

2014 LEGISLATIVE PRIORITIES FOR THE DEPARTMENT OF BANKING

1. An Act Concerning Consumer Credit Licenses -

This proposal authorizes the Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner and to make other technical and conforming changes as described above.

2. An Act Concerning Mortgage Servicers –

The proposal creates a new regulatory scheme to be administered by the Commissioner governing persons that act as mortgage servicers effective January 1, 2015. The scheme requires that certain mortgage servicers be licensed and all mortgage servicers comply with certain standards of conduct and regulatory and disclosure requirements, and provides the Commissioner with authority to take enforcement action against persons and mortgage servicer licensees who violate the provisions of the act.

3. An Act Concerning Connecticut's Financial Institutions -

This proposal makes a number of minor changes to the laws which govern financial institutions in the state. The proposal adds a requirement for notification when a loan production office will be permanently closed, clarifies that business and industrial development corporation licenses are not transferable or assignable, increases certain fees and expands the definition of ATM to include devices that provide contact with bank personnel through telephonic or televideo functions

4. An Act Concerning Cost of Constructive Service-

The proposal would allow constructive service on the Commissioner to be effected using certified mail in addition to registered mail and overnight delivery. Certified mail is less expensive than registered mail.

5. An Act Concerning Technical Changes to Banking Laws-

The proposal makes various technical changes to the Banking statutes. The agency would like to ask LCO to place this language in the annual technical revisions bill.

Some of the agency's bills are quite extensive in nature and these summaries are **very brief** overviews of the legislation.

Agency Legislative Proposal - 2014 Session

Document Name:

2104 Banking An Act Concerning Consumer Credit Licenses (priority 1)

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: James Heckman / Stacey Valerio

Phone: (860) 240-8105 / (860) 240-8141

E-mail: james.heckman@ct.gov / stacey.valerio@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Valerio

Title of Proposal

An Act Concerning Consumer Credit Licenses

Statutory Reference 36a-2, 36a-3, 36a-485, 36a-21, 36a-51(c), NEW, 36a-486(b)(2), 36a-498e(10)

Proposal Summary

Section 1 amends Section 36a-2 to provide a definition, for purposes of Title 36a, of “system” to mean the Nationwide Mortgage Licensing System and Registry, NMLS, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries.

Section 2 amends Section 36a-3 to make various technical and conforming changes.

Section 3 amends Section 36a-485 to delete the existing definition of “system”, which term is now re-defined to include financial services industries beyond the mortgage industry and is set forth in Section 36a-2 in this bill.

Section 4 amends Section 36a-21 to clarify that information on the system protected by confidentiality or privilege afforded by any federal or state law retains such protections when disclosed to the system, and to permit the sharing of any such confidential or privileged information with federal and state regulatory officials with either mortgage or other financial services industry oversight authority without the loss of any such protection or privilege.

Section 5 amends Section 36a-51(c) to address system-based surrenders in the event that license types other than mortgage license types are handled through the system.

Section 6 provides the Commissioner with the authority, in addition to any other duties imposed on him by law, to require persons engaged in any financial services industry subject to the Commissioner’s jurisdiction to be licensed or registered through the system and authorizes the system to receive and

maintain such records in such event. It provides the Commissioner with additional authority to, by order, waive, modify or add requirements as reasonably necessary to enable expanded participation in the system, consistent with the public interest and system requirements and capabilities. Section 6 also generally provides for the nonrefundability of fees paid to the system, imposes requirements that filings be made consistent with system procedures and requirements, requires applicants and licensees to timely and accurately submit any required reports and provides for a challenge procedure regarding factual accuracy of information on the system.

Section 7 narrows the scope of the exemption for certain attorneys from mortgage loan originator licensure in Section 36a-486(b)(2) to certain Connecticut licensed attorneys, consistent with other attorney exemptions set forth in Title 36a.

Section 8 amends Section 36a-498e(10) to correct a cross-reference.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

This proposal authorizes the Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner and to make other technical and conforming changes as described above.

- **Origin of Proposal** ___ New Proposal X Resubmission

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?* No.
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* Yes.
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?* We would remain on a paper-based licensing system for all license types other than mortgage, and would not be able to begin to use the system to its full capacity. We would continue to incur the expense in terms of man hours, postage and database maintenance. The system reduces regulatory burden on industry users and expands consumer access to information.

- **Agencies Affected** None other than this Department

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ___ YES ___ NO ___ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

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

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

None

AN ACT CONCERNING CONSUMER CREDIT LICENSES

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

Section 1. Section 36a-2 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this title, unless the context otherwise requires:

(1) "Affiliate" of a person means any person controlling, controlled by, or under common control with, that person;

(2) "Applicant" with respect to any license or approval provision pursuant to this title means a person who applies for that license or approval;

(3) "Automated teller machine" means a stationary or mobile unattended device, including a satellite device but excluding a point of sale terminal, at which banking transactions, including, but not limited to, deposits, withdrawals, advances, payments or transfers, may be conducted;

(4) "Bank" means a Connecticut bank or a federal bank;

(5) "Bank and trust company" means an institution chartered or organized under the laws of this state as a bank and trust company;

(6) "Bank holding company" has the meaning given to that term in 12 USC Section 1841(a), as amended from time to time, except that the term "bank", as used in 12 USC Section 1841(a) includes a bank or out-of-state bank that functions solely in a trust or fiduciary capacity;

(7) "Capital stock" when used in conjunction with any bank or out-of-state bank means a bank or out-of-state bank that is authorized to accumulate funds through the issuance of its capital stock;

(8) "Client" means a beneficiary of a trust for whom the Connecticut bank acts as trustee, a person for whom the Connecticut bank acts as agent, custodian or bailee, or other person to whom a Connecticut bank owes a duty or obligation under a trust or other account administered by such Connecticut bank, regardless of whether such Connecticut bank owes a fiduciary duty to the person;

(9) "Club deposit" means deposits to be received at regular intervals, the whole amount deposited to be withdrawn by the owner or repaid by the bank in not more than fifteen months from the date of the first deposit, and upon which no interest or dividends need to be paid;

(10) "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;

(11) "Company" means any corporation, joint stock company, trust, association, partnership, limited partnership, unincorporated organization, limited liability company or similar organization, but does not include (A) any corporation the majority of the shares of which are owned by the United States or by any state, or (B) any trust which by its terms shall terminate within twenty-five years or not later than twenty-one years and ten months after the death of beneficiaries living on the effective date of the trust;

(12) "Connecticut bank" means a bank and trust company, savings bank or savings and loan association chartered or organized under the laws of this state;

(13) "Connecticut credit union" means a cooperative, nonprofit financial institution that (A) is organized under chapter 667 and the membership of which is limited as provided in section 36a-438a, (B) operates for the benefit and general welfare of its members with the earnings, benefits or services offered being distributed to or retained for its members, and (C) is governed by a volunteer board of directors elected by and from its membership;

(14) "Connecticut credit union service organization" means a credit union service organization that is incorporated under the laws of this state, located in this state and established by at least one Connecticut credit union;

(15) "Consolidation" means a combination of two or more institutions into a new institution; all institutions party to the consolidation, other than the new institution, are "constituent" institutions; the new institution is the "resulting" institution;

(16) "Control" has the meaning given to that term in 12 USC Section 1841(a), as amended from time to time;

(17) "Credit union service organization" means an entity organized under state or federal law to provide credit union service organization services primarily to its members, to Connecticut credit unions, federal credit unions and out-of-state credit unions other than its members, and to members of any such other credit unions;

(18) "Customer" means any person using a service offered by a financial institution;

(19) "Demand account" means an account into which demand deposits may be made;

(20) "Demand deposit" means a deposit that is payable on demand, a deposit issued with an original maturity or required notice period of less than seven days or a deposit representing funds for which the bank does not reserve the right to require at least seven days' written notice of the intended withdrawal, but does not include any time deposit;

(21) "Deposit" means funds deposited with a depository;

(22) "Deposit account" means an account into which deposits may be made;

(23) "Depositor" includes a member of a mutual savings and loan association;

(24) "Director" means a member of the governing board of a financial institution;

(25) "Equity capital" means the excess of a Connecticut bank's total assets over its total liabilities, as defined in the instructions of the federal Financial Institutions Examination Council for consolidated reports of condition and income;

(26) "Executive officer" means every officer of a Connecticut bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of such bank, regardless of whether such officer has an official title or whether that title contains a designation of assistant and regardless of whether such officer is serving without salary or other compensation. The president, vice president, secretary and treasurer of such bank are deemed to be executive officers, unless, by resolution of the governing board or by such bank's bylaws, any such

officer is excluded from participation in major policy-making functions, otherwise than in the capacity of a director of such bank, and such officer does not actually participate in such policy-making functions;

(27) "Federal agency" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(28) "Federal bank" means a national banking association, federal savings bank or federal savings and loan association having its principal office in this state;

(29) "Federal branch" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(30) "Federal credit union" means any institution chartered or organized as a federal credit union pursuant to the laws of the United States having its principal office in this state;

(31) "Fiduciary" means a person undertaking to act alone or jointly with others primarily for the benefit of another or others in all matters connected with its undertaking and includes a person acting in the capacity of trustee, executor, administrator, guardian, assignee, receiver, conservator, agent, custodian under the Connecticut Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting in any other similar capacity;

(32) "Financial institution" means any Connecticut bank, Connecticut credit union, or other person whose activities in this state are subject to the supervision of the commissioner, but does not include a person whose activities are subject to the supervision of the commissioner solely pursuant to chapter 672a, 672b or 672c or any combination thereof;

(33) "Foreign bank" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(34) "Foreign country" means any country other than the United States and includes any colony, dependency or possession of any such country;

(35) "Governing board" means the group of persons vested with the management of the affairs of a financial institution irrespective of the name by which such group is designated;

(36) "Holding company" means a bank holding company or a savings and loan holding company, except, as used in sections 36a-180 to 36a-191, inclusive, "holding company" means a company that controls a bank;

(37) "Insured depository institution" has the meaning given to that term in 12 USC Section 1813, as amended from time to time;

(38) "Licensee" means any person who is licensed or required to be licensed pursuant to the applicable provisions of this title;

(39) "Loan" includes any line of credit or other extension of credit;

(40) "Loan production office" means an office of a bank or out-of-state bank, other than a foreign bank, whose activities are limited to loan production and solicitation;

(41) "Merger" means the combination of one or more institutions with another which continues its corporate existence; all institutions party to the merger are "constituent" institutions; the merging institution which upon the merger continues its existence is the "resulting" institution;

(42) "Mutual" when used in conjunction with any institution that is a bank or out-of-state bank means any such institution without capital stock;

(43) "Mutual holding company" means a mutual holding company organized under sections 36a-192 to 36a-199, inclusive, and unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company organized under sections 36a-192 to 36a-199, inclusive;

(44) "Out-of-state" includes any state other than Connecticut and any foreign country;

(45) "Out-of-state bank" means any institution that engages in the business of banking, but does not include a bank, Connecticut credit union, federal credit union or out-of-state credit union;

(46) "Out-of-state credit union" means any credit union other than a Connecticut credit union or a federal credit union;

(47) "Out-of-state trust company" means any company chartered to act as a fiduciary but does not include a company chartered under the laws of this state, a bank, an out-of-state bank, a Connecticut credit union, a federal credit union or an out-of-state credit union;

(48) "Person" means an individual, company, including a company described in subparagraphs (A) and (B) of subdivision (11) of this section, or any other legal entity, including a federal, state or municipal government or agency or any political subdivision thereof;

(49) "Point of sale terminal" means a device located in a commercial establishment at which sales transactions can be charged directly to the buyer's deposit, loan or credit account, but at which deposit transactions cannot be conducted;

(50) "Prepayment penalty" means any charge or penalty for paying all or part of the outstanding balance owed on a loan before the date on which the principal is due and includes computing a refund of unearned interest by a method that is less favorable to the borrower than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d), as amended from time to time;

(51) "Reorganized savings bank" means any savings bank incorporated and organized in accordance with sections 36a-192 and 36a-193;

(52) "Reorganized savings and loan association" means any savings and loan association incorporated and organized in accordance with sections 36a-192 and 36a-193;

(53) "Reorganized savings institution" means any reorganized savings bank or reorganized savings and loan association;

(54) "Representative office" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(55) "Reserves for loan and lease losses" means the amounts reserved by a Connecticut bank against possible loan and lease losses as shown on the bank's consolidated reports of condition and income;

(56) "Retail deposits" means any deposits made by individuals who are not "accredited investors", as defined in 17 CFR 230.501(a);

(57) "Satellite device" means an automated teller machine which is not part of an office of the bank, Connecticut credit union or federal credit union which has established such machine;

(58) "Savings account" means a deposit account, other than an escrow account established pursuant to section 49-2a, into which savings deposits may be made and which account must be evidenced by periodic statements delivered at least semiannually or by a passbook;

(59) "Savings and loan association" means an institution chartered or organized under the laws of this state as a savings and loan association;

(60) "Savings bank" means an institution chartered or organized under the laws of this state as a savings bank;

(61) "Savings deposit" means any deposit other than a demand deposit or time deposit on which interest or a dividend is paid periodically;

(62) "Savings and loan holding company" has the meaning given to that term in 12 USC Section 1467a, as amended from time to time;

(63) "Share account holder" means a person who maintains a share account in a Connecticut credit union, federal credit union or out-of-state credit union that maintains in this state a branch, as defined in section 36a-435b;

(64) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands;

(65) "State agency" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(66) "State branch" has the meaning given to that term in 12 USC Section 3101, as amended from time to time;

(67) "Subsidiary" has the meaning given to that term in 12 USC Section 1841(d), as amended from time to time;

(68) "Subsidiary holding company" means a stock holding company, controlled by a mutual holding company, that holds one hundred per cent of the stock of a reorganized savings institution;

(69) “Supervisory agency” means: (A) The commissioner; (B) the Federal Deposit Insurance Corporation; (C) the Resolution Trust Corporation; (D) the Office of Thrift Supervision; (E) the National Credit Union Administration; (F) the Board of Governors of the Federal Reserve System; (G) the United States Comptroller of the Currency; (H) the Bureau of Consumer Financial Protection; and (I) any successor to any of the foregoing agencies or individuals;

(70) “System” means the Nationwide Mortgage Licensing System and Registry, NMLS, NMLSR, or such other name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries;

[(70)] (71) “Time account” means an account into which time deposits may be made;

[(71)] (72) “Time deposit” means a deposit that the depositor or share account holder does not have a right and is not permitted to make withdrawals from within six days after the date of deposit, unless the deposit is subject to an early withdrawal penalty of at least seven days’ simple interest on amounts withdrawn within the first six days after deposit, subject to those exceptions permissible under 12 CFR Part 204, as amended from time to time;

[(72)] (73) “Trust bank” means a Connecticut bank organized to function solely in a fiduciary capacity; and

[(73)] (74) “Uninsured bank” means a Connecticut bank that does not accept retail deposits and for which insurance of deposits by the Federal Deposit Insurance Corporation or its successor agency is not required.

Sec. 2. Section 36a-3 of the Connecticut General Statutes, as amended by section 21 of Public Act 13-253, is repealed and the following substituted in lieu thereof (*Effective from passage*):

Other definitions applying to this title or to specified parts thereof and the sections in which they appear are:

“Account”. Sections 36a-155 and 36a-365.

“Additional proceeds”. Section 36a-746e.
“Administrative expense”. Section 36a-237.
“Advance fee”. Sections 36a-485, as amended by this act, and 36a-615.
“Advertise”, “advertisement” or “advertising”. Section 36a-485, as amended by this act.
“Agency bank”. Section 36a-285.
“Agent”. Section 36a-494.
“Alternative mortgage loan”. Section 36a-265.
“Amount financed”. Section 36a-690.
“Annual percentage rate”. Section 36a-690.
“Annual percentage yield”. Section 36a-316.
“Annuities”. Section 36a-455a.
“Applicant”. Section 36a-736.
“APR”. Section 36a-746a.
“Assessment area”. Section 36a-37.
“Assets”. Section 36a-70.
“Associate”. Section 36a-184.
“Associated member”. Section 36a-458a.
“Authorized delegate”. Section 36a-596.
“Bank”. Section 36a-30.
“Bankers’ bank”. Section 36a-70.
“Banking business”. Section 36a-425.
“Basic services”. Section 36a-437a.
“Billing cycle”. Section 36a-565.
“Bona fide nonprofit organization”. Sections 36a-487 and 36a-655.
“Branch”. Sections 36a-145, 36a-410 and 36a-435b.
“Branch office”. Section 36a-485, as amended by this act.
“Branch or agency net payment entitlement”. Section 36a-428n.
“Branch or agency net payment obligation”. Section 36a-428n.
“Broker”. Section 36a-746a.
“Business and industrial development corporation”. Section 36a-626.
“Business and property in this state”. Section 36a-428n.
“Capital”. Section 36a-435b.
“Cash advance”. Section 36a-564.
“Cash price”. Section 36a-770.
“Certificate of incorporation”. Section 36a-435b.
“CHFA loan”. Section 36a-760.
“Clerical or support duties”. Section 36a-485, as amended by this act.
“Closely related activities”. Sections 36a-250 and 36a-455a.
“Collective managing agency account”. Section 36a-365.
“Commercial vehicle”. Section 36a-770.
“Community bank”. Section 36a-70.
“Community credit union”. Section 36a-37.
“Community development bank”. Section 36a-70.
“Community reinvestment performance”. Section 36a-37.
“Connecticut holding company”. Sections 36a-53 and 36a-410.
“Consolidate”. Section 36a-145.
“Construction loan”. Section 36a-458a.
“Consumer”. Sections 36a-155, 36a-676 and 36a-695.
“Consumer Credit Protection Act”. Section 36a-676.
“Consumer debtor” and “debtor”. Sections 36a-645 and 36a-800.
“Consumer collection agency”. Section 36a-800.

“Consummation”. Section 36a-746a.
“Control person”. Section 36a-485, as amended by this act.
“Controlling interest”. Section 36a-276.
“Conventional mortgage rate”. Section 36a-760.
“Corporate”. Section 36a-435b.
“Credit”. Sections 36a-645 and 36a-676.
“Credit manager”. Section 36a-435b.
“Creditor”. Sections 36a-676, 36a-695 and 36a-800.
“Credit card”, “cardholder” and “card issuer”. Section 36a-676.
“Credit clinic”. Section 36a-700.
“Credit rating agency”. Section 36a-695.
“Credit report”. Section 36a-695.
“Credit sale”. Section 36a-676.
“Credit union service organization”. Section 36a-435b.
“Credit union service organization services”. Section 36a-435b.
“De novo branch”. Section 36a-410.
“Debt”. Section 36a-645.
“Debt adjustment”. Section 36a-655.
“Debt mutual fund”. Sections 36a-275 and 36a-459a.
“Debt securities”. Sections 36a-275 and 36a-459a.
“Debtor”. Section 36a-655.
“Deliver”. Section 36a-316.
“Deposit”. Section 36a-316.
“Deposit account”. Section 36a-316.
“Deposit account charge”. Section 36a-316.
“Deposit account disclosures”. Section 36a-316.
“Deposit contract”. Section 36a-316.
“Deposit services”. Section 36a-425.
“Depositor”. Section 36a-316.
“Depository institution”. Section 36a-485, as amended by this act.
“Derivative transaction”. Section 36a-262.
“Director”. Section 36a-435b.
“Dwelling”. Section 36a-485, as amended by this act.
“Earning period”. Section 36a-316.
“Electronic payment instrument”. Section 36a-596.
“Eligible collateral”. Section 36a-330.
“Eligible entity”. Section 36a-34.
“Employee”. Section 36a-485, as amended by this act.
“Entity”. Section 36a-380.
“Equity mutual fund”. Sections 36a-276 and 36a-459a.
“Equity security”. Sections 36a-276 and 36a-459a.
“Executive officer”. Sections 36a-263 and 36a-469c.
“Expedited Connecticut bank”. Section 36a-70.
“Experience in the mortgage business”. Section 36a-488.
“Federal banking agency”. Section 36a-485, as amended by this act.
“Federal Credit Union Act”. Section 36a-435b.
“Federal Home Mortgage Disclosure Act”. Section 36a-736.
“FHA loan”. Section 36a-760.
“Fiduciary”. Section 36a-365.
“Filing fee”. Section 36a-770.
“Finance charge”. Sections 36a-690 and 36a-770.

“Financial institution”. Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330, 36a-435b, 36a-736 and 36a-755.

“Financial records”. Section 36a-41.

“First mortgage loan”. Sections 36a-485, as amended by this act, 36a-705 and 36a-725.

“Foreign banking corporation”. Section 36a-425.

“Fully indexed rate”. Section 36a-760b.

“General facility”. Section 36a-580.

“Global net payment entitlement”. Section 36a-428n.

“Global net payment obligation”. Section 36a-428n.

“Goods”. Sections 36a-535 and 36a-770.

“Graduated payment mortgage loan”. Section 36a-265.

“Guardian”. Section 36a-365.

“High cost home loan”. Section 36a-746a.

“Holder”. Section 36a-596.

“Home banking services”. Section 36a-170.

“Home banking terminal”. Section 36a-170.

“Home improvement loan”. Section 36a-736.

“Home purchase loan”. Section 36a-736.

“Home state”. Section 36a-410.

“Housing finance agency”. Section 36a-487.

“Immediate family member”. Sections 36a-435b and 36a-485, as amended by this act.

“Independent contractor”. Section 36a-485, as amended by this act.

“Individual”. Section 36a-485, as amended by this act.

“Insider”. Section 36a-454b.

“Installment loan contract”. Sections 36a-535 and 36a-770.

“Insurance”. Section 36a-455a.

“Insurance bank”. Section 36a-285.

“Insurance department”. Section 36a-285.

“Interest”. Section 36a-316.

“Interest rate”. Section 36a-316.

“Interim interest”. Section 36a-746a.

“Investments”. Section 36a-602.

“Lender”. Sections 36a-746a, 36a-760 and 36a-770.

“Lessor”. Section 36a-676.

“License”. Section 36a-626.

“Licensee”. Sections 36a-596, 36a-607 and 36a-626.

“Limited branch”. Section 36a-145.

“Limited facility”. Section 36a-580.

“Loan broker”. Section 36a-615.

“Loan processor or underwriter”. Section 36a-485, as amended by this act.

“Loss”. Section 36a-330.

“Made in this state”. Section 36a-770.

“Main office”. Section 36a-485, as amended by this act.

“Managing agent”. Section 36a-365.

“Manufactured home”. Section 36a-457b.

“Material litigation”. Section 36a-598.

“Member”. Section 36a-435b.

“Member business loan”. Section 36a-458a.

“Member in good standing”. Section 36a-435b.

“Membership share”. Section 36a-435b.

“Mobile branch”. Sections 36a-145 and 36a-435b.

“Monetary value”. Section 36a-596.
“Money transmission”. Section 36a-596.
“Mortgage”. Section 36a-760g.
“Mortgage broker”. Sections 36a-485, as amended by this act, 36a-705 and 36a-760.
“Mortgage correspondent lender”. Section 36a-485, as amended by this act.
“Mortgage insurance”. Section 36a-725.
“Mortgage lender”. Sections 36a-485, as amended by this act, 36a-705 and 36a-725.
“Mortgage loan”. Sections 36a-261, 36a-265, 36a-457b and 36a-736.
“Mortgage loan originator”. Section 36a-485, as amended by this act.
“Mortgage rate lock-in”. Section 36a-705.
“Mortgage servicing company”. Section 36a-715.
[“Mortgage servicer”. Section 36a-715.
“Mortgagee”. Section 36a-715.]
“Mortgagor”. Section 36a-715.
“Motor vehicle”. Section 36a-770.
“Multiple common bond membership”. Section 36a-435b.
“Municipality”. Section 36a-800.
“Net outstanding member business loan balance”. Section 36a-458a.
“Net worth”. Sections 36a-441a and 36a-458a.
“Network”. Section 36a-155.
“Nonprime home loan”. Section 36a-760.
“Nonrefundable”. Section 36a-498.
“Nontraditional mortgage product”. Section 36a-489a.
“Note account”. Sections 36a-301 and 36a-456b.
“Office”. Sections 36a-23, 36a-316 and 36a-485, as amended by this act.
“Officer”. Section 36a-435b.
“Open-end credit plan”. Section 36a-676.
“Open-end line of credit”. Section 36a-760.
“Open-end loan”. Section 36a-565.
“Organization”. Section 36a-800.
“Out-of-state holding company”. Section 36a-410.
“Outstanding”. Section 36a-596.
“Passbook savings account”. Section 36a-316.
“Payment instrument”. Section 36a-596.
“Periodic statement”. Section 36a-316.
“Permissible investment”. Section 36a-596.
“Person”. Sections 36a-184 and 36a-485, as amended by this act.
“Post”. Section 36a-316.
“Prepaid finance charge”. Section 36a-746a.
“Prime quality”. Section 36a-596.
“Principal amount of the loan”. Section 36a-485, as amended by this act.
“Processor”. Section 36a-155.
“Public deposit”. Section 36a-330.
“Purchaser”. Section 36a-596.
“Qualified financial contract”. Section 36a-428n.
“Qualified public depository” and “depository”. Section 36a-330.
“Real estate”. Section 36a-457b.
“Real estate brokerage activity”. Section 36a-485, as amended by this act.
“Records”. Section 36a-17.
“Registered mortgage loan originator”. Section 36a-485, as amended by this act.
“Related person”. Section 36a-53.

“Relocate”. Sections 36a-145 and 36a-462a.
“Residential mortgage loan”. [Sections] Section 36a-485, as amended by this act. [, and 36a-715.]
“Residential real estate”. Section 36a-485, as amended by this act.
“Resulting entity”. Section 36a-34.
“Retail buyer”. Sections 36a-535 and 36a-770.
“Retail credit transaction”. Section 42-100b.
“Retail installment contract”. Sections 36a-535 and 36a-770.
“Retail installment sale”. Sections 36a-535 and 36a-770.
“Retail seller”. Sections 36a-535 and 36a-770.
“Reverse annuity mortgage loan”. Section 36a-265.
“Sales finance company”. Sections 36a-535 and 36a-770.
“Savings department”. Section 36a-285.
“Savings deposit”. Section 36a-316.
“Secondary mortgage loan”. Section 36a-485, as amended by this act.
“Security convertible into a voting security”. Section 36a-184.
“Senior management”. Section 36a-435b.
“Settlement agent”. Section 36a-494.
“Share”. Section 36a-435b.
“Simulated check”. Section 36a-485, as amended by this act.
“Single common bond membership”. Section 36a-435b.
“Special mortgage”. Section 36a-760c.
“Social purpose investment”. Section 36a-277.
“Sponsored”. Section 36a-485, as amended by this act.
“Standard mortgage loan”. Section 36a-265.
“Stored value”. Section 36a-596.
[“System”. Section 36a-485.]
“Table funding agreement”. Section 36a-485, as amended by this act.
“Tax and loan account”. Sections 36a-301 and 36a-456b.
“The Savings Bank Life Insurance Company”. Section 36a-285.
“Time account”. Section 36a-316.
“Travelers check”. Section 36a-596.
“Troubled Connecticut credit union”. Section 36a-448a.
“Unique identifier”. Section 36a-485, as amended by this act.
“Unsecured loan”. Section 36a-615.
“Value”. Section 36a-603.
“Warehouse agreement”. Section 36a-485, as amended by this act.

Sec. 3. Section 36a-485 of the Connecticut General Statutes is repealed and the following substituted in lieu thereof (*Effective from passage*):

As used in this section and sections 36a-486 to 36a-498f, inclusive, as amended by this act, 36a-534a to 36a-534c, inclusive, unless the context otherwise requires:

(1) “Advance fee” means any consideration paid or given, directly or indirectly, to a mortgage lender, mortgage correspondent lender or mortgage broker required to be licensed pursuant to sections 36a-485 to 36a-498f, inclusive, and sections 36a-534a and 36a-534b, prior to the closing of a residential

mortgage loan to any person, including, but not limited to, loan fees, points, broker's fees or commissions, transaction fees or similar prepaid finance charges;

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

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

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

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

(6) "Dwelling" has the same meaning as provided in Section 103 of the Consumer Credit Protection Act, 15 USC 1602;

(7) "Employee" means an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person. For purposes of the definition

of “registered mortgage loan originator”, “employee” has the foregoing meaning or such other meaning as the federal banking agencies may issue in connection with such agencies’ implementation of such agencies’ responsibilities under the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

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

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

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

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

(12) “Individual” means a natural person;

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

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

(15) “Mortgage broker” (A) means a person who (i) for compensation or gain or with the expectation of compensation or gain (I) takes a residential mortgage loan application, or (II) offers or negotiates terms of a residential mortgage loan, and (ii) is not the prospective source of the funds for the residential mortgage loan, (B) but does not include (i) an individual who is licensed as a mortgage loan

originator acting as a mortgage loan originator on behalf of such mortgage loan originator's sponsoring mortgage lender, mortgage correspondent lender, mortgage broker or exempt registrant, or (ii) an individual exempt from mortgage loan originator licensure under subdivision (2) of subsection (b) of section 36a-486, as amended by this act, when acting within the scope of such exemption;

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

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

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

(19) "Office" means a branch office or a main office;

(20) "Person" means a natural person, corporation, company, limited liability company, partnership or association;

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

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

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

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

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

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

(27) “Simulated check” means a document that imitates or resembles a check but is not a negotiable instrument;

(28) “Sponsored” means employed or retained as an independent contractor;

[(29) “System” means the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators and loan processors or underwriters;]

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

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

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

Sec. 4. Section 36a-21 of the Connecticut General Statutes, as amended by section 1 of public act 13-135, is repealed and the following substituted in lieu thereof (*Effective from passage*):

(a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery:

(1) Examination and investigation reports and information contained in or derived from such reports, including examination reports prepared by the commissioner or prepared on behalf of or for the use of the commissioner;

(2) Confidential supervisory or investigative information obtained from a state, federal or foreign regulatory or law enforcement agency;

(3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (A) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation and all related administrative and legal actions are concluded; (B) personal or financial information, including account or loan information, without the written consent of the person or persons to whom the information pertains; or (C) information that would harm the reputation of any person or affect the safety and soundness of any person whose activities in this state are subject to the supervision of the commissioner, and the disclosure of such information under this subparagraph would not be in the public interest; and

(4) Information obtained, collected or prepared in connection with the organization of an expedited Connecticut bank prior to the issuance of a final certificate of authority to commence the business of a Connecticut bank pursuant to section 36a-70.

(b) The commissioner may, without waiving any privilege, disclose the records described in subsection (a) of this section for any appropriate supervisory, governmental, law enforcement or other public purpose. Any such disclosure shall be made under safeguards designed to prevent further dissemination of such records. In any proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of any such record and order that any such record on file with the court or filed in connection with the court proceeding be sealed and that the public be excluded from any portion of the proceeding at which any such record is disclosed.

(c) No director, officer, employee or agent of any Connecticut bank, Connecticut credit union or licensee under section 36a-380 or 36a-628 shall disclose without the prior written consent of the commissioner any information contained in an examination report about such bank, credit union or licensee which information is not otherwise a matter of public record.

(d) (1) [The provisions of subsections (a) and (b) of this section shall not apply to the disclosure of any record provided to or maintained by the commissioner with the system. Except as otherwise provided in Section 1512 of the federal S.A.F.E. Mortgage Licensing Act of 2008, any requirements under federal law or any law of this state, including this section and chapter 14 and any privilege arising under federal law or any law of this state, including the rules of any federal court or court of this state that protect the disclosure of any record provided to or maintained with the system, shall continue to apply to such record after it has been disclosed to the system. Such record may be shared with all state and federal regulatory officials that have oversight authority over the mortgage industry without the loss of privilege or the loss of confidentiality protections provided by federal law or the laws of this state.] In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, except as otherwise provided in this section, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the system, as defined in Section 36a-2, as amended by this act, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to system. Such information and material may be shared with all federal and state regulatory officials with mortgage or other financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law. For purposes of this subsection, the commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or associations representing governmental agencies.

(2) Any information or material that is [protected from disclosure under subdivision (1) of this subsection] subject to privilege or confidentiality under subdivision (1) of this subsection shall not be subject to (A) disclosure under any federal or state law governing disclosure to the public of information held by an officer or agency of the federal government or the respective state; or (B) subpoena, discovery or admission into evidence in any private civil action or administrative process, except a person may, at

such person's discretion, waive in whole or in part a privilege held by the system concerning such information and material.

(3) Any law of this state relating to the disclosure of confidential supervisory information or of any information or material described in subdivision (1) of this subsection that is inconsistent with subdivision (1) shall be superseded by the requirements of this subsection.

(e) The confidentiality provisions of this section shall not apply to records relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, [mortgage loan originators or loan processors or underwriters] persons that are included in the system for access by the public.

[(f) For purposes of this section, "system" has the same meaning as provided in section 36a-485.]

Sec. 5. Subsection (c) of Section 36a-51 of the Connecticut General Statutes is repealed and the following substituted in lieu thereof (*Effective from passage*):

(c) Any licensee may surrender any license issued by the commissioner under any provision of the general statutes by surrendering the license to the commissioner in person or by registered or certified mail, provided, in the case of a license issued [pursuant to part I of chapter 668,] through the system, as defined in section 36a-2, as amended by this act, such surrender shall be initiated by filing a request to surrender on the system, [, as defined in section 36a-485, in accordance with section 36a-490.] No surrender on the system shall be effective until the request for surrender is accepted by the commissioner.

Surrender of a license shall not affect the licensee's civil or criminal liability, or affect the commissioner's ability to impose an administrative penalty on the licensee pursuant to section 36a-50 for acts committed prior to the surrender. If, prior to receiving the license, or, in the case of a license issued [pursuant to part I of chapter 668,] through the system, prior to the filing of a request to surrender a license, [under section 36a-490,] the commissioner has instituted a proceeding to suspend, revoke or refuse to renew such license, such surrender or request to surrender will not become effective except at such time and under such conditions as the commissioner by order determines. If no proceeding is pending or has been instituted by the commissioner at the time of surrender, or, in the case of a license

issued [pursuant to part I of chapter 668,] through the system, at the time a request to surrender is filed, the commissioner may still institute a proceeding to suspend, revoke or refuse to renew a license under subsection (a) of this section up to the date one year after the date of receipt of the license by the commissioner, or, in the case of a license issued [pursuant to part I of chapter 668,] through the system, up to the date one year after the date of the acceptance by the commissioner of a request to surrender a license, [under section 36a-490.]

Sec. 6. (NEW) (*Effective from passage*) (a) In addition to any other duties imposed upon the Banking Commissioner by law, the commissioner is authorized to require persons engaged in a financial services industry subject to the commissioner's jurisdiction to be licensed or registered through the system, as defined in section 36a-2 of the general statutes, as amended by this act.

(b) In the event the commissioner elects to require system-based licensure for persons engaged in financial services industries subject to the commissioner's jurisdiction, the commissioner shall require all initial or renewal applications for such licenses or registrations in this state to be made and processed through the system on and in such form as the commissioner may prescribe, and the system shall be authorized to receive and maintain records related to such licenses or registrations to the same extent allowed or required to be maintained by the commissioner. For this purpose, the commissioner may establish requirements by order as necessary for participation in the system, including, but not limited to: (1) Background checks, including in the case of any form of business organization, checks on the individuals comprising the ownership or management of such organization, for criminal history through (A) fingerprint submission to the Federal Bureau of Investigation or other state, national or international criminal databases, (B) civil, criminal or administrative records from any governmental jurisdiction, (C) credit history, including an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, or (D) any other information as deemed necessary by the system; (2) the payment of fees to apply for or renew licenses or registrations through the system; (3) the setting or resetting of license expiration, renewal or transition dates or reporting dates or forms; and (4) the requirements for amending or surrendering a license or any other

such activities as the commissioner deems necessary for participation in the system. Such information may thereafter be used by the commissioner to determine the applicant's eligibility for licensing under applicable law and any order issued by the commissioner hereunder. For the purpose of participating in the system, the commissioner may by order waive or modify, in whole or in part, any applicable requirement of title 36a of the general statutes and establish new requirements as reasonably necessary to participate in the system. For the purposes of implementing an orderly and efficient licensing process, the commissioner may adopt licensing regulations, in accordance with the provisions of chapter 54 of the general statutes, and interim procedures for licensing and acceptance of applications.

(c) In the event the commissioner elects to require system-based licensure for persons engaged in financial services industries subject to the commissioner's jurisdiction, the commissioner may report regularly to the system violations of and enforcement actions under applicable law and other relevant information. The commissioner may establish relationships or enter into contracts with the system or other entities designated by the system to collect and maintain records and process transaction fees or other fees related to licensees or other persons required or permitted to be licensed or registered on the system.

(d) To reduce the points of contact that the commissioner or the Federal Bureau of Investigation may have to maintain for purposes of title 36a of the general statutes, the commissioner may use the system as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency and any other source as directed by the commissioner.

(e) Persons required or permitted to be licensed or registered on the system may challenge information entered into the system by the commissioner. Such challenge shall (1) be made in writing to the commissioner, (2) set forth the specific information being challenged, and (3) include any evidence which supports the challenge. Challenges shall be limited to the factual accuracy of information within the system. If the commissioner determines that the information entered into the system is factually inaccurate, the commissioner shall take prompt action to correct such information. Nothing in this

subdivision shall be construed to permit a challenge under this section to the merits or factual basis of any administrative action taken by the commissioner pursuant to title 36a of the general statutes.

(f) Any person making any filing or submission of any information on the system shall do so in accordance with the procedures and requirements of the system, shall pay applicable fees or charges to the system. Each person required to obtain registration or licensure through the system shall timely submit to the system accurate reports that shall be in such form and contain such information as the system may require. Failure to timely submit to the system accurate reports shall constitute a violation of this provision.

(g) All fees paid for any initial application for a license or registration or for a renewal application for a license or registration, including but not limited to fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license or registration, shall be nonrefundable. No fee shall be prorated if the license or registration is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

(h) The commissioner may automatically suspend a license or registration of a person on the system if such person receives a deficiency on the system indicating that a required payment was Returned-ACH or returned pursuant to such other term as may be utilized by the system to indicate that the payment was not accepted. After a license or registration has been automatically suspended pursuant to this subdivision, the commissioner shall give such licensee or registrant notice of the automatic suspension, pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes, as amended by this act, and require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this subdivision.

(i) The commissioner may deem an application for a license or registration on the system abandoned if the applicant fails to respond to any request for required information. The commissioner shall notify the applicant on the system that if such information is not submitted not later than sixty days from the date of such request the application shall be deemed abandoned. An application filing fee paid

prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license or registration.

(j) The commissioner may issue a temporary order to cease business under a license or registration if the commissioner determines that such license or registration was issued erroneously. The commissioner shall give the licensee an opportunity for a hearing on such action in accordance with section 36a-52 of the general statutes. Such temporary order shall become effective upon receipt by the licensee and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Sec. 7. Subdivision (2) of subsection (b) of Section 36a-486 of the Connecticut General Statutes is repealed and the following substituted in lieu thereof (*Effective October 1, 2014*):

(2) The following are exempt from this section: (A) A registered mortgage loan originator or an employee of an institution or subsidiary described in subdivision (23) of section 36a-485, as amended by this act, who is not required to be registered under Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., when acting for such institution or subsidiary; (B) an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of such individual; (C) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual's residence, unless the context demonstrates that such individual engaged in such activities with a degree of habitualness or repetition; (D) a Connecticut licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (E) an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan as an employee of a federal, state or local government agency or housing finance agency exempt from licensure pursuant to section 36a-487, and who does so only

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

Sec. 8. Subdivision (10) of section 36a-498e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(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-485,] 36a-2, as amended by this act, or in connection with any investigation conducted by the Banking Commissioner or another governmental agency.

Statement of Purpose: To authorize the Banking Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the Commissioner.

Agency Legislative Proposal - 2014 Session

Document Name:

2014 Banking An Act Concerning Mortgage Servicers (priority 2)

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: James Heckman / Stacey Serrano

Phone: (860) 240-8105 / (860) 240-8202

E-mail: james.heckman@ct.gov / stacey.serrano@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Serrano

Title of Proposal

An Act Concerning Mortgage Servicers

Statutory Reference 36a-715, 36a-716, 36a-717, 36a-718, NEW, 36a-1, 36a-65(c)(6), 36a-412(a)(4), 49-2a, 49-2c

Proposal Summary

Section 1 amends Section 36a-715 to add, revise and delete certain definitions applicable to the mortgage servicer regulatory scheme.

Sections 2 and 3 amend Sections 36a-716 and 36a-717, respectively, by replacing the term “mortgage servicing company” with “mortgage servicer”, in accordance with the amended definitions.

Section 4 amends Section 36a-718 to add a new requirement that a person acting as a mortgage servicer must obtain a license from the Commissioner for its main office and each branch office from which it conducts business unless exempt from licensing requirements, effective January 1, 2015. The amendment also deletes the current text of Section 36a-718 concerning the Commissioner’s enforcement authority over mortgage servicers, as the Commissioner’s enforcement authority will now be incorporated in the new section 15.

Section 5 adds a new section that specifies the application requirements and prerequisites to mortgage servicer licensure by the Commissioner.

Section 6 adds a new section that specifies various requirements concerning a mortgage servicer license, including transferability, name requirements and the process for surrendering a license. It also specifies the timeframe that certain events must be noticed to the Commissioner by a mortgage servicer licensee.

Section 7 adds a new section specifying the term of a mortgage servicer license and fees required.

Section 8 adds a new section specifying the bond requirement of a mortgage servicer licensee.

Section 9 adds a new section specifying the record requirements of a mortgage servicer licensee.

Section 10 adds a new section specifying disclosure requirements of mortgage servicers upon acceptance of assignment of mortgage servicing rights.

Section 11 adds a new section that makes it a violation of the mortgage servicer act if a mortgage servicer fails to comply with federal laws and regulations governing mortgage servicing.

Section 12 adds a new section that creates requirements and limitations on the fees imposed on a mortgagor by a mortgage servicer, including late payment charges.

Section 13 adds a new section specifying certain prohibited practices by mortgage servicers.

Section 14 adds a new section that provides the Commissioner with authority to conduct examinations and investigations in connection with mortgage servicer activity.

Section 15 adds a new section that provides the Commissioner with authority to take enforcement action against mortgage servicer licensees and persons who violate the requirements of the mortgage servicing act.

Section 16 adds a new section that provides the Commissioner with authority to adopt regulations under the mortgage servicing act.

Section 17 adds a new section that specifies that the requirements of the act apply to persons who act as mortgage servicers on or after January 1, 2015.

Section 18 amends Section 36a-1 by replacing the term “mortgage servicing company” with “mortgage servicer”, in accordance with the amended definitions.

Section 19 amends Section 36a-65(c)(6) to require a mortgage servicer licensee pay the cost of an examination.

Section 20 amends Section 36a-412(a)(4) to include the new statutory provisions applicable to mortgage servicers.

Sections 21 and 22 amend Sections 49-2a and 49-2c by replacing the term “mortgage servicing company” with “mortgage servicer”, in accordance with the amended definitions.

PROPOSAL BACKGROUND

- Reason for Proposal

To better protect residents who have residential mortgage loans secured by property in Connecticut, this proposal creates a new regulatory scheme to be administered by the Commissioner governing persons that act as mortgage servicers effective January 1, 2015. The scheme requires that certain mortgage servicers be licensed and all mortgage servicers comply with certain standards of conduct and regulatory and disclosure requirements, and provides the Commissioner with authority to take enforcement action against persons and mortgage servicer licensees who violate the provisions of the act.

- Origin of Proposal New Proposal Resubmission

- Agencies Affected

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

- Fiscal Impact (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) None
State Minimal revenue gain of approximately \$50,000 as a result of an estimated 50 new mortgage servicer licensees at an annual fee of \$1,000. No additional resources or staff is necessary to administer the new licensing requirements.
Federal None
Additional notes on fiscal impact

- Policy and Programmatic Impacts (Please specify the proposal section associated with the impact)

None

AN ACT CONCERNING MORTGAGE SERVICERS

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

Section 1. Section 36a-715 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

As used in sections 36a-715 to 36a-718, inclusive, as amended by this act, and sections 5 to 17, inclusive, of this act, unless the context otherwise requires:

[(1) "First mortgage loan" has the same meaning as provided in section 36a-485.]

[(2)] (1) ["Mortgage servicing company"] "Mortgage servicer" (A) means any person, wherever located, who, for such person or on behalf of the holder of a [first] residential mortgage loan, receives payments of principal and interest in connection with a [first] residential mortgage loan, records such payments on such person's books and records and performs such other administrative functions as may be necessary to properly carry out the mortgage holder's obligations under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company, [.] and (B) includes a person who makes payments to borrowers pursuant to the terms of a home equity conversion mortgage or reverse mortgage, but (C) does not include: (i) A person exempt from licensure as a mortgage lender or mortgage correspondent lender pursuant to subsection (b) of section 36a-487 while servicing residential mortgage loans made pursuant to such exemption, (ii) a person servicing five or fewer residential mortgage loans within any period of twelve consecutive months, and (iii) any agency of the federal government, any state or municipal government or any quasi-governmental agency servicing residential mortgage loans under the specific authority of the laws of any state or the United States.

(2) "Mortgagee" means the grantee of a residential mortgage, provided if the residential mortgage has been assigned of record, "mortgagee" means the last person to whom the residential mortgage has been assigned of record.

(3) "Mortgagor" means any person obligated to repay a [first] residential mortgage loan.

(4) "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling, as defined in section in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, located in this state, or real property located in this state upon which is constructed or intended to be constructed a dwelling.

Sec. 2. Section 36a-716 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Any mortgage [servicing company] servicer which receives funds from a mortgagor to be held in escrow for payment of taxes and insurance premiums shall pay the taxes and insurance premiums of the mortgagor to the appropriate taxing authority and insurance company in the amount required and at the time such taxes and insurance premiums are due provided (1) the mortgage [servicing company] servicer has been provided with the tax or insurance bills at least fifteen days prior to the date such taxes and insurance premiums are due, and (2) the mortgagor has paid to the mortgage [servicing company] servicer the amounts required to be paid into the escrow account, as determined by the mortgage [servicing company] servicer, for all amounts scheduled to be paid to the mortgage [servicing company] servicer prior to the date such taxes and insurance premiums are due.

(b) Each mortgage [servicing company] servicer shall, through its own effort and expense, determine and notify the mortgagor of the amounts necessary to be paid into the escrow account to assure that sufficient funds will be available for the payment of such taxes and insurance premiums as of the date such payment is due.

(c) If the amount held in the escrow account as of the date such taxes and insurance premiums are due is insufficient to pay the taxes and insurance premiums despite compliance by the mortgagor with subdivision (2) of subsection (a) of this section, the mortgage [servicing company] servicer shall pay such taxes and insurance premiums from its own funds. The mortgage [servicing company] servicer shall then give the mortgagor the option of paying the shortage over a period of not less than one year. The

mortgage [servicing company] servicer shall not charge or collect interest on such shortage during the one-year period.

Sec. 3. Sec. 36a-717 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

Any mortgage [servicing company] servicer which violates any provision of section 36a-716, as amended by this act, shall be liable to the mortgagor for: (1) Any penalties, interest or other charges levied by the taxing authority or insurance company as a result of such violation; (2) any actual damages suffered by the mortgagor as a result of such violation, including, but not limited to, any amount which would have been paid by an insurer for a casualty or liability claim had the insurance policy not been cancelled for nonpayment by the mortgage [servicing company] servicer; and (3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney's fees as determined by the court.

Sec. 4. Sec. 36a-718 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):

(a) [If the commissioner determines that any mortgage servicing company has violated any provision of section 36a-716, the commissioner may take action against such mortgage servicer in accordance with sections 36a-50 and 36a-52. The commissioner may also order the mortgage servicing company to make restitution to the mortgagor upon fourteen days' notice in writing. Such notice shall be sent by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the principal place of business of the mortgage servicing company and shall state the grounds for the contemplated action. Within fourteen days of receipt of the notice, the mortgage servicing company may file a written request for a hearing. If a hearing is requested, the commissioner shall not issue an order to make restitution until after such hearing is held. Such hearing shall be conducted in accordance with the provisions of chapter 54.] No person shall act as a mortgage servicer, directly or indirectly, without first obtaining a license under section 5 of this act from the commissioner

for its main office and each branch office where such business is conducted, unless such person is exempt from licensure pursuant to subsection (b) of this section.

(b) The following persons are exempt from mortgage servicer licensing requirements: (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, any operating subsidiary of a federal bank or federally-chartered out-of-state bank or any wholly-owned subsidiary of a Connecticut bank or Connecticut credit union; and (2) any person licensed as a mortgage lender in this state while acting as a mortgage servicer from a location licensed as a main office or branch office under sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b.

Sec. 5. (NEW) (*Effective November 1, 2014*) (a) The Banking Commissioner may issue a mortgage servicer license, provided that the commissioner shall not issue a mortgage servicer license to any person unless the commissioner, at a minimum, 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. Any qualified individual and branch manager shall 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. As used in this subdivision, "experience in the mortgage servicing business" means paid experience in the servicing of mortgage loans, the accounting, receipt and processing of payments on behalf of mortgagees or creditors, or in the supervision of such activities, or any other relevant experience as determined by the commissioner; (2) notwithstanding the provisions of section 46a-80 of the general statutes, the applicant, the control persons of the applicant, the qualified individual and any branch manager with supervisory authority at the office for which the license is sought 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 having supervisory authority over the office for which the license is sought are such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act; (4) the applicant has met the surety bond requirement under section 8 of this act; and (5) the applicant has not made a material misstatement in the application. 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 that such jurisdiction does not use the term “felony”, “pardon” or “expungement”, such terms shall include legally equivalent events. 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.

(b) An application for a license as a mortgage servicer or renewal of such license shall be filed, in a form prescribed by the commissioner, with the system and accompanied by the fees required by section 7 of this act. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purpose of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 6 to 17, inclusive, of this act. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager, including personal history and experience in a form prescribed by the system and information related to any administrative, civil or criminal findings by any governmental jurisdiction. The applicant shall promptly notify the commissioner, in writing, of any change to the information submitted in connection with its application for licensure. For the purpose of this subsection, evidence of experience of the qualified individual and any branch manager shall include: (A) A statement specifying the duties and responsibilities of such person’s employment, the term of employment,

including month and year, and the name, address and telephone number of a supervisor, employer or, if self-employed, a business reference; and (B) if required by the commissioner, copies of W-2 forms, 1099 tax forms or, if self-employed, 1120 corporate tax returns, signed letters from the employer on the employer's letterhead verifying such person's duties and responsibilities and term of employment including month and year, and if such person is unable to provide such letters, other proof satisfactory to the commissioner that such person meets the experience requirement. The commissioner may conduct a criminal history records check of the applicant, any control person of the applicant, the qualified individual and any branch manager with supervisory authority at the office for which the license is sought and require the applicant to submit the fingerprints of such persons as part of the application.

(c) (1) The minimum standards for license renewal for a mortgage servicer shall include the following: (A) The applicant continues to meet the minimum standards under subsection (a) of this section, and (B) the mortgage servicer has paid all required fees for renewal of the license.

(2) The license of a mortgage servicer failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system. The commissioner may automatically suspend a mortgage servicer license if the licensee receives a deficiency on the system indicating that the payment required by section 7 of this act was Returned-ACH or returned pursuant to such other term as may be utilized by the system to indicate that the payment was not accepted. After a license has been automatically suspended pursuant to this section, the commissioner shall give such licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 15 of this act and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes, and require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this section.

(d) Withdrawal of an application for a license filed under this section shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) The commissioner may deem an application for a license under this section abandoned if the applicant fails to respond to any request for information required under sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act or the regulations adopted pursuant to said sections. The commissioner shall notify the applicant on the system that if such information is not submitted not later than sixty days from the date of such request the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license.

(f) At least annually, as part of its application, a mortgage servicer shall file with the commissioner: (1) A current schedule of the ranges of costs and fees it charges mortgagors for its servicing-related activities; and (2) a report in a form and format acceptable to the commissioner detailing the mortgage servicer's activities in the state, including: (A) The number of residential mortgage loans the mortgage servicer is servicing, (B) the type and characteristics of the residential mortgage loans in this state, (C) the number of serviced residential mortgage loans in default, along with a breakdown of thirty-day, sixty-day and ninety-day delinquencies, (D) information on loss mitigation activities, including details on workout arrangements undertaken, and (E) information on foreclosures commenced in this state.

Sec. 6. (NEW) (*Effective November 1, 2014*) (a)(1) A mortgage servicer license shall not be transferable or assignable. No licensee may use any name other than its legal name or a fictitious name approved by the Banking Commissioner, provided such licensee may not use its legal name if the commissioner disapproves use of such name. Any licensee who intends to permanently cease acting as a mortgage servicer at any time during a license period for any cause, including, but not limited to, bankruptcy or voluntary dissolution, shall file a request to surrender the license for each office at which the licensee intends to cease to do business, on the system, not later than fifteen days after the date of such cessation, provided this requirement shall not apply when a license has been suspended pursuant to

section 36a-51 of the general statutes. No surrender shall be effective until accepted by the commissioner.

(b) A mortgage servicer licensee may change the name of the licensee or address of any office specified on the most recent filing with the system if: (1) At least thirty calendar days prior to such change, the licensee files such change with the system and, in the case of a main office or branch office, provides, directly to the commissioner, a bond rider or endorsement, or addendum, as applicable, to the surety bond on file with the commissioner that reflects the new name or address of the main office or branch office, and (2) the commissioner does not disapprove such change, in writing, or request further information within such thirty-day period.

(c) The mortgage servicer licensee shall promptly file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the occurrence of any of the following events:

- (1) Filing for bankruptcy, or the consummation of a corporate restructuring, of the licensee;
- (2) Filing of a criminal indictment against the licensee, or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock;
- (3) Receiving notification of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons therefor;
- (4) Receiving notification of the initiation of any action by the Attorney General or the attorney general of any other state and the reasons therefor;
- (5) Suspension or termination of the licensee's status as an approved seller or servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association;
- (6) Receiving notification that certain servicing rights of the licensee will be rescinded or cancelled, and the reasons provided therefor;

(7) Receiving notification of filing for bankruptcy of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock of the licensee;

(8) Receiving notification of the initiation of a class action lawsuit on behalf of consumers against the licensee that is related to the operation of the licensed business; or

(9) Any change in the information most recently submitted by the licensee in connection with its application.

Sec. 7. (NEW) (*Effective November 1, 2014*) (a) Each mortgage servicer license shall expire at the close of business on December thirty-first of the year in which it is approved, unless such license is renewed, and provided any such license that is approved 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 approved. An application for renewal of a license shall be filed between November first and December thirty-first of the year in which the license expires. Each applicant for an initial license or renewal of a license as a mortgage servicer shall pay to the system any required fees or charges and a license fee of one thousand dollars.

(b) All fees paid pursuant to this section, including fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license, shall be nonrefundable. No fee paid pursuant to this section shall be prorated if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

Sec. 8. (NEW) (*Effective November 1, 2014*) (a) No mortgage servicer license and no renewal thereof shall be granted unless the applicant or licensee has filed with the Banking Commissioner a single surety bond, written by a surety authorized to write such bonds in this state covering its main office and any branch office, in a penal sum of one hundred thousand dollars.

(b) The bond required by subsection (a) of this section shall be (1) in a form approved by the Attorney General, and (2) conditioned upon the mortgage servicer licensee faithfully performing any and all written agreements or commitments with or for the benefit of mortgagors and mortgagees, truly and faithfully accounting for all funds received from a mortgagor or mortgagee by the licensee in the

licensee's capacity as a mortgage servicer, and conducting such mortgage business consistent with the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act. Any mortgagor or mortgagee that may be damaged by a mortgage servicer licensee's failure to perform any written agreements or commitments, or by the wrongful conversion of funds paid by a mortgagor or a mortgagee to a licensee, may proceed on such bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon a licensee pursuant to subsection (a) of section 36a-50 of the general statutes and any unpaid costs of examination of a licensee as determined pursuant to section 36a-65 of the general statutes, as amended by this act. The proceeds of the bond, even if commingled with other assets of the principal, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the principal in the event of bankruptcy of the principal and shall be immune from attachment by creditors and judgment creditors. The bond shall run concurrently with the period of the license for the main office and the aggregate liability under the bond shall not exceed the penal sum of the bond. The principal shall notify the commissioner of the commencement of an action on the bond. When an action is commenced on a principal's bond, the commissioner may require the filing of a new bond and immediately on recovery on any action on the bond, the principal shall file a new bond.

(c) The surety company shall have the right to cancel the bond at any time by a written notice to the principal stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the principal at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the principal of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license of a mortgage servicer on such date. No automatic suspension or inactivation shall occur if, prior to the date that the bond cancellation shall take effect, (1) the principal submits a letter of reinstatement of the bond from the surety company or a new

bond, or (2) the mortgage servicer licensee has ceased business in this state and has surrendered all licenses in accordance with section 36a-51 of the general statutes and section 6 of this act. After a mortgage servicer license has been automatically suspended pursuant to this section, the commissioner shall give such licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 15 of this act and an opportunity for a hearing on such action in accordance with section 36a-51 of the general statutes and require such licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Sec. 9. (NEW) (*Effective November 1, 2014*): (a) Each mortgage servicer licensee shall maintain adequate records of each residential mortgage loan transaction at the office named in the license, or, if requested by the Banking Commissioner, shall make such records available at such office or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a licensee additional time to make such records available or send them to the commissioner. Such records shall provide the following information: (1) An adequate loan history for residential mortgage loans upon which payments are received or made by the mortgage servicer, itemizing the amount and date of each payment and the unpaid balance at all times; (2) the original or an exact copy of the note, residential mortgage or other evidence of indebtedness and mortgage deed; (3) the name and address of the mortgage lender, mortgage correspondent lender and mortgage broker, if any, involved in the residential mortgage loan transaction; (4) copies of any disclosures or notification provided to the mortgagor required by state or federal law; (5) a copy of any bankruptcy plan approved in a proceeding filed by the mortgagor or a co-owner of the property subject to the residential mortgage loan; (6) a communications log which documents all verbal communication with the mortgagor or the mortgagor's representative; and (7) a copy of all notices sent to the mortgagor related to any foreclosure proceeding filed against the encumbered property.

(b) For each residential mortgage loan that is serviced by a licensee, the licensee shall retain the records of such residential mortgage loan transaction for not less than two years following the final

payment thereon, or the assignment of such residential mortgage loan, whichever occurs first, or such longer period as may be required by any other provision of law. Every licensee shall keep and use in its business, books, accounts and records which will enable the commissioner to determine whether such licensee is complying with the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act and with any regulations adopted pursuant thereto.

Sec. 10. (NEW) (*Effective January 1, 2015*) Upon assignment of servicing rights on a residential mortgage loan, the mortgage servicer shall disclose to the mortgagor: (1) Any notice required by the Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as from time to time amended, and the regulations promulgated thereunder, and within the time periods prescribed therein; and (2) a schedule of the ranges and categories of its costs and fees for its servicing-related activities, which shall comply with state and federal law and, if such disclosure is made by a mortgage servicer licensee, shall not exceed those reported to the Banking Commissioner in accordance with section 5 of this act.

Sec. 11. (NEW) (*Effective January 1, 2015*) A mortgage servicer shall comply with all applicable federal laws and regulations relating to mortgage loan servicing, including but not limited to the Real Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., the Truth-in-Lending Act, 15 USC Section 1601 et seq., as from time to time amended, and the regulations promulgated thereunder. In addition to any other remedies provided by law, a violation of such federal law or regulation shall be deemed a violation of this section and a basis upon which the Banking Commissioner may take enforcement action pursuant to section 15 of this act.

Sec. 12. (NEW) (*Effective January 1, 2015*) (a) A mortgage servicer shall maintain and keep current a schedule of standard or common fees, such as nonsufficient fund fees, that it charges mortgagors. The schedule shall identify each fee, provide a plain English explanation of the fee and state the amount of the fee or range of amounts or, if there is no standard fee, how the fee is calculated or determined. A mortgage servicer shall make its schedule available to the mortgagor or the mortgagor's authorized representative upon request.

(b) A mortgage servicer shall not impose any late fee or delinquency charge when the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace period. Late charges shall not be (1) based on an amount greater than the past due amount; (2) collected from the escrow account or from escrow surplus without the approval of the mortgagor; or (3) deducted from any regular payment.

Sec. 13. (NEW) (*Effective January 1, 2015*) No mortgage servicer shall:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead mortgagors or mortgagees or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of the residential mortgage loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a residential mortgage loan, the terms and conditions of the servicing agreement or the mortgagor's obligations under the residential mortgage loan;

(3) Obtain property by fraud or misrepresentation;

(4) Use any unfair or unconscionable means in servicing a residential mortgage loan;

(5) Knowingly misapply or recklessly apply residential mortgage loan payments to the outstanding balance of a residential mortgage loan;

(6) Knowingly misapply or recklessly apply payments to escrow accounts;

(7) Place hazard, homeowner's or flood insurance on the mortgaged property when the mortgage servicer knows or has reason to know that the mortgagor has an effective policy for such insurance;

(8) Fail to comply with section 49-10a of the general statutes, charge excessive or unreasonable fees to provide loan payoff information or fail to provide loan payoff information promptly upon receipt of a written request;

(9) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a mortgagor's creditworthiness;

(10) Fail to report both the favorable and unfavorable payment history of the mortgagor to a nationally recognized consumer credit bureau at least annually if the mortgage servicer regularly reports information to a credit bureau;

(11) Collect private mortgage insurance beyond the date for which private mortgage insurance is required;

(12) Knowingly or recklessly facilitate the illegal foreclosure of real property collateral;

(13) Fail to issue a release of mortgage in accordance with section 49-8a of the general statutes;

(14) Fail to provide written notice to a mortgagor upon taking action to place hazard, homeowner's or flood insurance on the mortgaged property, including a clear and conspicuous statement of the procedures by which the mortgagor may demonstrate that he or she has the required insurance coverage and by which the mortgage servicer shall terminate the insurance coverage placed by it and refund or cancel any insurance premiums and related fees paid by or charged to the mortgagor;

(15) Place hazard, homeowner's or flood insurance on a mortgaged property, or require a mortgagor to obtain or maintain such insurance, in excess of the replacement cost of the improvements on the mortgaged property as established by the property insurer;

(16) Fail to provide to the mortgagor a refund of unearned premiums paid by a mortgagor or charged to the mortgagor for hazard, homeowner's or flood insurance placed by a mortgagee or the mortgage servicer if the mortgagor provides reasonable proof that the mortgagor has obtained coverage such that the forced placement insurance is no longer necessary and the property is insured. If the mortgagor provides reasonable proof that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage servicer shall promptly refund the entire premium;

(17) Require funds to be remitted by means more costly to the mortgagor than a bank or certified check or attorney's check from an attorney's account;

(18) Refuse to communicate with an authorized representative of the mortgagor who provides a written authorization signed by the mortgagor, provided that the mortgage servicer may adopt procedures

reasonably related to verifying that the representative is in fact authorized to act on behalf of the mortgagor;

(19) Conduct any business covered by sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act without holding a valid license required under this act, or assist or aid and abet any person in the conduct of business without a valid license as required under title 36a;

(20) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or the system, as defined in section 36a-485 of the general statutes, or in connection with any investigation conducted by the Banking Commissioner or another governmental agency;

(21) 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-498f, inclusive, 36a-534a and 36a-534b of the general statutes.

Sec. 14. (NEW) (*Effective November 1, 2014*) (a) In addition to any authority provided under title 36a, the Banking Commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to: (A) Criminal, civil and administrative history information; (B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a; and (C) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

(2) For the purposes of investigating violations or complaints arising under sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act or for the purposes of examination, the commissioner may review, investigate or examine any mortgage servicer licensee or person subject to said sections as often as necessary in order to carry out the purposes of said sections. The commissioner may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the residential mortgage loans or the business or subject matter of any such examination or investigation, and may direct, subpoena or order such person to produce books, accounts, records, files and any other documents the commissioner deems relevant to the inquiry.

(b) Each mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including accounting compilations, information lists and data concerning residential mortgage loan transactions in a format prescribed by the commissioner or such other information the commissioner deems necessary to carry out the purposes of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act.

(c) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the mortgage servicer licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the mortgage servicer licensee or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act the mortgage servicer licensee or owner of the documents and

records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(d) In order to carry out the purposes of this section, the commissioner may:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources; standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act;

(4) Accept and rely on examination or investigation reports made by other government officials, within or without this state; and

(5) Accept audit reports made by an independent certified public accountant for the mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of examination, report of investigation or other writing of the commissioner.

(e) The authority of this section shall remain in effect, whether such mortgage servicer licensee or person subject to sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(f) No mortgage servicer licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

Sec. 15. (NEW) (*Effective November 1, 2014*) (a) The Banking Commissioner may suspend, revoke or refuse to renew any mortgage servicer license or take any other action, in accordance with the provisions of section 36a-51 of the general statutes, for any reason which would be sufficient grounds for the commissioner to deny an application for such license under section 5 of this act, or if the commissioner finds that the licensee, any control person of the licensee, the qualified individual or any branch manager with supervisory authority, trustee, employee or agent of such licensee has done any of the following: (1) Made any material misstatement in the application; (2) committed any fraud or misrepresentation or misappropriated funds; (3) violated any of the provisions of title 36a of the general statutes or of any regulations adopted pursuant thereto, or any other law or regulation applicable to the conduct of its business; or (4) failed to perform any agreement with a mortgagee or a mortgagor.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate section 49-8a or 49-10a of the general statutes, any of the provisions of title 36a of the general statutes or of any regulations adopted pursuant thereto, or any licensee has failed to perform any agreement with a mortgagee or mortgagor, committed any fraud, made any misrepresentation or misappropriated funds, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52 of the general statutes.

Sec. 16. (NEW) (*Effective November 1, 2014*) The Banking Commissioner may adopt such regulations, in accordance with chapter 54 of the general statutes, as the commissioner deems necessary to administer and enforce the provisions of sections 36a-715 to 36a-718, inclusive, of the general statutes, as amended by this act, and sections 5 to 17, inclusive, of this act.

Sec. 17. (NEW) (*Effective January 1, 2015*) Section 36a-718 of the general statutes, as amended by this act, and sections 10 to 13, inclusive, of this act shall apply to any person who acts as a mortgage servicer in this state on or after January 1, 2015.

Sec. 18. Section 36a-1 of the general statutes, as amended by section 20 of public act 13-253, is repealed and the following is substituted in lieu thereof (*Effective November 1, 2014*):

This title shall be known as the “Banking Law of Connecticut” and shall be applicable to all Connecticut banks, Connecticut credit unions, mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators, loan processors or underwriters, money transmitters, check cashers, trustees under mortgages or deeds of trust of real property securing certain investments, corporations exercising fiduciary powers, small loan lenders, sales finance companies, mortgage [servicing companies] servicers, debt adjusters, debt negotiators, consumer collection agencies and to such other persons as subject themselves to the provisions of this title or who, by violating any of its provisions, become subject to the penalties provided in this title.

Sec. 19. Subdivision (6) of subsection (c) of section 36a-65 of the general statutes is repealed and the following repealed and the following is substituted in lieu thereof (*Effective November 1, 2014*):

(6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-600, 36a-628, 36a-656, 36a-671, section 5 of this act or 36a-801 shall pay to the commissioner the actual cost of any examination of the licensee, as such cost is determined by the commissioner. If the licensee fails to pay such cost not later than sixty days after receipt of demand from the commissioner, the commissioner may suspend the license until such costs are paid.

Sec. 20. Subdivision (4) of subsection (a) of section 36a-412 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):

(4) (A) The laws of this state, including laws regarding (i) community reinvestment pursuant to sections 36a-30 to 36a-33, inclusive; (ii) consumer protection pursuant to sections 36a-41 to 36a-45, inclusive, 36a-290 to 36a-304, inclusive, 36a-306, 36a-307, 36a-315 to 36a-323, inclusive, 36a-645 to 36a-647, inclusive, 36a-690, 36a-695 to 36a-700, inclusive, 36a-705 to 36a-707, inclusive, 36a-715 to 36a-718, inclusive, as amended by this act, and sections 5 to 17, inclusive, of this act, 36a-725, 36a-726, 36a-755 to 36a-759, inclusive, 36a-770 to 36a-788, inclusive, and 36a-800 to 36a-810, inclusive; (iii) fair lending pursuant to sections 36a-737, 36a-740 and 36a-741; and (iv) establishment of interstate branches

pursuant to section 36a-145 shall apply to any branch in this state of an out-of-state bank, other than a federally-chartered out-of-state bank, to the same extent as such laws apply to a branch in this state of an out-of-state national banking association.

(B) An out-of-state bank, other than a federally-chartered out-of-state bank, that establishes a branch in this state may conduct any activity at such branch that is permissible under the laws of the home state of such out-of-state bank, to the extent such activity is permissible either for a Connecticut bank or for a branch in this state of an out-of-state national banking association. If the commissioner determines that a branch in this state of an out-of-state bank, other than a federally-chartered out-of-state bank, is being operated in violation of any applicable law of this state or in an unsafe and unsound manner, the commissioner may take any enforcement action authorized under this title against such out-of-state bank to the same extent as if such branch were a Connecticut bank, provided the commissioner shall promptly give notice of such action to the home state banking regulator of such out-of-state bank and, to the extent practicable, shall consult and cooperate with such regulator in pursuing and resolving such action. For purposes of this subparagraph, "activity" includes acquiring or retaining any investment.

Sec. 21. Section 49-2a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2014*):

(a) On and after July 1, 1993, each state bank and trust company, national banking association, state or federally chartered savings and loan association, savings bank, insurance company and other mortgagee or mortgage [servicing company] servicer holding funds of a mortgagor in escrow for the payment of taxes and insurance premiums with respect to mortgaged property located in this state shall pay interest on such funds, except as provided in section 49-2c, as amended by this act, at a rate of not less than the average rate paid, as of December 30, 1992, on savings deposits by insured commercial banks as published in the Federal Reserve Board Bulletin and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after January 1, 1994, until September 30, 2012, the rate for each calendar year shall be not less than the deposit index as defined in subsection (c) of this section for that year and rounded to the nearest one-tenth

of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after October 1, 2012, the rate for each calendar year shall be not less than the deposit index as defined in subsection (c) of this section for that year and rounded to the nearest one-tenth of one percentage point. Interest payments shall be credited on the thirty-first day of December annually toward the payment of taxes or insurance premiums as the case may be, on such mortgaged property in the ensuing year. If the mortgage debt is paid prior to December thirty-first in any year, the interest to the date of payment shall be paid to the mortgagor. The provisions of this section shall apply only with respect to mortgages on owner-occupied residential property consisting of not more than four living units and housing cooperatives occupied solely by the shareholders thereof. Any mortgagee or mortgage [servicing company] servicer violating the provisions of this section shall be fined not more than one hundred dollars for each offense.

(b) Each mortgagee or mortgage [servicing company] servicer subject to the provisions of this section may contact the Department of Banking to ascertain the published deposit index to determine the minimum rate paid on funds of a mortgagor held in escrow for the payment of taxes and insurance premiums.

(c) The deposit index for each calendar year shall be equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board Bulletin in November of the prior year. The commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking news bulletin no later than December fifteenth of the prior year. For purposes of this section, "Federal Reserve Board Bulletin" means the monthly survey of selected deposits published as a special supplement to the Federal Reserve Statistical Release Publication H.6 published by the Board of Governors of the Federal Reserve System or, if such bulletin is superseded or becomes unavailable, a substantially similar index or publication.

Sec. 22. Section 49-2c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective November 1, 2014*):

(a) In no event shall interest be required to be paid on escrow accounts where (1) there is a contract between the mortgagor and the mortgagee, entered into before October 1, 1975, which contains an express disclaimer of an obligation on the part of the mortgagee to pay interest on the accounts, (2) the payment of such interest would violate any federal law or regulation, (3) the accounts are maintained with a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the mortgagee, under a written contract or any mortgage agreements underlying the contracts, entered into before October 1, 1975, which contract does not permit the mortgage [servicing company] servicer to earn or receive a return from the investment of the accounts or (4) the accounts are maintained in connection with mortgage loans entered into (A) on and after October 1, 1977, and before January 1, 1989, and which are serviced and held for sale for not more than one year by a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the purchaser of the mortgage loan, and (B) on and after January 1, 1989, and which are serviced and held for sale for not more than six months by any such mortgage [servicing company] servicer, provided such mortgage [servicing company] servicer shall pay interest on an escrow account maintained in connection with such mortgage loan if the loan is sold within such specified periods and the mortgage [servicing company] servicer continues to service the loan.

(b) In no event shall interest be required to be paid at a rate in excess of two per cent per annum where (1) there is a contract between the mortgagor and the mortgagee entered into before October 1, 1977, which contains an express agreement to pay interest at the rate of two per cent per annum, or (2) such accounts are maintained in connection with mortgage loans entered into prior to October 1, 1977, and which are serviced and held for sale for not more than one year by a mortgage [servicing company] servicer, neither affiliated with nor owned in whole or in part by the purchaser of the mortgage loan.

Statement of Purpose: To regulate mortgage servicers in Connecticut effective January 1, 2015; and make other conforming changes.



Agency Legislative Proposal - 2014 Session

Document Name 2014 Banking An Act Concerning Connecticut's Financial Institutions (priority 3)

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: James Heckman

Phone: 860-240-8105

E-mail: james.heckman@ct.gov

Lead agency division requesting this proposal: Financial Institutions Division

Agency Analyst/Drafter of Proposal: Amy LaChance (860) 240-8152

Title of Proposal

An Act Concerning Connecticut's Financial Institutions

Statutory Reference

36a-145(o), 36a-633(a), 36a-65(d)(1), 36a-382, 36a-428a(a), 36a-428g(a) and 36a-2(3)

Proposal Summary

This proposal adds a requirement for notification when a loan production office will be permanently closed, clarifies that business and industrial development corporation licenses are not transferable or assignable, increases certain fees and expands the definition of ATM to include devices that provide contact with bank personnel through telephonic or televideo functions.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

• Reason for Proposal

Please consider the following, if applicable:

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

Sec. 1: Loan production offices (LPOs) were considered branches and subject to branch closing notification laws prior to passage of P.A. 12-96. P.A. 12-96 removed LPOs from the definition of branch but did not specify if or how notification of closing of an LPO should be made. This proposal specifies that a Connecticut bank must notify the Commissioner and post a notice on its premises 30 days prior to its proposed closing.

Sec. 2: Licenses for business and industrial development corporations expire annually, but the current



statute does not specifically articulate that the licenses are not transferable or assignable. This proposal would add such an articulation.

Secs. 2 – 6: Increase fees for the following, based on review of fees charged for similar licenses by other states:

- Application for and renewal of business and industrial development corporation license
- Application for relocation of a branch or limited branch
- Approval to acquire, alter or improve real estate pursuant to C.G.S. § 36a-250(a)(33) (also adds exemption from this fee for a bank seeking approval to acquire, alter or improve real estate in conjunction with an application for relocation of a branch or limited branch)
- Changing the name of a Connecticut bank or mutual savings bank (establishes fee when bank applies for change of name without a merger or acquisition application)
- Application for license to exercise fiduciary powers
- Application for license to establish a state branch or agency of a foreign bank
- Application for and renewal of license to establish a representative office of a foreign bank

Sec. 7: To clarify that a machine with such telephonic or televideo functions is not a branch under Connecticut law (and to ensure Connecticut state banks are afforded the same treatment as national banks establishing these machines in Connecticut), this proposal broadens the definition of ATM to include machines with telephonic or televideo functions that allow contact with bank personnel. Any stand-alone ATM with these functions would not be considered a branch under Connecticut law (see § 36a-157).

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

If this is a resubmission, please share:

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

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: n/a

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments



Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

• **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) none
State Sections 2 – 6 propose increases in certain fees that are expected to result in minimal revenue gain for the Department of Banking.
Federal none
Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Please see "Proposal Background"

Insert fully drafted bill here:

Section 1. Subsection (o) of section 36a-145 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(o) (1) With the approval of the commissioner, a Connecticut bank may establish a loan production office in this state.

(2) A Connecticut bank which proposes to close any loan production office shall submit to the commissioner a notice of the proposed closing not later than thirty days



prior to the date proposed for such closing. The notice shall include a detailed statement of the reasons for the decision to close the loan production office and the statistical and other information in support of such reasons. After receipt of the notice, the commissioner may require the Connecticut bank to submit any additional information. The Connecticut bank shall provide notice of the proposed closing to its customers by posting a notice in a conspicuous manner on the premises of the loan production office proposed to be closed during a period not less than the thirty-day period ending on the date proposed for that closing.

Sec. 2. Subsection (a) of section 36a-633 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Each applicant for a license, at the time of making such application, shall pay to the commissioner a nonrefundable license fee of [four] two thousand five hundred dollars. Each license issued pursuant to this subsection shall expire at the close of business on June thirtieth of each year, unless such license is renewed. The license shall not be transferable or assignable. Each licensee shall, on or before June twentieth of each year, pay to the commissioner the sum of [four hundred] one thousand dollars as a license fee for the succeeding year, commencing July first. Each applicant or licensee shall pay the expenses of any examination or investigation made under sections 36a-625 to 36a-634, inclusive.

Sec. 3. Subdivision (1) of subsection (d) of section 36a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(d) (1) The fee for investigating and processing each application is as follows:

(A) Establishment of (i) a branch under subdivision (1) of subsection (b) of section 36a-145, two thousand dollars; (ii) a mobile branch under subdivision (1) of subsection (d) of section 36a-145, one thousand five hundred dollars; (iii) a limited branch under subdivision (1) of subsection (c) of section 36a-145, one thousand five hundred dollars; (iv) a special need limited branch under subdivision (4) of subsection (c) of section 36a-145, five hundred dollars; (v) an out-of-state branch under subsection (j) of section 36a-145, a reasonable fee not to exceed two thousand dollars from which any fees paid to a state other than this state or to a foreign country in connection with the establishment shall be deducted; and (vi) an out-of-state limited branch or mobile branch under subsection (j) of section 36a-145, a reasonable fee not to exceed one thousand five hundred dollars from which any fees paid to a state other than this state or to a foreign country in connection with the establishment shall be deducted.



(B) Sale of (i) a branch under subsection (i) of section 36a-145, two thousand dollars, except there shall be no fee for the sale of a branch of a Connecticut bank to another Connecticut bank or to a Connecticut credit union; and (ii) a limited branch, including a special need limited branch or mobile branch under subsection (i) of section 36a-145, a fee not to exceed one thousand five hundred dollars.

(C) Relocation of (i) a main office of a Connecticut bank under subsection (a) of section 36a-81, two thousand dollars; and (ii) a branch or a limited branch under subsections (g) and (k) of section 36a-145, [~~five hundred~~] one thousand dollars.

(D) Conversions from (i) a branch to a limited branch under subdivision (3) of subsection (c) of section 36a-145; and (ii) a limited branch to a branch under subdivision (3) of subsection (b) of section 36a-145, five hundred dollars.

(E) Merger or consolidation involving a Connecticut bank under section 36a-125 or subsection (a) of section 36a-126, two thousand five hundred dollars if two institutions are involved and five thousand dollars if three or more institutions are involved.

(F) Acquisition of assets or business under section 36a-210, two thousand five hundred dollars.

(G) Organization of a holding company under section 36a-181, two thousand five hundred dollars.

(H) Organization of any Connecticut bank under section 36a-70, including the conditional preliminary approval for an expedited bank, fifteen thousand dollars, except no fee shall be required for the organization of an interim Connecticut bank.

(I) Reorganization of a mutual savings bank or mutual savings and loan association into a mutual holding company under section 36a-192, five thousand dollars.

(J) Conversions under (i) sections 36a-135 to 36a-138, inclusive, five thousand dollars; (ii) sections 36a-139, 36a-139a and 36a-469c, two thousand five hundred dollars; and (iii) section 36a-139b, fifteen thousand dollars.

(K) Acquiring, altering or improving real estate for present or future use in the business of the bank or purchasing real estate adjoining any parcel of real estate owned



by the bank under subdivision (33) of subsection (a) of section 36a-250, [five hundred] one thousand dollars, except that no fee shall be charged for such application if it is filed in connection with an application to (i) relocate a main office of a Connecticut bank under subsection (a) of section 36a-81, (ii) relocate a branch or limited branch under subsection (g) and (k) of section 36a-145, (iii) [or] establish [(i)] a branch in this state under subdivision (1) of subsection (b) of section 36a-145, [(ii)] (iv) establish a limited branch in this state under subdivision (1) of subsection (c) of section 36a-145, or [(iii)] (v) establish a branch or limited branch outside of this state under subsection (j) of section 36a-145.

(L) Investigation and processing an interstate banking transaction application filed under section 36a-411 or 36a-412, two thousand five hundred dollars, unless the transaction otherwise requires an investigation and processing fee under this section.

(M) Issuance of a final certificate of authority for an expedited Connecticut bank, fifteen thousand dollars.

(N) Establishment of a loan production office under subsection (o) of section 36a-145 or subsection (d) of section 36a-412, one thousand dollars.

(O) Changing the name of any capital stock Connecticut bank or mutual savings bank under section 36a-82, five hundred dollars, except that no fee shall be charged for such application if it is filed in connection with an application to merge or consolidate under section 36a-125 or an acquisition statement filed with the commissioner under section 36a-184.

Sec. 4. Section 36a-382 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

The commissioner shall annually or more often examine each entity licensed under sections 36a-380 to 36a-386, inclusive, and special acts 93-12, 93-19 and 93-20, any provision in the charter, certificate of incorporation, partnership agreement, articles of association, articles of organization or similar document, as applicable, of any such entity to the contrary notwithstanding, and shall require that such entity file an annual report in such form as the commissioner may prescribe and such other reports as the commissioner may require. Each such licensed entity shall pay the cost of such examination as determined by the commissioner and shall, in addition, pay to the commissioner an annual license fee of [one] five hundred dollars. Such license fee shall



be payable not later than the thirtieth day of June in each year and the fee for licenses granted upon any other date shall be prorated to the thirtieth day of June next following the issuance thereof, provided no fee for the unexpired portion of any license year shall be less than twenty dollars.

Sec. 5. Subsection (a) of section 36a-428a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Application for a license to establish and maintain a state branch or state agency in this state shall be made on forms prescribed by the commissioner and shall be duly executed in duplicate by the foreign bank by one or more of its principal officers. Such application shall state the value of the assets of such bank as of the end of its most recent fiscal quarter, which shall be at least one million dollars in excess of its liabilities. Such application shall be accompanied by a copy of the charter or articles of incorporation of the foreign bank, and the bylaws, or their equivalents, and all amendments thereto, duly authenticated by the proper officer of such foreign bank. Each applicant for a license to establish and maintain a state branch or state agency in this state shall pay to the commissioner, at the time of application, a nonrefundable license fee of [two] five thousand dollars.

Sec. 6. Subsection (a) of section 36a-428g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) No person shall establish or maintain a representative office in this state on behalf of one or more foreign banks unless the foreign bank to be represented has first obtained a license from the commissioner. The application for such license shall be in writing under oath and shall contain the information required by and be in the form prescribed by the commissioner. Each applicant for a license shall pay to the commissioner at the time of application a nonrefundable fee of [four] two thousand five hundred dollars. Each license issued pursuant to this section shall expire at the close of business on June thirtieth of each year, unless such license is renewed. Each licensee shall, on or before June twentieth of each year, pay to the commissioner a license fee of [four hundred] one thousand dollars for the succeeding year, commencing July first. No abatement of the license fee shall be made if the license is surrendered, cancelled, revoked or suspended prior to the expiration of the period for which it was issued. The license shall not be transferable or assignable. Each license issued under this section shall state the address or addresses at which a representative office is to be located and



shall state fully the name of the licensee. In the event the location of the representative office is changed, the licensee shall immediately notify the commissioner who shall thereupon without charge attach to the license an amendment certificate setting forth such changed location.

Sec. 7. Subdivision (3) of section 36a-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(3) "Automated teller machine" means a stationary or mobile [unattended] device that is unattended or equipped with a telephone or televideo device that allows contact with bank personnel, including a satellite device but excluding a point of sale terminal, at which banking transactions, including, but not limited to, deposits, withdrawals, advances, payments or transfers, may be conducted;



Agency Legislative Proposal - 2014 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

2014 BANKING AN ACT CONCERNING CONSTRUCTIVE SERVICE ON THE BANKING COMMISSIONER (priority 4)

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency:

DEPARTMENT OF BANKING

Liaison: James Heckman

Phone: 860-240-8105

E-mail: james.heckman@ct.gov

Lead agency division requesting this proposal:

SECURITIES AND BUSINESS INVESTMENTS DIVISION

Agency Analyst/Drafter of Proposal:

Eric Wilder, Director 860-240-8232

Title of Proposal

AN ACT CONCERNING CONSTRUCTIVE SERVICE ON THE BANKING COMMISSIONER

Statutory Reference

§ 36b-33; Section 36b-62

Proposal Summary

Please see attached Proposal Summary and Bill Draft.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

This proposal would allow constructive service on the Commissioner to be effected using certified mail in addition to registered mail and overnight delivery.

- **Origin of Proposal** X New Proposal Resubmission

If this is a resubmission, please share:

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



PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

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

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

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

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

--



PROPOSAL SUMMARY

AN ACT CONCERNING CONSTRUCTIVE SERVICE ON THE BANKING COMMISSIONER

The Banking Commissioner is responsible for enforcing and administering Chapter 672a of the Connecticut General Statutes (the Connecticut Uniform Securities Act) and Chapter 672c of the Connecticut General Statutes (the Connecticut Business Opportunity Investment Act).

Each of these statutes provides for constructive service on the Banking Commissioner with respect to certain individuals and entities subject to the Commissioner's jurisdiction. Subsections (g) and (h) of Section 36b-33 cover constructive service under the state's securities law. Subsections (e) and (f) of Section 36b-62 cover constructive service under the state's business opportunity law.

Procedurally, these sections now require that notice of service be sent by registered mail or by an express delivery courier that includes a dated delivery receipt. Certified mail is not included.

This proposal would allow constructive service to be effected using certified mail in addition to registered mail and overnight delivery.



AN ACT CONCERNING CONSTRUCTIVE SERVICE ON THE BANKING COMMISSIONER

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

Section 1. Subsection (g) of Section 36b-33 of the general statutes is repealed and the following is substituted in lieu thereof:

(g) Every applicant for registration under sections 36b-2 to 36b-34, inclusive, every investment adviser exempt under subsection (e) of section 36b-6, and every issuer, other than the United States, any state, Canada, any other foreign government with which the United States currently maintains diplomatic relations, or any issuer of covered securities under Section 18(b)(1) of the Securities Act of 1933, which proposes to offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the commissioner, in such form as the commissioner by regulation prescribes, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or her or his or her successor executor or administrator which arises under sections 36b-2 to 36b-34, inclusive, or any regulation or order thereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, **certified mail, return receipt requested**, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Section 2. Subsection (h) of Section 36b-33 of the general statutes is repealed and the following is substituted in lieu thereof:

(h) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 36b-2 to 36b-34, inclusive, or any regulation or order thereunder, and such person has not filed a consent to service of process under subsection



(g) of this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner or the commissioner's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against such person or such person's successor, executor or administrator which grows out of that conduct and which is brought under said sections or any regulation or order thereunder, with the same force and validity as if served on such person personally. Service may be made by leaving a copy of the process in the office of the commissioner, and it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, **certified mail, return receipt requested**, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last known address or takes other steps which are reasonably calculated to give actual notice, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Section 3. Subsection (e) of Section 36b-62 of the general statutes is repealed and the following is substituted in lieu thereof:

(e) Every seller proposing to sell or offer for sale a business opportunity in this state or from this state directly or through any person acting on an agency basis, as determined by reference to the principles of common law, shall file with the commissioner, in such form as the commissioner by regulation, adopted pursuant to section 36b-77, or order prescribes, an irrevocable consent appointing the commissioner to be the seller's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the seller or the seller's successor, executor or administrator that arises under sections 36b-60 to 36b-80, inclusive, or any regulation or order adopted or issued under said sections after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, **certified mail, return receipt requested**, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.



Section 4. Subsection (f) of Section 36b-62 of the general statutes is repealed and the following is substituted in lieu thereof:

(f) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 36b-60 to 36b-80, inclusive, or any regulation or order adopted or issued under said sections, and such person has not filed a consent to service of process under subsection (e) of this section and personal jurisdiction over such person cannot otherwise be obtained in this state, such conduct shall be considered equivalent to such person's appointment of the commissioner to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or such person's successor, executor or administrator that grows out of such conduct and that is brought under said sections or any regulation or order adopted or issued under said sections, with the same force and validity as if served on such person personally. Service may be made by leaving a copy of the process in the office of the commissioner, but such service shall not be effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail, return receipt requested, **certified mail, return receipt requested**, or by any express delivery carrier that provides a dated delivery receipt, to the defendant or respondent at the defendant's or respondent's last known address, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Statement of Purpose: To update Section 36b-33 and 36b-62 of the Connecticut General Statutes to permit the use of less costly certified mail as an alternative to registered mail or overnight courier.

Agency Legislative Proposal - 2014 Session

Document Name:

2014 Banking An Act Concerning Technical Changes to Banking Laws (priority 5)

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: James Heckman / Stacey Valerio

Phone: (860) 240-8105 / (860) 240-8202

E-mail: james.heckman@ct.gov / stacey.valerio@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Valerio

Title of Proposal

An Act Concerning Technical Changes to Banking Laws

Statutory Reference 36a-485, 36a-800, 36a-671d, 36a-746a, 36a-746c(1), 36a-758, 36a-760(a)(7), 36a-760e(a)(3), 42-460a, 36a-671, 36a-671a(a), 36a-486(b)(1), 36a-492

Proposal Summary

Section 1 amends Section 36a-485 to clarify that origination activity is covered by the branch office definition.

Section 2 amends Section 800 to remove an erroneous cross-reference to clarify the nature of the delinquent debt applicable in subclause (vii).

Section 3 amends Section 36a-671d to correct erroneous cross references.

Sections 4 to 9 amend Sections 36a-746a, 36a-746c(1), 36a-758, 36a-760(a)(7), 36a-760e(a)(3) and 42-460a to update cross-references to cite to federal Truth-in-Lending regulations as codified.

Sections 10 and 11 amend Sections 36a-671 and 36a-671a(a) to correct certain cross-references to capture applicable sections.

Section 12 amends Section 36a-486(b)(1) to correct an erroneous cross-reference.

Section 13 amends Section 36a-492 to correct erroneous cross-references.

PROPOSAL BACKGROUND

- Reason for Proposal

To make various technical changes to banking laws.

- Origin of Proposal New Proposal Resubmission

- Agencies Affected

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

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? YES NO

- Fiscal Impact (please include the proposal section that causes the fiscal impact and the anticipated impact)

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

None

State

None

Federal

None

Additional notes on fiscal impact

- Policy and Programmatic Impacts (Please specify the proposal section associated with the impact)

None

AN ACT CONCERNING TECHNICAL CHANGES TO BANKING LAWS

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

Section 1. Subdivision (3) of Section 36a-485 of the Connecticut General Statutes is repealed and the following substituted in lieu thereof (*Effective from passage*):

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

Sec. 2. Section 36a-800 of the general statutes, as amended by section 22 of public act 13-253, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in sections 36a-800 to 36a-810, inclusive, unless the context otherwise requires:

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

(2) "Consumer collection agency" means any person (A) engaged as a third party in the business of collecting or receiving for payment for others of any account, bill or other indebtedness from a consumer debtor, (B) engaged directly or indirectly in the business of collecting any account, bill or other indebtedness from a consumer debtor for such person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired, or (C) engaged in the business of collecting or receiving for payment property tax from a property tax debtor on behalf of a municipality, including any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person or municipality of such indebtedness for the purpose of evading the provisions of sections 36a-800 to 36a-810, inclusive. It includes persons who furnish collection systems carrying a name which simulates the name of a consumer collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the consumer debtor or property tax debtor to make payments directly to the creditor rather than to such fictitious agency. "Consumer collection agency" further includes any

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

(3) "Consumer debtor" means any natural person, not an organization, who has incurred indebtedness or owes a debt for personal, family or household purposes, including current or past due child support, or who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a personal property tax;

(4) "Creditor" means a person, including a municipality, that retains, hires, or engages the services of a consumer collection agency;

(5) "Main office" means the main address designated on the application;

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

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

(8) "Property tax" has the meaning given to the term in section 7-560;

(9) "Property tax debtor" means any natural person or organization who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a property tax.

Sec. 3. Section 36a-671d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) No debt negotiation license, and no renewal thereof, shall be granted unless the applicant has filed the surety bond required by this section, which bond shall be written by a surety authorized to write such bonds in this state.

(2) No application for a debt negotiation license for a main office, and no renewal of such a license, shall be granted unless the applicant has filed a single surety bond with the commissioner in an aggregate amount of fifty thousand dollars, or such other amount required by subdivision (4) of this subsection. No application for a debt negotiation license branch office, and no renewal of such a license, shall be granted unless the applicant has identified such branch office as a bonded location by addendum to the main office surety bond required by this section.

(3) Each debt negotiation licensee shall file a single surety bond that complies with the requirements of this section in connection with the main office license with the commissioner in an aggregate amount of fifty thousand dollars or such other amount required in subdivision (4) of this subsection, which bond shall identify any licensed branch office as a bonded location on such bond by addendum.

(4) In the case of a debt negotiation licensee engaging or offering to engage in the business of negotiating residential mortgage loans on behalf of mortgagors, such debt negotiation licensee shall file a bond in the penal sum amount set forth in subsection [(f)] (e) of this section based on the aggregate dollar amount of the residential mortgage loans negotiated or offered to be negotiated by its sponsored mortgage loan originator licensees. The principal on a bond required by this subdivision shall annually confirm that it maintains the required penal sum in the amount required by this subdivision. Not later than September 1, 2012, and each September first thereafter, a licensee shall file with the commissioner such information as the commissioner may require to confirm that the penal sum of the bond remains consistent with the amount required by this section. The principal shall file not later than September first of the applicable year, or on such other date as the commissioner may require pursuant to subsection [(h)] (g) of this section, any bond rider or endorsement to the surety bond on file with the commissioner to reflect any changes necessary to maintain the surety bond coverage required by this section.

(b) The form of any surety bond submitted pursuant to subsection (a) of this section shall be approved by the Attorney General. Any surety bond filed under subsection (a) of this section shall be conditioned upon the debt negotiation licensee and any sponsored mortgage loan originator licensee faithfully performing any and all written agreements or commitments with or for the benefit of debtors and mortgagors, as applicable, truly and faithfully accounting for all funds received from a debtor or mortgagor by the principal or a mortgage loan originator sponsored by the principal in the principal's capacity as debt negotiation licensee, and conducting such business consistent with the provisions of sections 36a-485 to 36a-498f, inclusive, 36a-534a, 36a-534b and 36a-671 to [36a-671d] 36a-671e, inclusive. Any debtor or mortgagor who may be damaged by a failure to perform any written agreements, by the wrongful conversion of funds paid by a debtor or mortgagor to a debt negotiation licensee or mortgage loan originator licensee, or by conduct inconsistent with the provisions of sections 36a-485 to 36a-498f, inclusive, 36a-534a, 36a-534b and 36a-671 to [36a-671d] 36a-671e, inclusive, may proceed on any such surety bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on any such surety bond against the principal or surety thereon, or both, to

collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50 and any unpaid costs of examination of a licensee as determined pursuant to section 36a-65. The proceeds of any bond, even if commingled with other assets of the principal, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the principal in the event of bankruptcy of the principal and shall be immune from attachment by creditors and judgment creditors. Any bond required by this section shall be maintained during the entire period of the license granted to the applicant, and the aggregate liability under any such bond shall not exceed the penal amount of the bond. The principal shall notify the commissioner of the commencement of an action on the bond. When an action is commenced on a principal's bond, the commissioner may require the filing of a new bond and immediately on recovery on any action on the bond, the principal shall file a new bond. Any mortgagor or prospective mortgagor who may be damaged by a failure of the debt negotiation licensee or mortgage loan originator licensee to satisfy a judgment against the licensee arising from the negotiation of or offer to negotiate a nonprime home loan, as defined in section 36a-760, may proceed on such bond against the principal or surety on such bond, or both, to recover the amount of the judgment.

(c) The surety shall have the right to cancel any bond written or issued under subsection (a) of this section at any time by a written notice to the debt negotiation licensee stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. No such bond shall be cancelled unless the surety notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety, the commissioner shall give written notice to the debt negotiation licensee of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the licenses of the debt negotiation licensee on such date and inactivate the license of any sponsored mortgage loan originator, unless prior to such date the debt negotiation licensee submits a letter of reinstatement of the bond from the surety or a new bond, surrenders all licenses or, in the case of a mortgage loan originator sponsored by a debt negotiation licensee, the sponsorship has been terminated and a new sponsor has been requested and approved. After a license has been automatically suspended, the commissioner shall give the debt

negotiation licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51 and shall require the debt negotiation licensee to take or refrain from taking such action as, in the opinion of the commissioner, will effectuate the purposes of this section.

(d) No licensee shall use, attempt to use or make reference to, either directly or indirectly, any word or phrase that states or implies that the licensee is endorsed, sponsored, recommended, bonded or insured by the state.

(e) The penal sum of the bond required by subdivision (4) of subsection (a) of this section shall be determined as follows:

(1) An initial applicant for a debt negotiation license shall file a bond in a penal sum of fifty thousand dollars.

(2) A debt negotiation licensee sponsoring and bonding at least one mortgage loan originator as an exempt registrant under subdivision (2) of subsection (a) and subsection [(c)] (d) of section 36a-487 shall file a bond with a penal sum in the following amount:

(A) If the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding twelve-month period ending July thirty-first of the current year is less than thirty million dollars, the penal sum of the bond shall be fifty thousand dollars;

(B) If the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding twelve-month period ending July thirty-first of the current year is thirty million dollars or more but less than fifty million dollars, the penal sum of the bond shall be one hundred thousand dollars; and

(C) If the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding twelve-month period ending July thirty-first of the current year is fifty million dollars or more, the penal sum of the bond shall be one hundred fifty thousand dollars.

(f) For purposes of subsection (e) of this section, the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated shall mean the aggregate underlying dollar amount of all residential mortgage loans for which a sponsored mortgage loan originator provides debt negotiation services.

(g) Financial information necessary to verify the aggregate amount of residential mortgage loans negotiated or offered to be negotiated shall be filed with the commissioner as the commissioner may require, and shall be reported on the system, as defined in section 36a-485, at such time and in such form as the system may require. The commissioner may require a change in the penal sum of the bond if the commissioner determines at any time that the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated warrants a change in the penal sum of the bond.

(h) The commissioner may adopt regulations in accordance with chapter 54 with respect to the requirements for such surety bonds.

Sec. 4. Section 36a-746a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this section and sections 36a-746b to 36a-746g, inclusive:

(1) "APR" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act, 15 USC Section 1601 et seq., as amended from time to time, and the regulations promulgated thereunder. For open-end lines of credit, "APR" means the highest corresponding annual percentage rate required to be disclosed under 12 CFR [226.6(a)(2) and 226.14(b)] 1026.6(a)(2) and 1026.14(b), as amended from time to time, excluding any maximum rates required to be disclosed or stated pursuant to 12 CFR [226.6(a)(2) or 226.30] 1026.6(a)(2) or 1026.30, as amended from time to time. For closed-end loans, "APR" means the annual percentage rate required to be disclosed under 12 CFR [226.18(e)] 1026.18(e), as amended from time to time, excluding any maximum rates required to be disclosed or stated pursuant to 12 CFR [226.18(f) or 226.30] 1026.18(f) or 1026.30, as amended from time to time. For purposes of this subdivision, any variable rate calculation shall use an index value in effect within forty-five days prior to consummation;

(2) “Broker” means a person who, for a fee, commission or other valuable consideration, negotiates, solicits, arranges, places or finds a high cost home loan that is to be made by a lender;

(3) “Consummation” means the time that a borrower becomes contractually obligated on a loan or extension of credit;

(4) “High cost home loan” means any loan or extension of credit, including an open-end line of credit but excluding a reverse mortgage transaction, as defined in 12 CFR [226.33] 1026.33, as amended from time to time:

(A) In which the borrower is a natural person;

(B) The proceeds of which are to be used primarily for personal, family or household purposes;

(C) In which the loan is secured by a mortgage upon any interest in one-to-four family residential property, as defined in section 36a-485, located in this state that is, or, when the loan is made, is intended to be used or occupied by the borrower as a principal residence; and

(D) In which the APR at consummation is greater than the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan or extension of credit is received by the lender, by more than the number of percentage points specified in 12 CFR [226.32(a)(1)(i)] 1026.32(a)(1)(i), as amended from time to time;

(5) “Interim interest” means interest for the period from funding to the start of amortization paid by a borrower at or before consummation of a closed-end loan where such amortization begins sixty-two days or less after funding;

(6) “Lender” means any person who originates one or more high cost home loans; and

(7) “Prepaid finance charge” means any finance charge determined in accordance with 12 CFR [226.4] 1026.4, as amended from time to time, that is paid separately in cash or by check before or at consummation of a loan or extension of credit or withheld from the proceeds of such transaction at any time, except the term includes any fees or commissions payable to the lender or broker in connection with the sale of credit life, accident, health, disability or unemployment insurance products or unrelated goods

or services sold in conjunction with the loan or extension of credit when the cost of such insurance products or goods or services is prepaid with the proceeds of the loan or extension of credit and financed as part of the principal amount of the loan or extension of credit, and excludes premiums, fees and any other amounts paid to a governmental agency, any amounts required to be escrowed by a governmental agency and interim interest.

Sec. 5. Subdivision (1) of section 36a-746c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(1) For a loan with a term of less than seven years, a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance, except that this limitation does not apply to a loan with maturities of less than one year if the purpose of the loan is a bridge loan, as used in 12 CFR [226.32] 1026.32, as amended from time to time, connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling;

Sec. 6. Section 36a-758 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Any person who makes any first mortgage loan, as defined in section 36a-485, or any secondary mortgage loan, as defined in section 36a-485, shall, at the time of consummation of such loan or at the termination of any right to rescind the loan transaction under 12 CFR [226] 1026, as amended from time to time, whichever is later, pay the loan proceeds to the mortgagor, to the mortgagor's attorney, to the mortgagee's attorney or to any other person specified in any settlement statement, any written agreement between the mortgagor and the mortgagee or any written instruction of the mortgagor, by a certified, bank treasurer's or cashier's check or by means of wire transfer.

Sec. 7. Subdivision (7) of subsection (a) of section 36a-760 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(7) "Nonprime home loan" means any loan or extension of credit, excluding an open-end line of credit, and further excluding a reverse mortgage transaction, as defined in 12 CFR [226.33] 1026.33, as amended from time to time:

(A) In which the borrower is a natural person;

(B) The proceeds of which are to be used primarily for personal family or household purposes;

(C) In which the loan is secured by a mortgage upon any interest in one-to-four family residential real property located in this state which is, or when the loan is made, intended to be used or occupied by the borrower as a principal residence;

(D) In which the principal amount of the loan does not exceed four hundred seventeen thousand dollars;

(E) Where the loan is not a CHFA loan; and

(F) In which the conditions set forth in clauses (i) and (ii) of this subparagraph apply, subject to any adjustments made pursuant to clause (iii) of this subparagraph:

(i) The difference, at the time of consummation, between the APR for the loan and the conventional mortgage rate is either equal to or greater than (I) one and three-quarters percentage points, if the loan is a first mortgage loan, or (II) three and three-quarters percentage points, if the loan is a secondary mortgage loan. For purposes of such calculation, "conventional mortgage rate" means the most recent contract interest rate on commitments for fixed-rate mortgages published by the Board of Governors of the Federal Reserve System in its statistical release H.15, or any publication that may supersede it, during the week preceding the week in which the interest rate for the loan is set. For purposes of determining the beginning of each weekly period, the first day of each week shall be the effective date for the applicable prime offer rate, as of the date the interest rate is set, as determined in accordance with subparagraph (F)(ii) of this subdivision.

(ii) The difference, at the time of consummation, between the APR for the loan or extension of credit and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than one and one-half percentage points if the loan is a first mortgage loan or three and one-half percentage points if the loan is a secondary mortgage loan. For purposes of this subparagraph, "average prime offer rate" has the meaning as provided in 12 CFR [226.35] 1026.35, as amended from time to

time. For purposes of subparagraphs (F)(i) and (F)(ii) of this subdivision, the date the interest rate is set is the last date the interest rate is set, provided the rate is adjusted on or before consummation.

(iii) The commissioner shall have the authority, after consideration of the relevant factors, to increase the percentages set forth in clauses (i) and (ii) of this subparagraph. For purposes of this clause, the relevant factors to be considered by the commissioner shall include, but not be limited to, the existence and amount of increases in fees or charges in connection with purchases of mortgages by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and increases in fees or charges imposed by mortgage insurers and the impact, including the magnitude of the impact, that such increases have had, or will likely have, on APRs for mortgage loans in this state. When considering such factors, the commissioner shall focus on those increases that are related to the deterioration in the housing market and credit conditions. The commissioner may refrain from increasing such percentages if it appears that lenders are increasing interest rates or fees in bad faith or if increasing the percentages would be contrary to the purposes of sections 36a-760 to 36a-760f, inclusive. No increase authorized by the commissioner to a particular percentage shall exceed one-quarter of one percentage point, and the total of all increases to a particular percentage under this clause shall not exceed one-half of one percentage point. No increase shall be made unless: (I) The increase is noticed in the Banking Department Bulletin and the Connecticut Law Journal, and (II) a public comment period of twenty days is provided. Any increase made under this clause shall be reduced proportionately when the need for the increase has diminished or no longer exists. The commissioner, in the exercise of his discretion, may authorize an increase in the percentages with respect to all loans or just with respect to a certain class or classes of loans;

Sec. 8. Subdivision (3) of subsection (a) of section 36a-760e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) For a loan with a term of less than seven years, a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance, except that this limitation does not apply to a loan with maturities of less than one year if the purpose of the loan is a

bridge loan, as used in 12 CFR [226.32] 1026.32, as amended from time to time, connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling;

Sec. 9. Section 42-460a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "general-use prepaid card" has the same meaning given to that term in 12 CFR [205.20(a)(3)] 1005.20(a)(3), as from time to time amended.

(b) A general-use prepaid card shall not include an expiration date relative to the underlying funds that are redeemable through the use of the applicable card, code or device. Notwithstanding the provisions of this subsection, a general-use prepaid card may include an expiration date with regard to such card, code or device, provided: (1) The following disclosures are made, in writing, on such card, code or device: (A) That such card, code or device expires, but that the underlying funds do not expire and that the consumer may contact the issuer for a replacement card, code or device; and (B) a toll-free telephone number and an Internet web site address, if one is maintained, that a holder of a general-use prepaid card may use to obtain a replacement card, code or device after such card, code or device expires; (2) no fee or charge is imposed on such holder for replacing the card, code or device or for providing such holder with the remaining balance in some other manner, provided the card, code or device has not been lost or stolen; and (3) the seller of the card, code or device has established policies and procedures to provide consumers a reasonable opportunity to purchase a card, code or device that has not less than five years remaining until the card, code or device expires.

(c) For purposes of complying with the disclosure requirements of subdivision (1) of subsection (b) of this section, (1) the issuer of the general-use prepaid card may provide disclosures that are consistent with the applicable provisions of 12 CFR [205.20(e)] 1005.20(e), as from time to time amended, and (2) such issuer shall make the disclosure required under subparagraph (A) of said subdivision (1) with equal prominence and in close proximity to the expiration date on the applicable card, code or device.

Sec. 10. Section 36a-671 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section and sections 36a-671a to [36a-671d] 36a-671e, inclusive, (1) “debt negotiation” means, for or with the expectation of a fee, commission or other valuable consideration, assisting a debtor in negotiating or attempting to negotiate on behalf of a debtor the terms of a debtor’s obligations with one or more mortgagees or creditors of the debtor, including the negotiation of short sales of residential property or foreclosure rescue services; (2) “debtor” means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes; (3) “mortgagee” means the original lender under a mortgage loan secured by residential property or its agents, successors or assigns; (4) “mortgagor” means a debtor who is an owner of residential property, including, but not limited to, a single-family unit in a common interest community, who is also the borrower under a mortgage encumbering such residential property; (5) “short sale” means the sale of residential property by a mortgagor for an amount less than the outstanding balance owed on the loan secured by such property where, prior to the sale, the mortgagee or an assignee of the mortgagee agrees to accept less than the outstanding loan balance in full or partial satisfaction of the mortgage debt and the proceeds of the sale are paid to the mortgagee or an assignee of the mortgagee; (6) “foreclosure rescue services” means services related to or promising assistance in connection with (A) avoiding or delaying actual or anticipated foreclosure proceedings concerning residential property, or (B) curing or otherwise addressing a default or failure to timely pay with respect to a mortgage loan secured by residential property, and includes, but is not limited to, the offer, arrangement or placement of a mortgage loan secured by residential property or other extension of credit when those services are advertised, offered or promoted in the context of foreclosure related services; and (7) “residential property” means one-to-four family owner-occupied real property.

(b) No person shall engage or offer to engage in debt negotiation in this state without a license issued under this section for each location where debt negotiation will be conducted. Any person desiring to obtain such a license shall file with the commissioner an application under oath, setting forth such information as the commissioner may require. Each applicant for a license and each licensee shall notify the commissioner of any change in the applicant’s business from that stated in the application for the

license. A person is engaging in debt negotiation in this state if such person: (1) Has a place of business located within this state; (2) has a place of business located outside of this state and the debtor is a resident of this state who negotiates or agrees to the terms of the services in person, by mail, by telephone or via the Internet; or (3) has its place of business located outside of this state and the services concern a debt that is secured by property located within this state.

(c) An application for an original or renewal debt negotiation license shall be in writing on a form provided by the commissioner and shall include (1) the history of criminal convictions of the (A) applicant, (B) partners, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, or (D) officers, directors and principal employees, if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (d) of this section. The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the applicant and of each partner, member, officer, director and principal employee of the applicant. The commissioner may deem an application for a debt negotiation license abandoned if the applicant fails to respond to any request for information required under sections 36a-671 to [36a-671d] 36a-671e, inclusive, or any regulations adopted pursuant to said sections 36a-671 to [36a-671d] 36a-671e, inclusive. The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-671 to [36a-671d] 36a-671e, inclusive.

(d) If the commissioner finds, upon the filing of an application for a debt negotiation license, that: (1) The financial responsibility, character, reputation, integrity and general fitness of the (A) applicant, (B) partners thereof, if the applicant is a partnership, (C) members, if the applicant is a limited liability

company or association, and (D) officers, directors and principal employees, if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-671 to [36a-671d] 36a-671e, inclusive; and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a debt negotiation license. Such debt negotiation license shall not be transferable. Any change of location of a licensee shall require prior written notice to the commissioner. No licensee shall use any name unless such name has been approved 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 reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted of any misdemeanor involving any aspect of the debt negotiation business or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) Each applicant for an original or renewal debt negotiation license shall, at the time of making such application, pay to the commissioner an application fee of one thousand six hundred dollars, provided, if such application is filed not earlier than one year before the date such license will expire, such person shall pay a license fee of eight hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed. Each licensee shall, on or before September first of the year in which the license expires, file such renewal application as the commissioner may require. Whenever an application for a license is filed under this section by any person who was a licensee under this section and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

(f) If the commissioner determines that a check filed with the commissioner to pay an application fee has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51.

(g) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued. The fee required by subsection (e) of this section shall be nonrefundable.

Sec. 11. Subsection (a) of section 36a-671a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner may suspend, revoke or refuse to renew any license or take any other action, in accordance with the provisions of section 36a-51, for any reason that would be sufficient grounds for the commissioner to deny application for a license under sections 36a-671 to 36a-671e, inclusive, or if the commissioner finds that the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has done any of the following: (1) Made any material misstatement in the application; (2) committed any fraud or misappropriated funds; (3) violated any of the provisions of sections 36a-671 to [36a-671d] 36a-671e, inclusive, or any other law or regulation applicable to the conduct of its business; or (4) failed to perform any agreement with a debtor.

Sec. 12. Subdivision (1) of subsection (b) of section 36a-486 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(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. An individual, unless specifically exempted under subdivision (2) of this subsection, shall not engage in the business of a mortgage loan originator on behalf of a licensee or a person exempt under section 36a-487 with respect to any residential mortgage loan

without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489. An individual, unless specifically exempted under subdivision (2) of this subsection, shall be deemed to be engaged in the business of a mortgage loan originator if such individual: (A) Acts as a mortgage loan originator in connection with any residential mortgage loan on behalf of a licensee or person exempt under section 36a-487; or (B) makes any representation to the public through advertising or other means of communication that such individual can or will act as a mortgage loan originator on behalf of a licensee or person exempt under section 36a-487. Each licensed mortgage loan originator and each licensed loan processor or underwriter shall register with and maintain a valid unique identifier issued by the system. No individual may act as a mortgage loan originator for more than one person at the same time. No loan processor or underwriter licensee may be sponsored by more than one person at a time. The license of a mortgage loan originator or a loan processor or underwriter is not effective during any period when such mortgage loan originator or a loan processor or underwriter is not sponsored by a licensed mortgage lender, mortgage correspondent lender or mortgage broker, or by a person registered as an exempt registrant under subsection [(c)] (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.

Sec. 13. Subsection (d) of section 36a-492 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) The penal sum of the bond required by subdivisions (1) to (3), inclusive, of subsection (a) of this section shall be determined as follows:

(1) An applicant for an initial mortgage lender license or mortgage correspondent lender license shall file a bond in a penal sum of one hundred thousand dollars in connection with its application for the main office.

(2) An applicant for an initial mortgage broker license shall file a bond in a penal sum of fifty thousand dollars in connection with its application for the main office.

(3) Effective October 1, 2011, an exempt registrant under subsection [(c)] (d) of section 36a-487 who is exempt from licensing under subdivision (1) of subsection (a) of section 36a-487 shall file a bond in a penal sum of one hundred thousand dollars the first time such exempt registrant sponsors a mortgage loan originator.

(4) Effective October 1, 2011, an exempt registrant under subsection [(c)] (d) of section 36a-487 who is exempt from licensure under subsection (b) of section 36a-487 shall file a bond in a penal sum of fifty thousand dollars the first time such exempt registrant sponsors a mortgage loan originator.

(5) Effective October 1, 2011, an exempt registrant under subsection [(c)] (d) of section 36a-487, as who is exempt from licensure under subdivision (2) of subsection (a) of section 36a-487 shall file a bond in a penal sum as set forth in section 36a-671d.

(6) (A) For mortgage lender and mortgage correspondent lender licensees, and, after October 1, 2011, persons sponsoring and bonding at least one mortgage loan originator as an exempt registrant under subsection [(c)] (d) of section 36a-487 and who are exempt from licensing under subdivision (1) of subsection (a) of section 36a-487 if (i) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is less than thirty million dollars, the penal sum of the bond shall be one hundred thousand dollars; (ii) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is thirty million dollars or more but less than one hundred million dollars, the penal sum of the bond shall be two hundred thousand dollars; (iii) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is one hundred million dollars or more but less than two hundred fifty million dollars, the penal sum of the bond shall be three hundred thousand dollars; and (iv) the aggregate

dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is two hundred fifty million dollars or more, the penal sum of the bond shall be five hundred thousand dollars.

(B) For mortgage broker licensees and, after October 1, 2011, persons who are sponsoring and bonding at least one mortgage loan originator as an exempt registrant under subsection [(c)] (d) of section 36a-487 and who are exempt from licensing under subsection (b) or (c) of section 36a-487 if (i) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is less than thirty million dollars, the penal sum of the bond shall be fifty thousand dollars; (ii) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is thirty million dollars or more but less than fifty million dollars, the penal sum of the bond shall be one hundred thousand dollars; and (iii) the aggregate dollar amount of all residential mortgage loans originated by such licensee at all licensed locations or by the exempt registrant during the preceding twelve-month period ending July thirty-first of the current year is fifty million dollars or more, the penal sum of the bond shall be one hundred fifty thousand dollars.

(7) For purposes of this subsection, the aggregate dollar amount of all residential mortgage loans originated by such licensee or, after October 1, 2011, such exempt registrant, includes the aggregate dollar amount of all closed residential mortgage loans that the licensee or exempt registrant originated, brokered or made, as applicable.

(8) Financial information necessary to verify the aggregate dollar amount of residential mortgage loans originated shall be filed with the commissioner, as the commissioner may require, and shall be reported on the system at such time and in such form as the system may require.

(9) The commissioner may require a change in the penal sum of the bond if the commissioner determines at any time that the aggregate dollar amount of all residential mortgage loans originated warrants a change in the penal sum of the bond.

Statement of Purpose: To make technical and other conforming changes.