMPACT** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) None.
State There may be a minimal revenue gain in connection with additional annual licensing fees.
Federal None.
Additional notes on fiscal impact None.

◇ **POLICY and PROGRAMMATIC IMPACTS** (Please specify the proposal section associated with the impact)

None.

◇ **EVIDENCE BASE**



What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First [evidence definitions](#) can help you to establish the evidence-base for your program and their [Clearinghouse](#) allows for easy access to information about the evidence base for a variety of programs.

AN ACT CONCERNING SHARED APPRECIATION AGREEMENTS

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

As used in this section and sections 36a-486 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b, unless the context otherwise requires:

(1) “Advance fee” means any consideration paid or given, directly or indirectly, by a consumer to a person for a residential mortgage loan prior to the closing of such residential mortgage loan, including, but not limited to, loan fees, points, broker’s fees or commissions, transaction fees or similar prepaid finance charges;

(2) “Advertise”, “advertisement” or “advertising” means the use of any announcement, statement, assertion or representation that is placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the Internet, or by other electronic means of distributing information, by personal contact, or in any other way;

(3) “Branch office” means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator;

(4) “Control person” means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) in the case of a corporation, directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or



direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this subdivision, “control” means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

(5) “Depository institution” has the same meaning as provided in Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and includes any Connecticut credit union, federal credit union or out-of-state credit union;

(6) “Dwelling” means a “dwelling”, as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, that is located in this state;

(7) “Employee” means an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person. For purposes of the definition of “registered mortgage loan originator”, “employee” has the foregoing meaning or such other meaning as the federal banking agencies may issue in connection with such agencies’ implementation of such agencies’ responsibilities under the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

(8) “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration and the Federal Deposit Insurance Corporation;

(9) “First mortgage loan” means a residential mortgage loan that is secured by a first mortgage;

(10) “Immediate family member” means a spouse, child, sibling, parent, grandparent or grandchild and includes stepparents, stepchildren, stepsiblings and adoptive relationships;



(11) "Independent contractor" means an individual retained on a basis where the individual is not an employee of any person in connection with the services such individual provides and whose compensation is reported or required to be reported on an Internal Revenue Service Form 1099 issued by the retaining person;

(12) "Individual" means a natural person;

(13) "Lead" means any information identifying a potential consumer of a residential mortgage loan;

(14) "Lead generator" means a person who, for or with the expectation of compensation or gain: (A) Sells, assigns or otherwise transfers one or more leads for a residential mortgage loan; (B) generates or augments one or more leads for another person; or (C) directs a consumer to another person for a residential mortgage loan by performing marketing services, including, but not limited to, online marketing, direct response advertising or telemarketing;

(15) "Loan processor or underwriter" means an individual who performs clerical or support duties. The term "clerical or support duties" includes, subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(16) "Main office" means the main address designated on the system;

(17) "Mortgage broker" (A) means a person who (i) for compensation or gain or with the expectation of compensation or gain (I) takes a residential mortgage loan application, or (II) offers or negotiates terms of a residential mortgage loan, and (ii) is not the prospective source of the funds for the residential mortgage loan, and (B) does not include (i) an individual who is licensed as a mortgage loan originator acting as a mortgage loan originator on behalf of such mortgage loan originator's sponsoring mortgage lender, mortgage correspondent lender, mortgage broker or exempt registrant, or (ii) an individual exempt from mortgage loan



originator licensure under subdivision (2) of subsection (b) of section 36a-486 when acting within the scope of such exemption;

(18) “Mortgage correspondent lender” means a person engaged in the business of making residential mortgage loans in such person’s own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement;

(19) “Mortgage lender” means a person engaged in the business of making residential mortgage loans in such person’s own name utilizing such person’s own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement;

(20) “Mortgage loan originator” means an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan. “Mortgage loan originator” does not include (i) an individual engaged solely as a loan processor or underwriter; (ii) a person who only performs real estate brokerage activities and is licensed in accordance with chapter 392, unless the person is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (iii) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Paragraph 53D of 11 USC 101; or (iv) any individual who solely renegotiates terms for existing mortgage loans on behalf of a mortgagee and who does not otherwise act as a mortgage loan originator, unless the United States Department of Housing and Urban Development, the Bureau of Consumer Financial Protection or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires such individual to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act;

(21) “Office” means a branch office or a main office;



(22) “Person” means a natural person, corporation, company, limited liability company, partnership or association;

(23) “Principal amount of the loan” means the gross amount the borrower is obligated to repay including any prepaid finance charge that is financed, and any other charge that is financed;

(24) “Real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including (A) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property; (B) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property; (C) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction; (D) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (E) offering to engage in any activity, or act in any capacity, described in this subdivision;

(25) “Registered mortgage loan originator” means any individual who (A) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (B) is registered with and maintains a unique identifier through the system;

(26) “Residential mortgage loan” means any loan, including a shared appreciation agreement, primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(27) “Residential real estate” means any real property located in this state, upon which is constructed or intended to be constructed a dwelling;

(28) “Secondary mortgage loan” means a residential mortgage loan that is secured, in whole or in part, by a mortgage, provided such property is subject to one or more prior mortgages;



(29) “Shared appreciation agreement” means a nonrecourse obligation in which an advance sum of monetary value is extended to a consumer, as a lump sum or otherwise, in exchange for an equity interest in the subject dwelling or residential real estate or a future obligation to repay a sum upon the triggering of an event, including, but not limited to, the transfer of ownership, repayment maturity date, death of the consumer or other event as outlined and explicitly agreed to within said agreement;

[(29)] (30) “Simulated check” means a document that imitates or resembles a check but is not a negotiable instrument;

[(30)] (31) “Sponsored” means employed or retained as an independent contractor;

[(31)] (32) “Table funding agreement” means an agreement wherein a person agrees to fund mortgage loans to be made in another person’s name and to purchase such loans after they are made;

[(32)] (33) “Trigger lead” means a consumer report obtained pursuant to subparagraph (B) of subdivision (1) of subsection (c) of Section 604 of the Fair Credit Reporting Act, 15 USC 1681b, as amended from time to time, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit;

[(33)] (34) “Unique identifier” means a number or other identifier assigned by protocols established by the system; and

[(34)] (35) “Warehouse agreement” means an agreement to provide credit to a person to enable the person to have funds to make residential mortgage loans and hold such loans pending sale to other persons.

Statement of Purpose: To make shared appreciation agreements subject to the same licensing and regulatory compliance requirements as residential mortgage loans.