



Agency Legislative Proposal – 2023 Session

Document Name:

Document Name	AAC Student Loan Servicers DOB 10_93_2022.docx
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matthew Smith
Division Requesting This Proposal	Consumer Credit
Drafter	Stacey L. Serrano, Staff Attorney

Title of Proposal	An Act Concerning Federal Student Loan Servicers
Statutory Reference, if any	36a-846, 36a-847a
Brief Summary and Statement of Purpose	Subservicers of federal student loan servicers are not the entities awarded contracts by the United States Department of Education (DOE), but still conduct activities pursuant to contracts with DOE. These amendments seek to clarify that subservicers of federal student loan servicers, like the entities awarded contracts by DOE, are required to be registered as federal student loan servicers in Connecticut.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

<p>Section 1 amends the definition of “federal student loan servicer” in Section 36a-846 to remove the limitation that the DOE contract must be awarded “to such person” in order for such person to be considered a federal student loan servicer.</p> <p>Section 2 amends a notice requirement for federal student loan servicers in Section 36a-847a to ensure that federal student loan subservicers are under the same obligation to notify the Department of the expiration, revocation or termination of a DOE contract, regardless of the fact that they are not the persons directly awarded the contract by DOE.</p>
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BACKGROUND

Origin of Proposal

New Proposal

Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	
Have certain constituencies called for this proposal?	

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

Check here if this proposal does NOT impact other agencies

1. Agency Name	
Agency Contact (name, title)	



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Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?



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AN ACT CONCERNING STUDENT LOAN SERVICERS

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

Section 1. Section 36a-846 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

As used in this section and sections 36a-847 to 36a-855, inclusive:

- (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 student loan servicer;
- (3) “Consumer report” has the same meaning as provided in Section 603(d) of the Fair Credit Reporting Act, 15 USC, 1681a, as amended from time to time;
- (4) “Control person” has the same meaning as provided in section 36a-485;
- (5) “Cosigner” has the same meaning as provided in 15 USC 1650(a), as amended from time to time;
- (6) “Federal student education loan” means any student education loan (A) (i) made pursuant to the William D. Ford Federal Direct Loan Program, 20 USC 1087a, et seq., as amended from time to time, or (ii) purchased by the United States Department of Education pursuant to 20 USC 1087i-1(a), as amended from time to time, and (B) owned by the United States Department of Education;
- (7) “Federal student loan servicer” means any student loan servicer responsible for the servicing of a federal student education loan to a student loan borrower pursuant to a contract awarded [to such person] by the United States Department of Education under 20 USC 1087f, as amended from time to time;
- (8) “Main office” has the same meaning as provided in section 36a-485;
- (9) “Private student education loan” means any student education loan that is not a federal student education loan;



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(10) “Private student education loan servicer” means any student loan servicer responsible for the servicing of a private student education loan to a student loan borrower;

(11) “Student loan borrower” means any individual who resides within this state who has agreed to repay a student education loan;

(12) “Student loan servicer” means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower;

(13) “Servicing” means (A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; (C) maintaining account records for and communicating with the student loan borrower concerning the student education loan during the period when no scheduled periodic payments are required; (D) interacting with a student loan borrower for purposes of facilitating the servicing of a student education loan, including, but not limited to, assisting a student loan borrower to prevent such borrower from defaulting on obligations arising from the student education loan; or (E) performing other administrative services with respect to a student education loan;

(14) “Student education loan” means any loan primarily for personal use to finance education or other school-related expenses;

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

Sec. 2. Section 36a-847a of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Except as provided in section 36a-847b, no person shall act as a federal student loan servicer, directly or indirectly, unless such person has registered as a federal student loan servicer on the system, pursuant to section 36a-24b, in the form prescribed by the commissioner.



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(b) Each registrant shall pay to the system any required fees or charges and a registration fee of nine hundred dollars. Each registration shall be effective on the date the registration is filed to the system and shall remain in force and effect until the registration has been surrendered, revoked or suspended or has expired in accordance with the provisions of this section. Each registration shall expire at the close of business on December thirty-first of the year in which the registration is filed, unless such registration is renewed, except that any such registration filed on or after November first shall expire at the close of business on December thirty-first of the year following the year in which it is filed. Any request to renew a registration shall be filed on the system between November first and December thirty-first of the year in which the registration expires and shall be accompanied by payment of any required fees or charges and a renewal fee of nine hundred dollars.

(c) (1) Each registrant shall appoint an agent to accept service of process in this state on behalf of the registrant. Service of process made upon such agent shall be deemed service of process upon the registrant. If such agent cannot with reasonable diligence be found, or if the registrant has failed to appoint an agent as required by this subdivision, service of process may be made upon a control person of the registrant, as the agent of the registrant.

(2) Each registrant shall designate an individual to represent the registrant in communications with the commissioner and provide contact information for such individual to the commissioner at the time of registration. The registrant shall notify the commissioner of any change of such individual or information not later than ten days after the change.

(d) Each registrant shall notify the commissioner in writing of the expiration, revocation or termination of any contract awarded [to the registrant] by the United States Department of Education pursuant to 20 USC 1087f, as amended from time to time, pursuant to which such registrant performs such student loan servicing activities, not later than seven days after such expiration, revocation or termination. Any registration based solely upon such contract shall be deemed expired upon the effective date of such expiration, revocation or termination by the United States Department of Education.



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(e) The commissioner may impose a civil penalty, after notice and an opportunity for a hearing in accordance with section 36a-50 on any person that acts as a federal student loan servicer for thirty or more days in violation of this section.

Statement of Purpose: To clarify that subservicers of federal student loan servicers, like the entities awarded contracts by United States Department of Education, are required to be registered as federal student loan servicers in Connecticut.



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Document Name	AAC Small Loans Dob 10_03_2022.docx
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

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Legislative Liaison	Matthew Smith
Division Requesting This Proposal	Consumer Credit
Drafter	Stacey L. Serrano, Staff Attorney

Title of Proposal	An Act Concerning Small Loans
Statutory Reference, if any	Sections 36a-555, 36a-556, 36a-557, 36a-558, 36a-560
Brief Summary and Statement of Purpose	To increase the dollar amount for loans subject to the Small Loan Act from \$15,000 to \$50,000, define parameters by which a person partnering with an exempt person may be deemed a small loan lender and to clarify the charges that are considered finance charges when calculating the APR of small loans.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

Section 1 amends the definitions of “APR” and “small loan” in Section 36a-555 to clarify charges that are deemed finance charges for the purpose of calculating APR, ties the APR calculation to the federal Military Lending Act and increases the dollar amount of a small loan to \$50,000.

Section 2 amends Section 36a-556 to set forth additional conditions by which a person purporting to act as an agent, service provider, or in another capacity for a person exempt from licensure, will require licensure under the Act.

Section 3 amends Section 36a-557 to reflect the requirement for persons to obtain licensure in Section 2.



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Sections 4 and 5 amend Sections 36a-558 and 36a-560, respectively, to reflect the new \$50,000 dollar amount for small loans.

BACKGROUND

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New Proposal

Resubmission

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INTERAGENCY IMPACT

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1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?



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AN ACT CONCERNING SMALL LOANS

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

Section 1. Section 36a-555 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

As used in this section and sections 36a-556 to 36a-573, inclusive, as amended by this act:

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

(2) “APR” means the annual percentage rate for the loan calculated according to the provisions of the federal [Truth-in-Lending Act, 15 USC 1601 et seq.,] Military Lending Act, 10 USC 987 et.seq., as amended from time to time, and the regulations promulgated thereunder [and the “disclosed APR” shall mean the APR disclosed, as applicable, pursuant to 12 CFR Section 1026.6 or 12 CFR Section 1026.18. If more than one APR is disclosed pursuant to 12 CFR Section 1026.6, the “disclosed APR” shall be the highest APR disclosed pursuant to said section.;] For the purpose of this section and sections 36a-556 to 36a-573, inclusive, as amended by this act, in addition to charges set forth in 32 CFR 232.4(c)(1), the following shall be deemed finance charges: (A) Charges for any ancillary product, membership or service sold in connection or concurrent with a small loan, (B) any amount offered or agreed to by a borrower in furtherance of obtaining credit or as compensation for the use of money, and (C) any fee, voluntary or otherwise, charged, agreed to or paid by a borrower in connection or concurrent with a small loan;

(3) “Branch office” means a location other than the main office where the licensee, or any person on behalf of the licensee, will engage in activities that require a small loan license;

(4) “Connecticut borrower” means any borrower who resides in or maintains a domicile in this state and who (A) negotiates or agrees to the terms of the small loan in person, by mail, by telephone or via the Internet while physically present in this state, (B) enters into or executes a small loan agreement



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with the lender in person, by mail, by telephone or via the Internet while physically present in this state, or (C) makes a payment on the loan in this state. For purposes of this subdivision, “payment on the loan” includes a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution. For purposes of this subdivision, “financial institution” means any bank or credit union chartered or licensed under the laws of this state, any other state or the United States and having its main office or a branch office in this state;

(5) “Control person” means an individual that directly or indirectly exercises control over another person, and includes 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. 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;

(6) “Generating leads” means (A) engaging in the business of selling leads for small loans; (B) generating or augmenting leads for small loans for other persons for or with the expectation of compensation or gain; or (C) referring consumers to other persons for a small loan for or with the expectation of compensation or gain for such referral, except “generating leads” shall not include generating or augmenting leads for small loans for an exempt person, as described in subsection (b) of section 36a-557, as amended by this act, using the exempt person’s data or customer information;

(7) “Lead” means any information identifying a potential consumer of a small loan;

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

(9) “Open-end small loan” has the same meaning as “open-end credit”, as defined in 12 CFR 1026.2, as amended from time to time;



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

(11) “Small loan” means any loan of money or extension of credit, or the purchase of, or an advance of money on, a borrower’s future income where the following conditions are present: (A) The amount or value is [fifteen] fifty thousand dollars or less; and (B) the APR is greater than twelve per cent.

For purposes of this subdivision, “future income” means any future potential source of money, and expressly includes, but is not limited to, a future pay or salary, pension or tax refund. For purposes of this section and sections 36a-556 to 36a-573, inclusive, as amended by this act, “small loan” shall not include:

(i) A retail installment contract made in accordance with section 36a-772; (ii) a loan or extension of credit for agricultural, commercial, industrial or governmental use; (iii) a residential mortgage loan, as defined in section 36a-485; or (iv) an open-end credit account that is accessed by a credit card issued by an exempt entity, as described in subdivision (1) of subsection (b) of section 36a-557, as amended by this act;

(12) “Trigger lead” means a consumer report obtained pursuant to Section 604(C)(1)(B) of the Fair Credit Reporting Act, 15 USC 1681b, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit. “Trigger lead” does not include a consumer report obtained by a small loan lender that holds or services existing indebtedness of the applicant who is the subject of the report; and

(13) “Unique identifier” means a number or other identifier assigned by protocols established by the system.

Sec. 2. Section 36a-556 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Without having first obtained a small loan license from the commissioner pursuant to section 36a-565, no person shall, by any method, including, but not limited to, mail, telephone, Internet or other electronic means, unless exempt pursuant to section 36a-557, as amended by this act:



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- (1) Make a small loan to a Connecticut borrower;
 - (2) Offer, solicit, broker, directly or indirectly arrange, place or find a small loan for a prospective Connecticut borrower;
 - (3) Engage in any other activity intended to assist a prospective Connecticut borrower in obtaining a small loan, including, but not limited to, generating leads;
 - (4) Receive payments of principal and interest in connection with a small loan made to a Connecticut borrower;
 - (5) Purchase, acquire or receive assignment of a small loan made to a Connecticut borrower; and
 - (6) Advertise or cause to be advertised in this state a small loan or any of the services described in subdivisions (1) to (5), inclusive, of this subsection.
- (b) No person shall accept any lead, referral or application for a small loan to a prospective Connecticut borrower from a person who is not (1) licensed pursuant to section 36a-565, or (2) exempt from licensure pursuant to section 36a-557, as amended by this act.
- (c) No person shall sell, transfer, pledge, assign or otherwise dispose of any small loan made to a Connecticut borrower to any person who is not (1) licensed pursuant to section 36a-565, or (2) exempt from licensure pursuant to section 36a-557, as amended by this act.
- (d) Any person that purports to act as an agent, service provider, or in another capacity for a person exempt from licensure pursuant to subsections (a) and (b) of section 36a-557, as amended by this act, shall require licensure pursuant to subsection (a) of this section if: (1) the person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the small loan; (2) the person markets, brokers, arranges, or facilitates the loan and holds the right, requirement, or first right of refusal to purchase the small loans, receivables, or interests in the small loans; or (3) the totality of the circumstances indicate that such person is the lender and the transaction is structured to evade the requirements of sections 36a-555 to 36a-573, inclusive, as amended by this act. Circumstances that weigh in favor of a person being deemed a lender requiring licensure under sections 36a-555 to 36a-573,



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inclusive, as amended by this act, include, without limitation, if the person: (i) indemnifies, insures, or protects an exempt person for any costs or risks related to the small loan; (ii) predominantly designs, controls, or operates the small loan program; or (iii) purports to act as an agent, service provider, or in another capacity for an exempt person in this state while acting directly as a lender in other states.

Sec. 3. Section 36a-557 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) The following persons are exempt from the requirement for licensure set forth in section 36a-556, as amended by this act:

(1) A licensed pawnbroker;

(2) A person licensed as a consumer collection agency in accordance with section 36a-801 when engaged in the activities of a consumer collection agency in the normal course of business;

(3) A person who services small loans for an exempt person described in subsection (b) of this section, when such exempt person owns the small loans, provided the servicing arrangements include, in addition to receiving payments of principal and interest in connection with the small loans, the provision of accounting, recordkeeping and data processing services and such person does not engage in the activities set forth in subsection (d) of section 36a-556, as amended by this act;

(4) A person who is a passive buyer of a small loan. For purposes of this subdivision, “passive buyer” means a person who: (A) Has acquired a small loan for investment purposes from a person who is either licensed or exempt from licensure under subdivisions (1) to (3), inclusive, of subsection (b) of this section; (B) will receive the principal and interest and any other moneys due under the small loan through a person who is either licensed or exempt from licensure under subdivisions (1) to (3), inclusive, of subsection (b) of this section; and (C) has had and will have no communications of any kind with the Connecticut borrower regarding the small loan it has acquired;

(5) 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, when generating leads; and



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(6) A retail seller who offers, extends or facilitates credit through an open-end or closed-end credit plan for the purchase of goods or services from such retail seller.

(b) The following persons are exempt from the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act:

(1) 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;

(2) Any wholly-owned subsidiary of such bank or credit union; and

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

(c) Loans made by an exempt person described in subsection (b) of this section shall be exempt from the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, including, without limitation, the provisions applicable to licensed persons, even if: (1) The exempt person utilizes the services of a person exempt from licensing or required to be licensed pursuant to section 36a-556, as amended by this act, in connection with the small loans that are made or offered to be made by the exempt person described in subsection (b) of this section; and (2) a person exempt from licensing or required to be licensed pursuant to section 36a-556, as amended by this act, engages in activities intended to assist a prospective Connecticut borrower or a Connecticut borrower in obtaining a small loan that is made or offered to be made by an exempt person described in subsection (b) of this section. Nothing in this subsection shall be construed as exempting persons required to be licensed pursuant to section 36a-556, as amended by this act, from the requirements to obtain and maintain a license or from the provisions of sections 36a-562 to 36a-573, inclusive. Notwithstanding the foregoing, no person licensed or required to be licensed under section 36a-556, as amended by this act, shall engage in any of the activities described in subsection (a) of section 36a-556, as amended by this act, for any small loan that has [a disclosed] an APR in excess of thirty-six per cent if that small loan contains any condition or provision inconsistent with the requirements of subsections (d) to (g), inclusive, of section 36a-558, as amended by



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this act. This subsection does not apply to loans made pursuant to subsection (d) of section 36a-556, as amended by this act.

Sec. 4. Section 36a-558 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Except as provided in subsection (c) of section 36a-557, as amended by this act, no person licensed or required to be licensed under section 36a-556, as amended by this act, shall engage in any of the activities described in subsection (a) of section 36a-556, as amended by this act, for any small loan that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section.

(b) No person exempt from licensure under section 36a-557, as amended by this act, shall engage in any of the activities described in subdivision (4), (5) or (6) of subsection (a) of section 36a-556, as amended by this act, for any small loan made by a person who was licensed or who was required to be licensed under section 36a-556, as amended by this act, that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section.

(c) (1) Except as the result of a bona fide error or as set forth in subdivision (2) of this subsection, any small loan described in subsection (a) or (b) of this section that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section shall not be enforced in this state. Such small loan shall be void and no person shall have the right to collect or receive any principal, interest, charge or other consideration thereon. Any person attempting to collect or receive principal, interest, charge or other consideration on such small loan shall be subject to the provisions of section 36a-570.

(2) Subdivision (1) of this subsection shall not apply when: (A) The inconsistent condition or provision is the result of a bona fide error; or (B) the small loan was lawfully made in compliance with a validly enacted licensed loan law of another state to a borrower who was not, at the time of the making of such loan, a Connecticut borrower but who has since become a Connecticut borrower.



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(3) For the purposes of this subsection, the term “bona fide error” includes, but is not limited to, clerical, calculation and computer malfunction, programming and printing errors, but does not include an error of legal judgment with respect to a person’s obligations under sections 36a-555 to 36a-573, inclusive, as amended by this act, or under regulations implemented pursuant to section 36a-573.

(d) Small loans that are the subject of the activities set forth in subsections (a) and (b) of this section shall not contain:

(1) For a small loan that is under five thousand dollars, an [annual percentage rate] APR that exceeds the lesser of thirty-six per cent or the maximum annual percentage rate for interest that is permitted with respect to the consumer credit extended under the Military Lending Act, 10 USC 987 et seq., as amended from time to time, or for a small loan that is between five thousand and [fifteen] fifty thousand dollars, an [annual percentage rate] APR that exceeds twenty-five per cent;

(2) For other than an open-end small loan, a provision that increases the interest rate due to payment default;

(3) A payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance;

(4) A payment schedule with regular periodic payments that cause the principal balance to increase;

(5) A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;

(6) A prepayment penalty;

(7) An adjustable rate provision;

(8) A waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (A) Utilizes principles that are inconsistent with the law as set forth in the general statutes or common law; or (B) limits any claim or defense the borrower may have;



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- (9) A call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause;
- (10) A security interest, except as provided in subsection (e) of this section; or
- (11) Fees or charges of any kind, except as expressly permitted by subsection (e) of this section.
- (e) Small loans as described in subsections (a) and (b) of this section may contain provisions:
- (1) For late fees, if: (A) Such fees are assessed after an installment remains unpaid for ten or more consecutive days, including Sundays and holidays; (B) such fees do not exceed five per cent of the outstanding installment payment, excluding any previously assessed late fees, or a total of twenty-five dollars per month, whichever is less; and (C) no interest is charged on such fees;
- (2) Allowing charges for a dishonored check or any other form of returned payment, provided the total fee for such returned payment shall not exceed twenty dollars;
- (3) Allowing for collection of deferral charges, but only upon the specific written authorization of the borrower and in a total amount not to exceed the interest due during the applicable billing cycle;
- (4) Allowing for the accrual of interest after the maturity date or the deferred maturity date, provided such interest shall not exceed twelve per cent per annum computed on a daily basis on the respective unpaid balances;
- (5) Providing for reasonable attorney's fees subject to the conditions and restrictions set forth in section 42-150aa;
- (6) Including credit life insurance or credit accident and health insurance subject to the conditions and restrictions set forth in section 36a-559;
- (7) Taking a security interest in a motor vehicle in connection with a closed-end small loan made solely for the purchase or refinancing of such motor vehicle, provided the APR of such loan shall not exceed the rates indicated for the respective classifications of motor vehicles as follows: (A) New motor vehicles, fifteen per cent; (B) used motor vehicles of a model designated by the manufacturer by a year not more than two years prior to the year in which the sale is made, seventeen per cent; and (C) used



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motor vehicles of a model designated by the manufacturer by a year more than two years prior to the year in which the sale is made, nineteen per cent.

(f) Open-end small loans as described in subsections (a) and (b) of this section shall, in addition to the requirements set forth in subsections (d) and (e) of this section:

(1) Not provide for an advance of money exceeding at any one time an unpaid principal of [fifteen] fifty thousand dollars;

(2) Provide for payments and credits to be made to the same borrower's account from which advances, interests, charges and costs on such loan are debited;

(3) Provide for interest to be computed on any unpaid principal balance of the account in each billing cycle by one of the following methods: (A) By converting the APR to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the APR by three hundred sixty-five; or (B) by converting the APR to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case (i) the monthly rate is determined by dividing the APR by twelve, and (ii) the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle. In either of such computations, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of such day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day;

(4) Not compound interest or charges by adding any unpaid interest or charges authorized by sections 36a-555 to 36a-573, inclusive, as amended by this act, to the unpaid principal balance of the borrower's account; or

(5) Not include any other fees or charges of any kind, except as expressly permitted by subsection (g) of this section.



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(g) Open-end small loans as described in subsections (a) and (b) of this section, in addition to the requirements set forth in subsections (d) to (f), inclusive, of this section, may:

(1) Provide for an annual fee for the privileges made available to the borrower under the open-end loan agreement, provided such annual fee shall not exceed fifty dollars; and

(2) Include credit life insurance or credit accident and health insurance, subject to the conditions and restrictions set forth in section 36a-559.

(h) No person licensed or required to be licensed under sections 36a-555 to 36a-573, inclusive, as amended by this act, who is engaged in generating leads shall in connection with lead generation activities:

(1) Initiate any outbound telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the prior express written consent of the recipient;

(2) Fail to transmit or cause to transmit the lead generator's name and telephone number to any caller identification service in use by a consumer;

(3) Initiate an outbound telephone call to a consumer's residence between nine o'clock p.m. and eight o'clock a.m. local time at the consumer's location;

(4) Fail to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;

(5) Fail to provide the ability to opt out of any unsolicited advertisement communicated to a consumer via an electronic mail address;

(6) Initiate an unsolicited advertisement via electronic mail to a consumer more than ten business days after the receipt of a request from such consumer to opt out of such unsolicited advertisements;

(7) Use a subject heading or electronic mail address in a commercial electronic mail message that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the sender, contents or subject matter of the message;



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(8) Sell, lease, exchange or otherwise transfer or release the electronic mail address or telephone number of a consumer who has requested to be opted out of future solicitations;

(9) Collect, buy, lease, exchange or otherwise transfer or receive an individual's Social Security number or bank account number;

(10) Use information from a trigger lead to solicit consumers who have opted out of firm offers of credit under the federal Fair Credit Reporting Act;

(11) Initiate a telephone call to a consumer who has placed his or her contact information on a federal or state Do Not Call list, unless the consumer has provided express written consent;

(12) Represent to the public, through advertising or other means of communicating or providing information, including, but not limited to, the use of business cards or stationery, brochures, signs or other promotional items, that such lead generator can or will perform any other activity requiring licensure under this title, unless such lead generator is duly licensed to perform such other activity or exempt from such licensure requirements;

(13) Refer applicants to, or receive a fee from, any person who is required to be licensed under this title, but was not so licensed as of the time of the performance of such lead generator's services; or

(14) Assist or aid and abet any person in the conduct of business requiring licensure under this title when such person does not hold the license required.

Sec. 5. Section 36a-560 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

No licensee shall:

(1) Cause a borrower, including, but not limited to, a comaker or guarantor, to owe at any time more than [fifteen] fifty thousand dollars in principal on one or more small loans;

(2) Induce or permit a borrower to split or divide any small loan or loans, or induce or permit a borrower to become obligated, directly or indirectly, under more than one contract of loan at the same



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time, primarily for the purpose of obtaining rates or charges that would otherwise be prohibited by any applicable provision of sections 36a-555 to 36a-573, inclusive, as amended by this act;

(3) Take any (A) confession of judgment, (B) power of attorney, (C) note or promise to pay that does not state the actual amount of the loan, the time period for which the loan is made and the charges for such loan, or (D) instrument related to the loan in which blanks are left to be filled after the loan is made;

(4) Offer the borrower any other product or service for which there is or will ever be any cost to the borrower in connection with a small loan unless (A) permitted by sections 36a-555 to 36a-573, inclusive, as amended by this act, (B) authorized under another license, or by applicable exemption from any requirement for such licensure, to offer such product or services, or (C) if no separate license or exemption therefrom is required to offer such product or services, authorized in advance, in writing, by the commissioner upon being satisfied that such other product or service is of such a character that the granting of such authority would not permit or easily facilitate evasion of the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, or of any regulations promulgated thereunder; or

(5) Renew or refinance a small loan unless the renewal or refinancing of the loan will result in a distinct advantage to the borrower, provided restoration to a contractually up-to-date condition shall not, in itself, constitute a distinct advantage to the borrower.

Statement of Purpose: To increase the dollar amount for loans subject to the Small Loan Act from \$15,000 to \$50,000, define parameters by which a person partnering with an exempt person may be deemed a small loan lender and to clarify the charges that are considered finance charges when calculating the APR of small loans.



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Document Name	AAC Senior Financial Exploitation
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matt Smith (860) 240-8105 Matthew.smith@ct.gov
Division Requesting This Proposal	Financial Institutions Division
Drafter	Matt Saunig (860) 240-8147 Matthew.saunig@ct.gov

Title of Proposal	AAC Senior Financial Exploitation
Statutory Reference, if any	36b-14; 45a-106a
Brief Summary and Statement of Purpose	This proposal provides additional measures of protection when a financial institution suspects that financial exploitation of elderly individuals has occurred.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

<p>Section 1 provides protections when financial exploitation of elderly individuals is suspected by broker-dealers and investment advisors.</p> <p>Sections 2-4 provide for protections and related processes when financial exploitation of elderly individuals is suspected by financial institutions.</p>



BACKGROUND

Origin of Proposal New Proposal Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

The Department proposed a similar bill back in 2017 inspired by the North American Securities Administrators Association (NASSA) Model Act designed to protect seniors from suspected financial abuse. The department’s proposal added a safe harbor for banks and credit unions.

Last session the Connecticut Banker’s Association (CBA) proposed a similar bill (SB 269), but it diverged significantly from the proposal the Department submitted a few years back. The CBA’s proposal saw opposition from advocacy groups including the Elder Law Section of the Bar, the Connecticut Chapter of Elder Law Attorney’s and AARP. The Department convened the stakeholders and was able to propose amended language agreeable to all parties, which now included the Securities Industry and Financial Markets Association (SIFMA), except the elder law groups. The Banking committee asked that we come together in the off session to work through the challenges of the proposal and come with unified support in the 2023 legislative session.

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	Section one brings state law to conform to new FINRA rules recently enacted.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	This past year New Hampshire has implemented a similar proposal which creates safe harbors for banks, credit unions, investment advisors and broker-dealers.



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Have certain constituencies called for this proposal?	This proposal has been supported in the past by the banking industry, the securities industry and has included previous input from senior advocacy groups like AARP who support the proposal. Currently the Elder Law groups are drafting language to address their concerns with the bill. We expect further negotiation this fall.
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INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

[X] Check here if this proposal does NOT impact other agencies

1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

[X] Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	



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Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[X] Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?

This is a priority bill for the agency. Each year over \$1B is lost by Connecticut seniors. It is a growing problem and this bill can be a significant step in helping to curb this problem.

INSERT FULLY DRAFTED BILL HERE

Sec. 1. Section 36b-14 of the general statutes is amended to add a new subsection as follows (*Effective October 1, 2023*):

(h)(1) For purposes of this subsection, unless the context otherwise requires,

(A) “Eligible Adult” shall mean any resident of Connecticut who is sixty years of age or older, or any adult in the care or custody of the Department of Social Services or any successor to such agency;



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(B) “Financial Exploitation” means the act or process of taking advantage of an Eligible Adult by another person or caretaker whether for monetary, personal or other benefit, gain or profit. Such conduct includes, without limitation, (i) the wrongful or unauthorized taking, withholding, appropriation or use of money, assets or property of an Eligible Adult; or (ii) any act or omission taken by a person, including through the use of a power of attorney, guardianship or conservatorship of an Eligible Adult to obtain control, through deception, intimidation or undue influence, over the Eligible Adult’s money, assets or property to deprive the Eligible Adult of the ownership, use benefit or possession of such money, assets or property; or to convert money, assets or property of the Eligible Adult to deprive such Eligible Adult of the ownership, use, benefit or possession of such money, assets or property;

(C) “Qualified person” means a broker-dealer, investment adviser, broker-dealer agent or investment adviser agent registered or required to be registered under this chapter, or any person who serves in a supervisory, compliance or legal capacity for such broker-dealer or investment adviser.

(2) If a qualified person has reasonable cause to suspect or believe that financial exploitation of an eligible adult may have occurred, may have been attempted or is being attempted, the qualified person may promptly notify the Commissioner of Social Services and the commissioner of such suspected exploitation and the basis for the report in any reasonable manner.

(3) A qualified person who, in good faith and exercising reasonable care, makes a voluntary disclosure of information pursuant to this subsection shall be immune from administrative or civil liability that might otherwise arise solely from such disclosure or for any failure to notify the customer or client of the disclosure. Such immunity shall not attach where the qualified person was a participant in the misconduct described in the



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report. Nothing in this subdivision affects existing laws imposing criminal liability, including, without limitation, laws governing perjury, fraudulent or malicious reporting.

(4)(A) Where an eligible adult has designated a third party as a trusted contact person to discuss the eligible adult’s financial affairs, the qualified person may also notify such third party of the suspected financial abuse unless the qualified person reasonably believes that the third party is involved in the financial exploitation or other abuse of the eligible adult. A qualified person who, in good faith and exercising reasonable care, provides notice to a third party trusted contact person under this subdivision shall be immune from administrative or civil liability that might otherwise arise solely from such disclosure. Such immunity shall not attach where the qualified person was a participant in the misconduct described in the report. Nothing in this subdivision affects existing laws imposing criminal liability.

(B) Except in the case of an institutional account, an investment adviser registered or required to be registered under chapter 672a of the general statutes shall maintain records reflecting the name and contact information for any trusted contact person age eighteen or older whom an advisory client has designated to be contacted about the client’s account. At the time the advisory account is opened or updated, the investment adviser shall disclose to the client in writing, which includes electronic means, that the adviser is authorized to contact the trusted contact person and disclose information about the client’s account to address possible financial exploitation, confirm the specifics of the client’s current contact information, health status or the identity of any legal guardian, executor, trustee or holder of a power of attorney. The absence of the name of or contact information for a trusted contact person shall not prevent an investment adviser from opening or maintaining an account for a client provided that the adviser makes reasonable efforts to obtain the name of and contact information for the trusted contact person.



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(5)(A) A broker-dealer or investment adviser subject to this subsection may place a temporary hold on a disbursement of funds or securities or a transaction in securities from the account of an eligible adult, including an account of which an eligible adult is a beneficiary, if:

(i) the broker-dealer or investment adviser reasonably believes that financial exploitation of the eligible adult has occurred, is occurring, has been attempted or will be attempted;

(ii) the broker-dealer or investment adviser, no later than two business days after the date that the broker-dealer or investment adviser first placed such temporary hold, provides oral or written notification, which may be electronic, of the temporary hold and the reason therefor to all parties authorized to transact business on the account and to the trusted contact person, if any, unless such party or trusted contact person is unavailable or the broker-dealer or investment adviser reasonably believes that the party or trusted contact person has engaged, is engaged, or will engage in the financial exploitation of the eligible adult; and

(iii) the broker-dealer or investment adviser immediately initiates an internal review of the facts and circumstances that caused the broker-dealer or investment adviser to reasonably believe that financial exploitation of the eligible adult has occurred, is occurring, has been attempted or will be attempted.

(B) The temporary hold authorized in subparagraph (A) of this subdivision shall expire no later than fifteen business days after the broker-dealer or investment adviser first placed the temporary hold on the disbursement of funds or securities or the transaction in securities unless otherwise terminated or extended by a state regulator or agency of competent jurisdiction or a court of competent jurisdiction, or extended by the broker-dealer or investment adviser pursuant to subsection (h)(5)(C) of this section.

(C) If the broker-dealer's or investment adviser's internal review of the facts and circumstances supports its reasonable belief that the financial exploitation of the Eligible



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Adult has occurred, is occurring, has been attempted, or will be attempted, the temporary hold authorized by this section may be extended by the broker-dealer or investment adviser for no longer than 10 business days following the date authorized by subsection (h)(5)(B) of this section, unless otherwise terminated or extended by a state regulator or agency_of competent jurisdiction or a court of competent jurisdiction, or extended pursuant to subsection (h)(5)(D) of this section.

(D) If the broker-dealer’s or investment adviser’s internal review of the facts and circumstances supports its reasonable belief that the financial exploitation of the Eligible Adult has occurred, is occurring, has been attempted, or will be attempted and the broker-dealer or investment adviser has reported or provided notification of the its reasonable belief to a state regulator or agency of competent jurisdiction or a court of competent jurisdiction, the temporary hold authorized by this subsection may be extended by the broker-dealer or investment adviser for no longer than 30 business days following the date authorized by subsection (h)(5)(C) of this section, unless otherwise terminated or extended by a state regulator or agency of competent jurisdiction or a court of competent jurisdiction.

(E) Nothing herein shall preclude the Commissioner, the Commissioner of Social Services, or the probate court from sooner terminating or extending the temporary hold upon contemporaneous written notice to the broker-dealer or investment adviser.

(6)(A) A registered broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an Eligible Adult to the commissioner and to other law enforcement, either as part of a referral to the commissioner or to law enforcement, or upon request of the commissioner or law enforcement pursuant to an investigation or examination, as the case may be. Nothing herein shall limit or otherwise impede the authority of the Commissioner to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law. All records made available to agencies hereunder shall not be considered public records for purposes of chapter 14 of the



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general statutes. In accordance with section 36b-31(c) of the general statutes, the commissioner may share and exchange with affected social services regulators information and documents related to the suspected financial exploitation.

(B) In the case of broker-dealers, such records shall include the records prescribed under the Securities Exchange Act of 1934, the regulations thereunder and applicable self-regulatory organization rules. In the case of investment adviser registered or required to be registered with the commissioner, such records shall include relevant requests for disbursements; documentation supporting any disbursement delay; documentation supporting the investment adviser’s reasonable belief that financial exploitation has occurred or is occurring; the name and title of the person authorizing the disbursement delay; notifications to affected parties; and documentation relating to the firm’s internal review of the matter.

(7) A broker-dealer or investment adviser subject to this subsection shall, to the extent not inconsistent with federal law, develop training policies or programs reasonably designed to ensure that its qualified persons understand and can effectively carry out the provisions of this subsection where necessary.

(8) A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with this subsection shall be immune from any administrative or civil liability that might otherwise arise from any action taken by such broker-dealer or investment adviser that is permitted by this subsection.

(9) If any provision of this subsection is preempted by federal law, the provisions of federal law shall control.

Sec. 2. (NEW) (*Effective October 1, 2023*):

(a) As used in this section:

(1) “Account” means a customer asset or liability account, including a safe deposit



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box, that is established primarily for personal, family or household purposes and is held by an elderly person with a financial institution.

(2) “Commissioner” means the Banking Commissioner and, with respect to any function of the commissioner, includes any person authorized or designated by the commissioner to carry out that function.

(3) “Elderly person” means any resident of Connecticut who is sixty years of age or older.

(4) “Financial agent” means an employee of a financial institution who has direct contact with an elderly person within the employee’s scope of employment or reviews or approves an elderly person’s financial documents, records or transactions.

(5) “Financial exploitation” means the use, control over or withholding of property, income, resources or trust funds of an elderly person by any person or entity, including, but not limited to, an agent of such elderly person pursuant to a power of attorney, for any such person’s or entity’s profit or advantage at the expense of such elderly person’s property, income, resources or trust funds, including, but not limited to, an act constituting a breach of such person or entity’s fiduciary duty to such elderly person, or forcing, compelling or exerting undue influence over an elderly person to cause such elderly person to engage in a transaction or disbursement.

(6) “Financial institution” means any Connecticut bank, Connecticut credit union, as each is defined in section 36a-2 of the general statutes, any institution that engages in the business of banking or credit union that is chartered out-of-state, as that term is defined in section 36-2(44) of the general statutes, and any subsidiary or affiliate of any of the foregoing.

(7) “Suspected exploitation policy” means a written policy for any actions permitted by this section when financial exploitation of an elderly person is



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suspected.

(8) “Transaction” shall include, but not be limited to, providing access to (A) a safe deposit box, and (B) any nonpublic personal financial information of the elderly person, as defined in Subtitle A of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809 et seq., and the regulations promulgated thereunder.

(9) “Trusted contact person” means an individual that an elderly person identifies and authorizes a financial institution to, at the financial institution’s option, contact and disclose information about the account to address possible financial exploitation, to confirm the specifics of the account holder's current contact information, health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney.

(b) The provisions of this section applicable to Financial institutions may also be applied to national banking associations, federal savings banks, federal savings and loan associations, or institutions chartered or organized as a federal credit union pursuant to the laws of the United States, to the extent that such entities have voluntarily implemented requirements of this section and provided that any such provision has not been expressly preempted by federal law, rule, regulation, or order.

(c) (1) If a financial institution or financial agent has reasonable cause to believe that a transaction or disbursement involving an account of an elderly person may involve, facilitate, result in or contribute to the financial exploitation of such elderly person, the financial institution or financial agent may suspend the transaction or disbursement for up to seven business days following the day on which such financial institution acts to suspend the transaction or disbursement. Thereafter, the elderly person may renew or resume the transaction or disbursement request and the financial institution shall honor the request unless (A) the financial institution elects to extend the suspension for an additional seven business days for



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reasonable cause and in accordance with the financial institution’s suspected exploitation policy, or (B) the financial institution cannot process the transaction or disbursement due to a applicable law, court order, regulatory requirement, or private rules to which the financial institution is subject that govern the processing, clearing, or payment of transactions or disbursements.

(2) If a financial institution or financial agent has reasonable cause to believe that it could be subject to any penalty or liability under any law, regulation, or governmental or private rules that govern the processing, clearing, or payment of transactions or disbursements, as a result of the suspension of a transaction or disbursement pursuant to subdivision (c)(1), it may instead decline or return such transaction or disbursement.

(3) A financial institution that has suspended, declined, or returned a transaction or disbursement pursuant to this subsection shall notify all account holders of such action, unless the financial institution reasonably believes that an account holder is involved in the suspected financial exploitation or other abuse of the elderly person. A financial institution that has suspended, declined or returned a transaction or disbursement pursuant to this subsection shall also notify the trusted contact person, if any, unless such trusted contact person is unavailable or the financial institution reasonably believes that the trusted contact person has engaged, is engaged, or will engage in the financial exploitation of the elderly person.

(d) Except as provided in subsection (e) of this section, a financial agent shall be immune from any administrative or civil liability under Connecticut law for any action permitted by this section. Except as provided in subsection (e), a financial institution that takes any action permitted by this section in good faith shall be immune from any administrative or civil liability under Connecticut law that might otherwise arise from taking such action. For purposes of this subsection, “good faith” exists if:

(1) The financial agent who makes the decision to take such action has



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participated in the mandatory training required by section 17b-463 of the Connecticut General Statutes;

(2) The financial institution has provided prior written or electronic notice, including as part of a deposit account contract or related disclosures, that the financial institution has a suspected exploitation policy by which it may suspend transactions or disbursements to an elderly person in whose name the affected account is held . Notice provided to any person who holds, or is otherwise authorized to have access to, the affected account shall constitute notice to all other persons who hold the affected account. Nothing in this subsection shall require a financial institution to disclose a copy of its suspected exploitation policy to any account holder;

(3) The financial institution or financial agent reports the suspected financial exploitation pursuant to subsection (c) of section 17b-451 of the Connecticut General Statutes, unless (A) any suspension is revoked by the financial institution before the expiration of the two-business days period following suspension or (B) any transaction or disbursement declined or returned by the financial institution is reinitiated and processed by the financial institution before the expiration of the two-business days period following the transaction or disbursement being declined or returned by the financial institution;

(4) The financial institution has established a written suspected exploitation policy; and

(5) The financial institution retains a record of the suspected financial exploitation, including any reports to social services, regulatory or law enforcement agencies and supporting documents. Such record shall be retained by the financial institution for a period of seven years.

(e) No immunity under subsection (d) of this section shall attach where the financial agent or any other employee of the financial institution was a participant in the suspected financial exploitation.



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- (f) A financial institution may, at its option, ask the holder or holders of an account held by an elderly person to identify a trusted contact person.

Sec. 3. (NEW) (Effective October 1, 2023): Petition to remove hold for financial exploitation. (a) For purposes of this section –

(1) “Elderly person” shall mean either an eligible adult as defined in section 36b-14(h)(1) of the general statutes as amended by this act or an elderly person as defined in section 2 of this act, or an individual who would qualify as an eligible adult or elderly person except that the individual is not a resident of the State of Connecticut;

(2) “Financial institution” shall include a qualified person, as defined in section 36b-14(h)(1) of the general statutes as amended by this act, any entity employing a qualified person, and a financial agent or financial institution as defined in section 2 of this act; and

(3) “Financial hold” shall mean the refusal of a financial institution to complete any transaction, including, but not limited to, a transaction as defined in Section 2(a)(8) of this act, or to disburse the proceeds of any transaction, upon the deposit account, funds, safe deposit box, securities, or other property in the custody of the financial institution.

(b) An elderly person or his or her legal representative may petition the Probate Court for the removal of a financial hold imposed by a financial institution under section 2 of this act. The petition shall be filed in the probate district in which the elderly person resides, is domiciled or is located at the time of the filing of the petition or, if the elderly person does not reside in this state and is not domiciled or currently located in this state, in the probate district where the financial institution maintains an office. The petition shall recite: (1) the name, date of birth and address of the elderly person; (2) the name and address of the elderly person’s conservator or guardian, if any; (3) the name and address of the petitioner; (4) the name and address of the financial institution imposing the financial hold; (5) whether the Department of Social Services is known to be investigating the welfare of the elderly person; (6) whether a petition to appoint a



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conservator or guardian is pending in any court; (7) a description of the transaction that is the subject of the financial hold; and (8) a statement as to why the transaction will not result in financial exploitation of the elderly person.

(c) The court shall give notice of the hearing on the petition by regular mail to all persons identified in subsections (b)(1), (2), (3) and (4) of this section and to the Commissioner of Social Services. Unless continued by the court for cause shown, the hearing on the petition shall be held not more than ten days after the receipt of the petition by the Probate Court.

(d) If the court determines that there is no reasonable cause to conclude that the transaction or disbursement that is the subject of the hold may involve, facilitate, result in, or contribute to the financial exploitation of the elderly person, or finds that the elderly person is not a resident of the State of Connecticut, the court shall order that the financial hold be released. If the court determines that there is such reasonable cause, the court may continue or modify the hold for a period not to exceed thirty days from the date of the order or upon the appointment of a conservator or guardian for the elderly person, whichever occurs first.

(e) Notwithstanding any other provision of this section, the Probate Court having jurisdiction over a conservatorship of the estate of an elderly person or a pending petition to appoint a conservator of the estate for an elderly person may, on the petition of a party, order the release, continuation or modification of a financial hold on any terms the court deems appropriate.

(f) Upon disposition of a petition under this section, the court may order persons to reimburse the petitioner for the fee to file the petition under section 45a-106a, as amended by this act, as the court deems equitable, except that no financial agent shall be responsible for such reimbursement and a financial institution shall only be liable for such reimbursement if the court finds that the financial institution did not have



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reasonable cause to believe that a transaction or disbursement involving an account of an elderly person may involve, facilitate, result in or contribute to the financial exploitation of such elderly person.

Sec. 4. Subsection (b)(9) of section 45a-106a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(9) With respect to an elderly person as defined in section 17b-45 or Section 2 of this act, or an eligible adult as defined in section 36b-14(h)(1) as amended by this act:

(A) Enjoin an individual from interfering with the provision of protective services to such elderly person, [and]

(B) authorize the Commissioner of Social Services to enter the premises of such elderly person to determine whether such elderly person needs protective services[;], and

(C) release a financial hold imposed by a financial institution;



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Document Name:

Document Name	AAC Retail Installment Sales Financing DOB 10_03_2022.docx
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matthew Smith
Division Requesting This Proposal	Consumer Credit
Drafter	Jeffrey T. Schuyler, Staff Attorney

Title of Proposal	An Act Concerning Retail Installment Sales Financing
Statutory Reference, if any	36a-770, NEW
Brief Summary and Statement of Purpose	<p>Section 1 increases the cap limit on retail installment sales contracts and expanding the definition of “sales finance company”.</p> <p>Section 2 requires refunds of unearned fees for guaranteed asset protection (“GAP”) waivers upon payment in full of a retail installment contract or installment loan contract, as well as a credit to any balance owed upon repossession or total loss otherwise of a vehicle. GAP coverage waives certain amounts outstanding on a loan in the event that a car is deemed a total loss. Often the full amount of the cost of GAP coverage is collected if a loan is paid off early, but will never be earned because the loan is paid off early. As a result, consumers should be entitled to a refund of the unearned fees. The legislation seeks to address this issue and ensure that Connecticut consumers will get full refunds of unearned GAP fees in the future.</p>

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate



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In Section 36a-770(c)(6), due to increased purchase prices of vehicles and equipment, the limit on installment contracts is being raised from \$50,000 to \$75,000 for vehicles and \$16,000 to \$25,000 for equipment in order for these contracts to include a larger percentage of vehicles and equipment. The last increase occurred in 1993 (PA 93-39) and the average cost of these goods have increased since then.

The definition of “sales finance company” in Section 36a-770(c)(15) is being changed to include the activity of receiving payments of principal and interest from a retail buyer under a retail installment contract or installment loan contract, which was not previously included in the definition.

Section 2 adds a new provision to define guaranteed asset protection waivers (“GAP waiver”). It states that the GAP waivers are cancellable and provides for full refunds or credits to balances owed upon cancellation of the GAP waiver.

BACKGROUND

Origin of Proposal

New Proposal

Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	No.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	With respect to GAP waivers, there are 12 states with similar provisions. They are: Alabama, Colorado, Indiana, Iowa, Massachusetts, New Jersey, Oklahoma, Oregon, Texas, Vermont, Wisconsin and Wyoming. The result, of which the Department is aware, is that consumers in these states were automatically refunded unearned GAP fees upon payment in full of a sales finance contract in



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	accordance with a class action lawsuit. Connecticut consumers were not automatically refunded because there is no law on the books.
Have certain constituencies called for this proposal?	No.

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

[x] Check here if this proposal does NOT impact other agencies

1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

[x] Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes



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Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?



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AN ACT CONCERNING RETAIL INSTALLMENT SALES FINANCING

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

Section 1. Section 36a-770 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) A transaction subject to sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c is also subject to the Uniform Commercial Code, title 42a, but in case of any conflict the provisions of sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c shall control.

(b) Section 42a-9-310 determines the need for filing or recording to perfect a security interest, section 42a-9-317 determines the persons who take subject to an unperfected security interest, and sections 42a-9-311 and 42a-9-501 to 42a-9-526, inclusive, determine the place for such filing or recording.

(c) As used in sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c, unless the context otherwise requires:

(1) “Boat” means any watercraft, as defined in section 22a-248, other than a seaplane, used or capable of being used as a means of transportation on water, by any power including muscular.

(2) “Cash price” means the total amount in dollars at which the seller and buyer agreed the seller would transfer unqualified title to the goods, if the transaction were a cash sale instead of a sale under a retail installment contract.

(3) “Commercial vehicle” means any domestic or foreign truck or truck tractor of ten thousand or more pounds gross vehicular weight or any trailer or semitrailer designed for use in connection with any truck or truck tractor of ten thousand or more pounds gross vehicular weight and which is not used primarily for personal, family or household use.

(4) “Filing fee” means the fee prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a security interest, as defined in subdivision (35) of subsection (b) of section 42a-1-201, retained or created by a retail installment contract or installment loan contract.



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(5) “Finance charge” means the amount in excess of the cash price of the goods agreed upon by the retail seller and the retail buyer, to be paid by the retail buyer for the privilege of purchasing the goods under the retail installment contract or installment loan contract.

(6) “Goods” means (A) “consumer goods”, as defined in subdivision (23) of subsection (a) of section 42a-9-102 and motor vehicles included under such definition, having an aggregate cash price of [fifty] seventy-five thousand dollars or less, and (B) “equipment”, as defined in subdivision (33) of subsection (a) of section 42a-9-102, having an aggregate cash price of [sixteen] twenty-five thousand dollars or less, provided such consumer goods or such equipment is included in one retail installment contract or installment loan contract.

(7) “Installment loan contract” means any agreement made in this state to repay in installments the amount loaned or advanced to a retail buyer for the purpose of paying the retail purchase price of goods and by virtue of which a security interest, as defined in subdivision (35) of subsection (b) of section 42a-1-201, is taken in the goods for the payment of the amount loaned or advanced. For purposes of this subdivision, “installment loan contract” does not include agreements to repay in installments loans made by the United States or any department, agency or instrumentality thereof.

(8) “Lender” means a person who extends or offers to extend credit to a retail buyer under an installment loan contract.

(9) A retail installment contract or installment loan contract is “made in this state” if: (A) An offer or agreement is made in Connecticut by a retail seller or a lender to sell or extend credit to a resident retail buyer, including, but not limited to, any verbal or written solicitation or communication to sell or extend credit originating outside the state of Connecticut but forwarded to and received in Connecticut by a resident retail buyer; or (B) an offer to buy or an application for extension of credit, or an acceptance of an offer to buy or to extend credit, is made in Connecticut by a resident retail buyer, regardless of the situs of the contract which may be specified therein, including, but not limited to, any verbal or written solicitation or communication to buy or to have credit extended, originating within the state of



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Connecticut but forwarded to and received by a retail seller or a lender outside the state of Connecticut.

For purposes of this subdivision, a “resident retail buyer” means a retail buyer who is a resident of the state of Connecticut.

(10) “Motor vehicle” means any device in, upon or by which any person or property is or may be transported or drawn upon a highway by any power other than muscular. For purposes of this subdivision, “motor vehicle” does not include self-propelled wheelchairs and invalid tricycles, tractors, power shovels, road machinery, implements of husbandry and other agricultural machinery, or other machinery not designed primarily for highway transportation but which may incidentally transport persons or property on a highway, or devices which move upon or are guided by a track or travel through the air.

(11) “Retail buyer” means a person who buys or agrees to buy one or more articles of goods from a retail seller not for the purpose of resale or lease to others in the course of business and who executes a retail installment contract or an installment loan contract in connection therewith.

(12) “Retail installment contract” means any security agreement, as defined in subdivision (74) of subsection (a) of section 42a-9-102, made in this state, including one in the form of a mortgage, conditional sale contract or other instrument evidencing an agreement to pay the retail purchase price of goods, or any part thereof, in installments over a period of time and pursuant to which a security interest, as defined in subdivision (35) of subsection (b) of section 42a-1-201, is retained or taken by the retail seller for the payment of the amount of such retail installment contract. For purposes of this subdivision, “retail installment contract” does not include a rent-to-own agreement, as defined in section 42-240.

(13) “Retail installment sale” means any sale evidenced by a retail installment contract or installment loan contract wherein a retail buyer buys goods from a retail seller at a time sale price payable in two or more installments. The cash price of the goods, the amount, if any, included for other itemized charges which are included in the amount of the credit extended but which are not part of the finance charge under sections 36a-675 to 36a-686, inclusive, and the finance charge shall together constitute the



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time sale price. For purposes of this subdivision, “retail installment sale” does not include a rent-to-own agreement, as defined in section 42-240.

(14) “Retail seller” means a person who sells or agrees to sell one or more articles of goods under a retail installment contract or an installment loan contract to a retail buyer.

(15) “Sales finance company” means any person [engaging in this state in the business, in whole or in part, of] (A) acquiring retail installment contracts [from retail sellers] or installment loan contracts from the holders thereof, by purchase, discount or pledge, or by loan or advance to the holder of either on the security thereof, or otherwise, [.] or (B) receiving payments of principal and interest from a retail buyer under a retail installment contract or installment loan contract.

Sec. 2. (NEW) (*Effective October 1, 2023*): (a) “Guaranteed asset protection waiver” or “GAP waiver” means a contractual agreement in which a creditor agrees, with or without a separate charge, to cancel or waive all or part of amounts due on a borrower’s retail installment contract or installment loan contract in the event of a total physical damage loss or unrecovered theft of the motor vehicle, which agreement shall be part of, or a separate addendum to, the retail installment contract or installment loan contract. A GAP waiver may also provide, with or without a separate charge, a benefit that waives an amount or provides a borrower with a credit towards the purchase of a replacement motor vehicle. The term also includes an excess wear and use waiver contractual agreement in which a creditor agrees, with or without a separate charge, to cancel or waive all or part of amounts that may become due under a motor vehicle lease agreement of a borrower as a result of excessive wear and use of a leased motor vehicle, including excess mileage, which agreement shall be part of, or a separate addendum to, the lease agreement. GAP waivers shall not be considered insurance for the purpose of refund requirements set forth in section 36a-773 of the general statutes.

(b) GAP waiver agreements shall be cancellable. GAP waivers shall provide that if a borrower cancels a waiver, the creditor, holder, administrator or other authorized party shall provide the borrower a full refund of the purchase price of the GAP waiver, provided no benefits have been provided. In the



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event of full satisfaction of the retail installment contract or installment loan contract or repossession, the creditor, holder, administrator or other authorized party shall provide, or cause the administrator or retail seller to provide, within thirty days of termination, any refund due to a borrower or credit applied to the borrower's outstanding balance without requiring the borrower to request cancellation of the waiver.

Statement of Purpose: To increase the cap limit on retail installment sales contracts and conform the definition of "sales finance company"; to statutorily require refunds of unearned guaranteed asset protection fees upon payment in full of a sales finance contract and to ensure credits to balances owed in the event of repossession.



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Document Name:

Document Name	AAC Public Deposit Reports DOB 10_03_2022
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matt Smith (860) 240-8105 Matthew.smith@ct.gov
Division Requesting This Proposal	Financial Institutions Division
Drafter	Matt Saunig (860) 240-8147 Matthew.saunig@ct.gov

Title of Proposal	Financial Institutions Public Deposit Report Revision
Statutory Reference, if any	36a-338(a)
Brief Summary and Statement of Purpose	This proposal makes a minor technical change to remove a redundant notarization requirement for public deposit reports

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

Section 1 removes the notarization requirement for certain public deposit reports.



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BACKGROUND

Origin of Proposal **New Proposal** **Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	No
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Not to our knowledge
Have certain constituencies called for this proposal?	This proposal is recommended by Department of Banking staff.

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

Check here if this proposal does NOT impact other agencies



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Document Name:

1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

Check here if this proposal does NOT lead to any measurable outcomes



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ANYTHING ELSE WE SHOULD KNOW?

The requirement that these public deposit reports be notarized is redundant. Since the Banking Commissioner already has the authority to take action against anyone who files an erroneous report, this additional notary requirement seems unnecessary and its removal would ease regulatory burden on the industry.

INSERT FULLY DRAFTED BILL HERE

Sec. 1. Subsection (a) of section 36a-338 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(a) On each call report date, each qualified public depository shall file with the commissioner a written report, certified under oath unless such report is filed electronically, indicating (1) the qualified public depository's tier one leverage ratio and risk-based capital ratio or net worth ratio, as determined in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, (2) the uninsured and total amount of public deposits held by the qualified public depository other than deposits that have been redeposited into the qualified public depository by another insured depository institution pursuant to a reciprocal deposit arrangement that makes such funds eligible for insurance coverage by the Federal Deposit Insurance Corporation or the National Credit Union Administration, (3) the description and market value of any eligible collateral segregated and designated to secure the uninsured public deposits in accordance with sections 36a-330 to 36a-338, inclusive, and (4) the amount and the name of the issuer of any letter of credit issued pursuant to section 36a-337. Each depository shall furnish a copy of its most recent report to any public depositor having public funds on deposit in the depository, upon request of the depositor. Any public depository which refuses or neglects to furnish any report or give any information as required by this section shall no longer be a qualified public depository and shall be excluded from the right to receive public deposits.



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Document Name:

Document Name	AAC Lead Generators – Mortgage Servicers DOB 10_03_2022.docx
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matthew Smith
Division Requesting This Proposal	Consumer Credit
Drafter	Melissa M. Desmond, Staff Attorney

Title of Proposal	An Act Concerning Lead Generators and Mortgage Servicers
Statutory Reference, if any	Sections 36a-486, 36a-498e, 36a-719(a)
Brief Summary and Statement of Purpose	To prohibit licensed mortgage professionals from engaging in the services of unlicensed lead generators; to prohibit licensed mortgage professionals from assisting or aiding and abetting any person in the in the conduct of business as a lead generator unless they are licensed; and to eliminate the requirement that qualified individuals and branch managers reside within 100 miles of the office location to allow individuals the ability to work remotely from any location in the United States.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

<p>Section 1 of this proposal amends Section 36a-486 by prohibiting licensed mortgage professionals from engaging in the services of an unlicensed lead generator.</p> <p>Section 2 of this proposal amends Section 36a-498e by prohibiting any person licensed as a mortgage lender, mortgage correspondent lender, mortgage broker, lead generator, mortgage loan originator or loan processor or underwriter from assisting or aiding and abetting any individual in the conduct of business as a lead generator unless the individual has a lead generator license.</p> <p>Section 3 of this proposal amends Section 36a-719(a) by eliminating the requirement that qualified individuals and branch managers reside within 100 mile radius of the office.</p>
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BACKGROUND

Origin of Proposal New Proposal Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	
Have certain constituencies called for this proposal?	

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

Check here if this proposal does NOT impact other agencies

1. Agency Name	Department of Banking
Agency Contact (name, title)	



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Document Name:

Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

Check here if this proposal does NOT have a fiscal impact

State	Disciplinary action
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?



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Document Name:

AN ACT CONCERNING LEAD GENERATORS AND MORTGAGE SERVICERS

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

Section 1. Section 36a-486 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(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, as amended by this act, 36a-534a and 36a-534b. Any activity subject to licensure pursuant to sections 36a-485 to 36a-498e, inclusive, as amended by this act, 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



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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. No person licensed as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator shall engage the services of a lead generator unless such lead generator is licensed under section 36a-489, or exempt from licensure pursuant to subdivision (5) of this subsection. 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



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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 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



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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:



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(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;

(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; and

(G) An individual employed by an affiliate of a bank or credit union exempt from licensure pursuant to subparagraph (A) of this subdivision, who is registered or licensed with a state or federal regulator to engage in securities brokerage, investment advisory or insurance sales activities and who, incidental to the performance of such regulated activities, performs lead generation activities by referring one or more leads to such bank or credit union. For purposes of this subparagraph, “affiliate” means an entity that is controlled by or is under common control with the bank or credit union, such that the bank or credit union (i) directly or indirectly acting through one or more other persons owns, controls or has the power to vote more than fifty per cent of any class of voting securities of the affiliate, (ii) controls in any manner the election of a majority of directors or trustees of the affiliate, or (iii) directly or indirectly exercises a controlling influence over the management or policies of the affiliate.

(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



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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) 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 such application for licensure 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.



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(2) 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. 2. Section 36a-498e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):



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(a) No person who is required to be licensed and who is subject to sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a and 36a-534b, may, directly or indirectly:

(1) Employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that such person or individual may earn a fee or commission through “best efforts” to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

(6) Conduct any business as a mortgage lender, mortgage correspondent lender, mortgage broker, lead generator, mortgage loan originator or loan processor or underwriter without holding a valid license as required under sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b or assist or aid and abet any person in the conduct of business as a mortgage lender, mortgage correspondent lender, mortgage broker, lead generator, mortgage loan originator or loan processor or underwriter without a valid license as required under said sections;

(7) Fail to make disclosures as required by sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b and any other applicable state or federal law including regulations thereunder;

(8) Fail to comply with sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections;



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(9) Make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

(10) Negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, as defined in section 36a-2, or in connection with any investigation conducted by the commissioner or another governmental agency;

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan as defined in section 36a-485 or make any payment, threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b;

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction.

(b) (1) No person, other than an individual, who is required to be licensed and is subject to sections 36a-485 to 36a-498h, inclusive, 36a-534a and 36a-534b, and no qualifying individual or branch manager shall fail to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with subsection (a) of this section.

(2) No individual who (A) is required to be licensed as a mortgage loan originator, (B) is subject to sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a and 36a-534b, and (C)



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supervises loan processors or loan underwriters shall fail to enforce any policies and procedures established in accordance with subdivision (1) of this subsection.

(3) No violation of this subsection shall be found unless the failure to establish, enforce and maintain policies and procedures resulted in conduct in violation of sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b, inclusive, or rules or regulations adopted under said sections or any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections.

Sec. 3. Subsection (a) of section 36a-719 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) The commissioner shall issue a mortgage servicer license to an applicant for such license if the commissioner finds that: (1) The applicant has identified a qualified individual for its main office and a branch manager for each branch office where such business is conducted, provided such qualified individual and branch manager have supervisory authority over the mortgage servicer activities at the respective office location and at least three years' experience in the mortgage servicing business within the five years immediately preceding the date of the application for licensure; (2) notwithstanding the provisions of section 46a-80, the applicant, the control persons of the applicant, the qualified individual and any branch manager have not been convicted of or pled guilty or nolo contendere to, in a domestic, foreign or military court, a felony during the seven-year period preceding the date of the application for licensing or a felony involving an act of fraud or dishonesty, a breach of trust or money laundering at any time preceding the date of application, provided any pardon or expungement of a conviction shall not be a conviction for purposes of this subdivision; (3) the applicant demonstrates that the financial responsibility, character and general fitness of the applicant, the control persons of the applicant, the qualified individual and any branch manager command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of sections 36a-715 to 36a-719l, inclusive; (4) the applicant has met the surety bond, fidelity bond and errors



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and omissions coverage requirement under section 36a-719c; (5) the applicant, the control persons of the applicant, the qualified individual and any branch manager have not made a material misstatement in the application; and (6) the applicant has met any other similar requirements as determined by the commissioner. If the commissioner fails to make such findings, the commissioner shall not issue a license, and shall notify the applicant of the denial and the reasons for such denial. The commissioner may waive the requirements of subdivision (1) of this subsection relating to the supervision and experience of (A) a qualified individual where the applicant establishes to the satisfaction of the commissioner that the applicant (i) will not conduct any activity subject to licensure under sections 36a-715 to 36a-719l, inclusive, at the main office, and (ii) has designated a qualified individual who is responsible for the actions of the applicant; and (B) a qualified individual or a branch manager where the applicant establishes to the satisfaction of the commissioner that the applicant (i) holds only mortgage servicing rights at the main office or branch office and conducts no other activity at such office, and (ii) has designated a qualified individual or branch manager at such main office or branch office who is responsible for the actions of the application. No person licensed as a mortgage servicer and granted a waiver by the commissioner shall engage in any activity that would have precluded the issuance of such waiver without first designating a qualified individual or branch manager, as the case may be, who meets all applicable requirements of subdivision (1) of this subsection and is approved by the commissioner. For purposes of this subsection, the level of offense of the crime and the status of any conviction, pardon or expungement shall be determined by reference to the law of the jurisdiction where the case was prosecuted. In the event such jurisdiction does not use the term “felony”, “pardon” or “expungement”, such terms shall include legally equivalent events. For purposes of subdivision (1) of this subsection, “experience in the mortgage servicing business” means paid experience in the (I) servicing of mortgage loans, (II) accounting, receipt and processing of payments on behalf of mortgagees or creditors, or (III) supervision of such activities, or any other relevant experience as determined by the commissioner, and “at the respective office location” may be established if the qualified individual or branch manager resides



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not more than one hundred miles from the location of the office or otherwise demonstrates to the satisfaction of the commissioner an ability to provide full-time, in-person supervision of the office.]

Statement of Purpose: To prohibit licensed mortgage professionals from engaging in the services of unlicensed lead generators; to prohibit licensed mortgage professionals from assisting or aiding and abetting any person in the conduct of business as a lead generator unless they are licensed; and to eliminate the requirement that qualified individuals and branch managers work within 100 miles from the office location to allow individuals the ability to work remotely from any location within the United States.



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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Matthew Smith
Division Requesting This Proposal	Agency wide - Financial Institutions, Securities and Consumer Credit
Drafter	Joseph Chambers/Cynthia Antanaitis

Title of Proposal	AN ACT CONCERNING DIGITAL ASSETS AND FINANCIAL SERVICE INDUSTRIES REGULATED BY THE BANKING COMMISSIONER
Statutory Reference, if any	NEW
Brief Summary and Statement of Purpose	Allows the Banking Commissioner to adopt regulations providing regulated industries with guidance on the business use of crypto and virtual currency; blockchain and other related digital assets.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

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BACKGROUND

Origin of Proposal

New Proposal

Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	No. However, since federal and state regulation regarding cryptocurrency and other digital assets remains unsettled, this legislation would enable Connecticut to be more responsive to industry and consumer concerns.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	This proposal is merely permissive in granting the Banking Commissioner the authority to adopt regulations. Other states, particularly New York State have established regulatory schemes.
Have certain constituencies called for this proposal?	Over the past several years there has been movement on the part of the legislature to regulate crypto currency.

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

Check here if this proposal does NOT impact other agencies



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1. Agency Name	DECD
Agency Contact (name, title)	Kyle Abercrombie, Director, Government Relations
Date Contacted	11/14/2022
Status	<input type="checkbox"/> Approved <input checked="" type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

Check here if this proposal does NOT have a fiscal impact

State	The Department does not anticipate a fiscal impact in the first fiscal year of the next Biennium. Should regulations be adopted, the department anticipates a budget neutral impact in the out years as any expenses related to new licensees as a result of adopted regulations would be offset by licensing/assessment fees associated with the new framework.
Municipal (Include any municipal mandate that can be found within legislation)	none
Federal	none
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes



[] Check here if this proposal does NOT lead to any measurable outcomes

The most measurable outcome would result in the Department’s adoption of a regulatory scheme around these digital assets.

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

AN ACT CONCERNING DIGITAL ASSETS AND FINANCIAL SERVICE INDUSTRIES REGULATED BY THE BANKING COMMISSIONER

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

Section 1. (NEW)

(a) As used in this section: “Commissioner” means the Banking Commissioner and, with respect to any function of the commissioner, includes any person authorized or designated by the commissioner to carry out that function.

(b) The Commissioner may from time to time make, amend and rescind such regulations, forms and orders governing the business use of digital assets, including, without limitation, cryptocurrency and virtual currency, by entities and individuals subject to regulation by the Commissioner. For this purpose, the Commissioner may define terms, classify persons and matters within the Commissioner’s jurisdiction, and prescribe different requirements for different classes.

(c) In prescribing regulations, forms and orders, the Commissioner may consult with federal financial services regulators, financial services regulators of the other states as well as other stakeholders and industry professionals with a view toward achieving consistent treatment of digital assets to the extent practicable.



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(d) Any regulations issued pursuant to this section shall be adopted in accordance with the provisions of chapter 54.

Section 2. This Act shall take effect from its passage.