



Agency Legislative Proposal - 2015 Session

Document Name 2014101_DOB_Minor_Rev_Financial_Institutions (Priority 1)

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

State Agency: **Department of Banking**

Liaison: Bruce Adams

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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 Minor revisions to Connecticut's Financial Institutions Statutes

Statutory Reference

36a-633(a), 36a-65(d)(1), 36a-382, 36a-428a(a), 36a-428g(a), 36a-440b(a), 36a-82(c), 36a-86(a), 36a-170 and 36a-185(c)

Proposal Summary

This proposal increases certain rarely-triggered fees to be in line with other states' fees, clarifies reporting obligations of Connecticut credit unions, permits mailing methods other than registered or certified mail for notices required by 36a-82, establishes deadline for submission of annual audits, updates the "home banking" statute and clarifies requirements for commissioner's approval under 36a-185(c).

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?*

Sections 1 – 5: 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. 6: To clarify that Connecticut credit unions must comply with federal (NCUA) requirements for filing their quarterly call reports (and to update statute to reflect actual practice). NCUA recently required all credit unions to file quarterly call reports electronically and NCUA provides the Department with electronic access to the reports. Since Connecticut credit unions already file the call reports with NCUA and the Department can access these reports, the Department believes the existing language in 36a-440b is burdensome and duplicative and recommends changing the language to eliminate the requirement that credit unions file call reports with the Commissioner.

Sec. 7: To allow banks that are applying for a name change to meet the mailing requirement under 36a-82(c) by using any method of mailing that provides confirmation of delivery. Banks have had difficulty using certified mail.

Sec. 8: To establish a deadline by which Connecticut banks must provide a copy of their annual audit to the Department. Certain Connecticut banks are required to file audits with the FDIC. This section would require Connecticut banks to file the audits with the Department by the date they are required to file with the FDIC or 120 days, but allows the Commissioner to extend the deadline for good cause.

Sec. 9: To update/modernize the “home banking” statute to reflect technological advances in the provision of banking services.

Sec. 10: To clarify that the existing language in 36a-185 requiring the Commissioner to disapprove an acquisition if the acquiring person’s anti-money laundering policies are not adequate or if the acquiring person does not have a record of compliance with anti-money laundering laws and regulations applies to the extent the acquiring person is subject to anti-money laundering laws and regulations. The acquiring person may be a holding company that is not directly subject to such laws and regulations.

- **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? ___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 Sections 1 – 5 propose increases in certain fees that are expected to result in minimal/nominal 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 (a) of section 36a-633 of the general statutes, as amended by Public Act 14-89, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(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 renewal 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. 2. 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, 2015*):

(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. 3. Section 36a-382 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

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. 4. Subsection (a) of section 36a-428a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(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. 5. Subsection (a) of section 36a-428g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(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. 6. Subsection (a) of section 36a-440b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) A Connecticut credit union shall [submit a written report to the commissioner annually on February first and August first and otherwise as often as the commissioner deems necessary. The report shall be in the form prescribed by the commissioner, list the assets and liabilities of the Connecticut credit union and contain any other information the commissioner may require. The Connecticut credit union shall also provide the commissioner with] file (1) financial and statistical reports with the National Credit Union Administration or its successor agency in accordance with and at such times as required by 12 CFR 741.6, as amended from time to time, and (2) such other reports and information as may be required by the commissioner. Each Connecticut credit union that fails to file any report or information required by this section shall pay to the commissioner one hundred dollars for each day that it fails to file such report or information.

Sec. 7. Subsection (c) of Section 36a-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(c) Upon receiving such application, the commissioner shall cause notice of its submission to be published in the department's weekly bulletin. The notice shall state that written objections to such application may be made, for a period of thirty days from the date of publication of the bulletin, on the grounds that the name selected will tend to confuse the public. At least ten days prior to the date by which objections may be made, the applicant shall mail a copy of the application and a notice of the date by a means that provides confirmation of delivery, including, but not limited to, registered or certified mail, return receipt requested, to each bank or out-of-state bank having its main office or a branch in the town or towns in which the applicant has its main office or a branch.

Sec. 8. Subsection (a) of Section 36a-86 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) The governing board of each Connecticut bank shall annually procure an audit or examination by certified public accountants or holders of certificates of authority as public accountants selected by vote of the governing board or a duly authorized committee thereof, and such accountants shall agree to provide related



working papers, policies and procedures to the commissioner, if requested. The accountants shall thoroughly examine the books, records, accounts and affairs of such bank and submit a signed report of the audit or examination showing the condition of the bank to the governing board of such bank within a reasonable period of time following the conclusion of the audit or examination. The signed report shall be kept on file in such bank and a copy shall be filed with the commissioner not later than the earlier of (1) one hundred twenty days following the close of such bank's fiscal year, or (2) the date prescribed by federal law for such bank to file such audit or examination with the applicable federal banking regulator, unless the commissioner extends such deadline for good cause shown. Members of the governing board of such Connecticut bank shall not be personally liable for any loss suffered by such bank through the wrongdoing or negligence of any officer or employee, which wrongdoing or negligence should have been discovered by the accountants in the performance of their duties, provided such members shall have exercised due care to procure thorough and substantial audits by the accountants.

Sec. 9. Section 36a-170 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) As used in this section, ["home banking services" means the electronic transfer of funds or information, or the performance of other permissible banking services or transactions for a customer by means of a home banking terminal; and "home banking terminal" means any electronic home or office terminal, including, but not limited to, a computer terminal, television, telephone, facsimile machine or other electronic device, that is not accessible to the public and does not accept deposits.

(b) Any bank or out-of-state bank, and any Connecticut credit union or federal credit union may provide home banking services to customers.] "virtual banking" means the provision of banking services by any bank, out-of-state bank, Connecticut credit union or federal credit union pursuant to its charter that are made available to a customer through telecommunication or by the customer accessing the internet.

[(c)] (b) Any electronic transfer of funds [by means of a home banking terminal authorized under this section] initiated through virtual banking shall be subject to the Electronic Fund Transfer Act, 15 USC Section 1693, et seq., as from time to time amended, and Regulation E, 12 CFR Part 205, as from time to time amended.



[(d) Home banking terminals are not automated teller machines, satellite devices, branches or offices for any purpose under this title.] (c) The means by which a customer accesses a telecommunication system or the internet to engage in virtual banking, including but not limited to a television, telephone, facsimile machine or computer, shall not, in and of itself, be deemed to be an automated teller machine, satellite device, branch or office for any purpose under this title.

Sec. 10. Subsection (c) of Section 36a-185 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(c) The commissioner shall disapprove such offer, invitation, request, agreement or acquisition if: (1) It involves the acquisition of the voting securities or securities convertible into voting securities of a bank that has not been in existence and continuously operating for at least five years, or a holding company, the subsidiary banks of which have not been in existence and continuously operating for at least five years, unless the commissioner waives this requirement; (2) the acquiring person, including all insured depository institutions which are affiliates of the person, upon consummation of the acquisition, would control thirty per cent or more of the total amount of deposits of insured depository institutions in this state, unless the commissioner permits a greater percentage of such deposits; (3) the commissioner cannot make the findings required by section 36a-34; or (4) to the extent the acquiring person is subject to anti-money-laundering laws and regulations, the programs, policies and procedures of the acquiring person relating to anti-money-laundering activity are inadequate, and the acquiring person does not have a record of compliance with anti-money-laundering laws and regulations. In making the determination to disapprove or not to disapprove such offer, invitation, request, agreement or acquisition, the commissioner shall consider whether: (A) The investment and lending policies of the bank referred to in the acquisition statement are consistent with safe and sound banking practices and will benefit the economy of this state; (B) the services or proposed services of the bank referred to in the acquisition statement are consistent with safe and sound banking practices and will benefit the economy of this state; (C) the proposed acquisition will not substantially lessen competition in the banking industry of this state; and (D) the acquiring person, if such person would be the beneficial owner of twenty-five per cent or more of any class of voting securities of the bank or holding company referred to in the acquisition statement, (i) has sufficient capital to ensure, and agrees to ensure, that the bank referred to in the acquisition statement will comply with



applicable minimum capital requirements, and (ii) has sufficient managerial resources to operate the bank or holding company referred to in the acquisition statement in a safe and sound manner.

Agency Legislative Proposal - 2015 Session

Document Name: 2014101 AAC Mortgage Correspondent Lenders (priority 2)

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

State Agency: Department of Banking

Liaison: Bruce Adams

Phone: (860) 240-8105

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Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Valerio

(860) 240-8141; stacey.valerio@ct.gov

Title of Proposal

An Act Concerning Mortgage Correspondent Lenders

Statutory References 36a-718(b), Section 9 of Public Act 14-89

Proposal Summary

This proposal makes a minor clarification that mortgage correspondent lenders are exempt from the mortgage servicer licensing and bonding requirements. This will conform the statutes to current practice.

PROPOSAL BACKGROUND

• Reason for Proposal

Current Law appears to require licensed mortgage correspondent lenders to obtain an additional mortgage servicer license as of January 1, 2015 if they act as mortgage servicers during the 90 day period that they are permitted to hold the residential mortgage loans that they have funded. As mortgage servicer licensees, Public Act 14-89 also requires them to obtain additional bonds and insurance coverage.

These requirements were unintended, and the Department intends to take a "no action" position on the January 1, 2015 licensing requirement (and attendant bonding and insurance requirements) for duly licensed mortgage correspondent lenders when they act as mortgage servicers during the 90 day holding period.

Accordingly, this bill proposes to exempt licensed mortgage correspondent lenders from an additional mortgage servicer licensing requirement (and attendant servicer bonding and insurance requirements) when they act as mortgage servicers during the 90 day holding period, while continuing to subject them to other conduct requirements and standards imposed on mortgage servicers by Public Act 14-89.

• 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 MORTGAGE SERVICERS

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

Section 1. Subsection (b) of section 36a-718 of the general statutes, as amended by section 4 of public act 14-89, is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(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; (2) any wholly-owned subsidiary of such bank or credit union; (3) any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same such bank or credit union; [and] (4) 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, provided (A) such person meets the supplemental mortgage servicer surety bond, fidelity bond and errors and omissions coverage requirements under section 8 of public act 14-89, [NEEDS TO BE REPLACED WITH CODIFIED STATUTE] and (B) during any period that the license of the mortgage lender in this state has been suspended, such exemption shall not be effective [.] and (5) any person licensed as a mortgage correspondent lender in this state while acting as a mortgage servicer with respect to any residential mortgage loan it has made and during the ninety day holding period for such loan from a location licensed as a main office or branch office under sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b, provided that during any period the license of the mortgage correspondent lender in this state has been suspended, such exemption shall not be effective.

Sec. 2. Section 9 of public act 14-89 is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) Each mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) QI f2} of subsection (b) of section 36a-718, as amended by this act, shall maintain adequate records of each residential mortgage loan transaction at the office named in the mortgage servicer or mortgage

lender license, or, if requested by the [Banking Commissioner] 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) A 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 notifications 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 that documents all verbal communications 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) Every mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) or (5) of subsection (b) of section 36a-718, as amended by this act, shall retain the records of each residential mortgage loan serviced for not less than two years following the final payment on such residential mortgage loan, 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 mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) of subsection (b) of section 36a-718, as amended by this act, shall keep and use in its business books, accounts and records that will enable the commissioner to determine whether such mortgage servicer is complying with the provisions of sections 36a-715 to 36a-718, inclusive, as amended by this act, and sections 5 to 17, inclusive, of public act 14-89, [NOT CODIFIED YET-TO BE REPLACED AFTER LCO CODIFICATION] and with any regulations adopted pursuant thereto.

Statement of Purpose: To exempt mortgage correspondent lenders from mortgage servicer licensing and bonding requirements.

Agency Legislative Proposal - 2015 Session

Document Name: 2014101_AAC_Mortgage_Bonds (priority 3)

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

State Agency: Department of Banking

Liaison: Bruce Adams

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E-mail: bruce.adams@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Valerio – (860) 240-8141 stacey.valerio@ct.gov

Title of Proposal

An Act Concerning Mortgage Bonds

Statutory References 36a-492, 36a-487(d)

Proposal Summary

To amend Section 36a-492 to align volume look-back periods used by mortgage lenders, mortgage correspondent lenders, mortgage brokers and exempt registrants to calculate and confirm their bonding requirements with quarterly mortgage call reports.

To amend Section 36a-487(d) to clarify that approvals of exempt registrations only reflect approval to use the Nationwide Mortgage Licensing System and Registry (“NMLS”) for sponsoring and bonding under a claimed exemption and do not reflect affirmative approval of exempt status.

PROPOSAL BACKGROUND

- **Reason for Proposal**

This proposal amends Section 36a-492 to align bond volume look-back periods (used by mortgage lenders, mortgage correspondent lenders, mortgage brokers and exempt registrants to calculate and confirm their bonding requirements) with periods of time consistent with quarterly mortgage call reports.

Currently, Section 36a-487(d) permits persons to utilize the NMLS as exempt registrants for purposes of sponsoring a mortgage loan originator, loan processor, or underwriter. The exempt registrant platform on the NMLS system requires the Banking Commissioner to initially approve or deny a registration and also requires the registrant to seek renewal annually to maintain the registration. This proposal simply clarifies that approvals of exempt registrations by the Commissioner, either initially or at renewal, only reflect the Commissioner’s approval of the registration for purposes of sponsoring and bonding under a claimed exemption and does not constitute an affirmative approval of the sponsor’s exempt status.

- **Origin of Proposal**

 X **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 MORTGAGE BONDS

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

Section 1. Section 36a-492 of the general statutes, as amended by section 12 of public act 14-7 and section 47 of public act 14-89, is repealed and the following is substituted in lieu thereof (*Effective on passage*):

(a) (1) Each licensed mortgage lender, mortgage correspondent lender and mortgage broker shall file with the commissioner a single surety bond, written by a surety authorized to write such bonds in this state, covering its main office and file an addendum to such bond to cover any branch office, in a penal sum determined in accordance with subsection (d) of this section, provided the penal sum of the bond for licensed mortgage lenders and mortgage correspondent lenders shall be not less than one hundred thousand dollars and the penal sum of the bond for mortgage brokers shall be not less than fifty thousand dollars. The bond shall cover all mortgage loan originators sponsored by such licensee.

(2) Each mortgage loan originator licensee shall be covered by a surety bond with a penal sum in an amount that reflects the dollar amount of loans originated by such mortgage loan originator in accordance with subsection (d) of this section, provided such coverage shall be provided through a single surety bond filed with the commissioner by the person who sponsors such mortgage loan originator.

(3) Effective October 1, 2011, (A) in the case of an exempt registrant under subdivision (1), (2) or (3) of subsection (a) of section 36a-487: [,] (i) the surety bond shall cover all mortgage loan originators sponsored by such exempt registrant and comply with the requirements set forth in this section, and (ii) the penal sum of such bond shall be in an amount determined in accordance with subsection (d) of this section, provided the penal sum of the bond shall be not less than one hundred thousand dollars; (B) in the case of an exempt registrant under subsection (b) of section 36a-487: [,] (i) the surety bond shall cover all mortgage loan originators sponsored by such exempt registrant and comply with the requirements set forth in this section, and (ii) the penal sum of the bond shall be in an amount determined in accordance with subsection (d) of this section, provided the penal sum shall be not less than fifty thousand dollars;

and (C) in the case of an exempt registrant under subdivision (4) of subsection (a) of section 36a-487, the surety bond shall cover all mortgage loan originators sponsored by such exempt registrant and comply with the requirements set forth in section 36a-671d.

(4) (A) The principal on a bond required by subdivisions (1) and (2) of this subsection shall annually confirm in connection with any renewal request that it maintains the required penal sum in an amount required by subsection (d) of this section, after review of the four quarter period ending June 30. [Not later than September 1, 2011, and every September first thereafter, such] The principal shall file such information as the commissioner may require under subsection (d) of this section and shall file, [not later than September first of the applicable year, or on such other date] as the commissioner may require, pursuant to subdivision (d) 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) Effective October 1, 2011, the principal on a bond required by subdivision (3) of this section shall annually confirm in connection with any renewal request that it maintains the required penal sum in an amount required by subsection (d) of this section, after review of the four quarter period ending June 30. [Not later than September 1, 2012, and every September first thereafter, such] The principal shall file such information as the commissioner may require under subsection (d) of this section and shall file, [not later than September first of the applicable year, or on such other date] as the commissioner may require pursuant to subdivision (d) 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.

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

(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 lender, mortgage correspondent lender or mortgage broker licensee and any mortgage loan originator licensee sponsored by such mortgage lender,

mortgage correspondent lender or mortgage broker or, in the case of a mortgage loan originator licensee sponsored after October 1, 2011, by an exempt registrant, upon such mortgage loan originator licensee faithfully performing any and all written agreements or commitments with or for the benefit of borrowers and prospective borrowers, truly and faithfully accounting for all funds received from a borrower or prospective borrower by the licensee in the licensee's capacity as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator, and conducting such mortgage business consistent with the provisions of sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b. Any borrower or prospective borrower who may be damaged by failure to perform any written agreements or commitments, or by the wrongful conversion of funds paid by a borrower or prospective borrower to a licensee, may proceed on such bond against the principal or surety thereon, or both, to recover damages. Commencing August 1, 2009, any borrower or prospective borrower who may be damaged by a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator licensee's failure to satisfy a judgment against the licensee arising from the making or brokering of a nonprime home loan, as defined in section 36a-760, may proceed on such bond against the principal or surety thereon, or both, to recover the amount of the judgment. 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 and any unpaid costs of examination of a licensee as determined pursuant to section 36a-65. 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 and such notice shall be deemed notice to each mortgage loan originator licensee sponsored by such principal. The commissioner shall automatically suspend the licenses of a mortgage lender, mortgage correspondent lender or mortgage broker on such date and inactivate the licenses of the mortgage loan originators sponsored by such lender, correspondent lender or broker. On and after October 1, 2011, in the case of a cancellation of an exempt registrant's bond, the commissioner shall inactivate the licenses of the mortgage loan originators sponsored by such exempt registrant. 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, (2) the mortgage lender, mortgage correspondent lender or mortgage broker licensee has ceased business and has surrendered all licenses in accordance with subsection (a) of section 36a-490, or (3) in the case of a mortgage loan originator licensee, the sponsorship with the mortgage lender, mortgage correspondent lender or mortgage broker who was automatically suspended pursuant to this section or, after October 1, 2011, with the exempt registrant who failed to provide the bond required by this section, has been terminated and a new sponsor has been requested and approved. After a mortgage lender, mortgage correspondent lender or mortgage broker 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 36a-494 and an opportunity for a hearing on such action in accordance with section 36a-51 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. Effective October 1, 2011, the commissioner may provide information to an exempt registrant concerning

actions taken by the commissioner pursuant to this subsection against any mortgage loan originator licensee that was sponsored and bonded by such exempt registrant.

(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 (d) of section 36a-487 who is exempt from [licensing] licensure under subdivision (1), (2) or (3) 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 (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 (d) of section 36a-487 [, as] who is exempt from licensure under subdivision (4) 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 (d) of section 36a-487 and who are exempt from licensing under subdivision (1), (2) or (3) 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] four quarters ending June 30 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] four quarters ending June 30 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] four quarters ending June 30 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 four quarters ending June 30 [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 (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] four quarters ending June 30 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] four quarters ending June 30 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] four quarters ending June 30 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.

Sec. 2. Subsection (d) of section 36a-487 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective on passage*):

(d) Any person [exempt] claiming exemption from licensure under this section may register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or a loan processor or underwriter pursuant to subdivision (1) of subsection (b) of section 36a-486. Such registration shall not affect the exempt status of such person. Any approval of such registration, or any approval of any renewal of such registration, shall not constitute a determination by the commissioner that such entity is in fact exempt, but rather shall evidence the commissioner's approval to use the system for purposes of sponsoring and bonding.

Statement of Purpose: To align volume look-back periods used by mortgage lenders, mortgage correspondent lender, mortgage brokers and exempt registrants to calculate and confirm their bonding requirements to system call reports; and to clarify that approvals of exempt registrations only reflect approval to use the system for sponsoring and bonding under a claimed exemption and do not reflect affirmative approval of exempt status.

Agency Legislative Proposal - 2015 Session

Document Name: 2014101_DOB_Collection_Agency_Tech_Revisions (Priority 4)

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

State Agency: Department of Banking

Liaison: **Bruce Adams** Phone:

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Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Doniel Kitt: (860) 240-8153 - doniel.kitt@ct.gov

Title of Proposal

An Act Concerning Technical Revisions to Consumer Collection Agency Statutes

Statutory References 36a-59(b), 36a-412(a)(4)(A), 36a-800, 36a-801, 36a-804, 36a-805(a), 36a-810

Proposal Summary

This proposal makes technical changes to incorporate Sections 36a-811 and 36a-812, enacted in 2013, within the group of inclusive sections used within the statutes related to consumer collection agencies. This proposal incorporates the new laws by changing “Sections 36a-800 to 36a-810, inclusive,” to “Sections 36a-800 to 36a-812, inclusive.”

PROPOSAL BACKGROUND

- Reason for Proposal

To update the consumer collection statutes to incorporate new sections previously enacted by P.A. 14-89.

- Origin of Proposal X 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 REVISIONS
TO CONSUMER COLLECTION AGENCY STATUTES**

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

Section 1. Subsection (b) of section 36a-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

The commissioner may enter into cooperative, coordinating or information-sharing agreements with any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination, examination fees or other supervision of any person subject to the provisions of sections 36a-485 to [36a-810] 36a-812, inclusive. Any such agreement may include provisions concerning the assessment or sharing of fees for such examination or supervision.

Sec. 2. Subparagraph (A) of subdivision (4) of subsection (a) section 36a-412 of the general statutes, as amended by section 20 of public act 14-89, is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(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, **sections 5 to 17, inclusive, of public act 14-89, [NOT CODIFIED YET-TO BE REPLACED AFTER LCO CODIFICATION]** 36a-725, 36a-726, 36a-755 to 36a-759, inclusive, 36a-770 to 36a-788, inclusive, and 36a-800 to [36a-810] 36a-812, 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.

Sec. 3. Sec. 36a-800 of the 2014 supplement to the general statutes, as amended by section 2 of public act 14-7, is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

As used in sections 36a-800 to [36a-810] 36a-812, 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] 36a-812, 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, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent debt secured by real property. Any person not included in the definition contained in this subdivision is, for purposes of sections 36a-645 to 36a-647, inclusive, a “creditor”, as defined in section 36a-645;

(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. 4. Sec. 36a-801 of the 2014 supplement to the general statutes, as amended by section 39 of public act 14-89, is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) No person shall act within this state as a consumer collection agency unless such person has first obtained a consumer collection agency license for such person's main office and each branch office where such person's business is conducted. A consumer collection agency is acting within this state if it (1) has its place of business located within this state; (2) has its place of business located outside this state and (A) collects from consumer debtors or property tax debtors who reside within this state for creditors who are located within this state, or (B) collects from consumer debtors or property tax debtors who reside within this state for such consumer collection agency's own account; (3) has its place of business located outside this state and regularly collects from consumer debtors or property tax debtors who reside within this state for creditors who are located outside this state; or (4) has its place of business located outside this state and is engaged in the business of collecting child support for creditors located within this state from consumer debtors who are located outside this state.

(b) Any person desiring to act within this state as a consumer collection agency shall make a written application to the commissioner for such license in such form as the commissioner prescribes. Such application shall be accompanied by (1) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to execute such documents, (2) (A) the history of criminal convictions of the (i) applicant; (ii) partners, if the applicant is a partnership; (iii) members, if the applicant is a limited liability company or association; or (iv) officers, directors and principal employees, if the applicant is a corporation, and (B) sufficient information pertaining to the history of criminal convictions of such applicant, partners, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (c) of this section, (3) a license fee of eight hundred dollars, or in the case of an initial application that is filed not earlier than one year before the date such license will expire, a license fee of four hundred dollars, and (4) an investigation fee of one hundred dollars. The commissioner shall cause to be made such inquiry and examination as to the qualifications of each such applicant or any partner, member, officer, director or principal employee of the applicant as the commissioner deems necessary. 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 such applicant. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially responsible.

(c) If the commissioner finds, upon the filing of an application for a consumer collection agency, that (1) the financial responsibility, character, reputation, integrity and general fitness of the applicant and the partners of such applicant if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a corporation, are such to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-800 to [36a-810] 36a-812, 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, upon such finding, issue the applicant a consumer collection agency license. 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 such applicant has been convicted of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Any such license issued by the commissioner shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed. The commissioner may renew such application, in the commissioner's discretion, upon filing of a proper renewal application accompanied by a license fee of eight hundred dollars, and satisfactory proof that such applicant at that time possesses the required qualifications for the license. The commissioner may deny a renewal application if the commissioner finds that the applicant has been convicted of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Such renewal

application shall be filed with the commissioner on or before September first of the year in which the license expires. Any renewal application filed with the commissioner after September first shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-800 to [36a-810] 36a-812, inclusive, by any person who was a licensee under said sections 36a-800 to [36a-810] 36a-812, inclusive, 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.

(d) To further the enforcement of this section and to determine the eligibility of any person holding a license, the commissioner may, as often as the commissioner deems necessary, examine the licensee's books and records, and may, at any time, require the licensee to submit such a financial statement for the examination of the commissioner, so that the commissioner may determine whether the licensee is financially responsible to carry on a consumer collection agency business within the intents and purposes of sections 36a-800 to [36a-810] 36a-812, inclusive. Any financial statement submitted by a licensee shall be confidential and shall not be a public record unless introduced in evidence at a hearing conducted by the commissioner.

(e) The applicant or licensee shall notify the commissioner, in writing, of any change in the information provided in its initial application for a license or most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in such information becoming inaccurate.

(f) The commissioner may deem an application for a license to act as a consumer collection agency abandoned if the applicant fails to respond to any request for information required under sections 36a-801 to [36a-810] 36a-812, inclusive, or any regulations adopted pursuant to said sections 36a-801 to [36a-810] 36a-812, 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-801 to [36a-810] 36a-812, inclusive.

(g) If the commissioner determines that a check filed with the commissioner to pay a fee under subsection (b) of this section 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.

(h) 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. All fees required by this section shall be nonrefundable.

(i) No person licensed to act within this state as a consumer collection agency shall do so under any other name or at any other place of business than that named in the license. Any change of location of a place of business of a licensee shall require prior written notice to the commissioner. Not more than one place of business shall be maintained under the same license but the commissioner may issue more than one license to the same licensee upon compliance with the provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, as to each new licensee. A license shall not be transferable or assignable. Any licensee holding, applying for, or seeking renewal of more than one license may, at its option, file the bond required under section 36a-802 separately for each place of business licensed, or to be licensed, or a single bond, naming each place of business, in an amount equal to twenty-five thousand dollars for each place of business.

Sec. 5. Section 36a-804 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon 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 which would be sufficient grounds for the commissioner to deny an application for a license under sections 36a-800 to [36a-810] 36a-812,

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 misrepresentation or misappropriated funds; or (3) violated any of the provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, or of any regulations adopted pursuant thereto, or any other law or regulation applicable to the conduct of its business.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-800 to [36a-810] 36a-812, inclusive, or any regulation adopted pursuant thereto, or the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has 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.

Sec. 6. Subsection (a) of section 36a-805 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

No consumer collection agency shall: (1) Furnish legal advice or perform legal services or represent that it is competent to do so, or institute judicial proceedings on behalf of others; (2) communicate with consumer debtors or property tax debtors in the name of an attorney or upon the stationery of an attorney, or prepare any forms or instruments which only attorneys are authorized to prepare; (3) receive assignments as a third party of claims for the purpose of collection or institute suit thereon in any court; (4) assume authority on behalf of a creditor to employ or terminate the services of an attorney unless such creditor has authorized such agency in writing to act as such creditor's agent in the selection of an attorney to collect the creditor's accounts; (5) demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, whether or not such agency has previously attempted collection thereof; (6) solicit claims for collection under an ambiguous or deceptive contract; (7) refuse to return any claim or claims upon written request of the creditor, claimant or forwarder, which claims are not in the process of collection after the tender of such amounts,

if any, as may be due and owing to the agency; (8) advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors; (9) refuse or fail to account for and remit to its clients all money collected which is not in dispute within sixty days from the last day of the month in which said money is collected; (10) refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned; (11) refuse or fail to furnish at intervals of not less than ninety days, upon the written request of the creditor, claimant or forwarder, a written report upon claims received from such creditor, claimant or forwarder; (12) add any post charge-off charge or fee for cost of collection, unless such cost is a court cost, to the amount of any claim which it receives for collection or knowingly accept for collection any claim to which any such charge or fee has already been added to the amount of the claim unless (A) the consumer debtor is legally liable for such charge or fee as determined by the contract or other evidence of an agreement between the consumer debtor and creditor, a copy of which shall be obtained by or available to the consumer collection agency from the creditor and maintained as part of the records of the consumer collection agency or the creditor, or both, and (B) the total charge or fee for cost of collection does not exceed fifteen per cent of the total amount actually collected and accepted as payment in full satisfaction of the debt; (13) use or attempt to use or make reference to the term “bonded by the state of Connecticut”, “bonded” or “bonded collection agency” or any combination of such terms or words, except that the word “bonded” may be used on the stationery of any such agency in type not larger than twelve-point; (14) when the debt is beyond the statute of limitations, fail to provide the following disclosure in type not less than ten-point informing the consumer debtor in its initial communication with such consumer debtor that (A) when collecting on debt that is not past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: “The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the credit reporting agencies as unpaid”; and (B) when collecting on debt that is past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: “The law limits how long you can be sued on a debt.

Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it and (INSERT OWNER NAME) will not report it to any credit reporting agencies.”; or (15) engage in any activities prohibited by sections 36a-800 to [36a-810] 36a-812, inclusive.

Sec. 7. Section 36a-810 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

Any person who operates a consumer collection agency without a license as required by sections 36a-800 to [36a-810] 36a-812, inclusive, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both. Any person who violates any other provision of said sections shall be fined not more than five hundred dollars, or imprisoned not more than six months, or both. The state’s attorney or assistant state’s attorney for the superior court having jurisdiction in each town shall diligently inquire and make due complaint to the court of all violations of said sections which come to his knowledge, by investigation or report.

Statement of Purpose: To make technical changes to incorporate recently enacted laws.