



Agency Legislative Proposal - 2021 Session

Document Name:

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

State Agency: Department of Banking

Liaison: Matthew Smith

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Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey L. Serrano

Title of Proposal: An Act Concerning Consumer Collection Agencies

Statutory Reference: 36a-800

Proposal Summary:

This proposal makes technical and clarifying changes to the consumer collection agency statutes by amending Section 36a-800 definition of “consumer debtor” to ensure that both real property and personal property tax debt collection activities come within the scope of consumer collection activities requiring licensure for third-party collection agencies and debt buyers.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

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

Currently, there appears to be a loophole for debt buyers of real property tax debt to evade the consumer collection agency licensing requirements. This proposal closes the loophole to ensure the Department has jurisdiction over these entities.

◇ **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?

This proposal was raised by the Banking Committee during the 2020 session and was supported by leadership of the committee. Due to Covid-19, the committee never voted on the bill.

PROPOSAL IMPACT

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

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? YES NO

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

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

None.

State

None.

Federal

None.

Additional notes on fiscal impact

N/A

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

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◇ EVIDENCE BASE

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

AN ACT CONCERNING CONSUMER COLLECTION AGENCIES

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

Section 1. Section 36a-800 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

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

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



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

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



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

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

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

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

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

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

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

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

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

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

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

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



Agency Legislative Proposal - 2021 Session

Document Name:

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

State Agency: Department of Banking**Liaison:** Matthew Smith**Phone:** 860-240-8105**E-mail:** Matthew.Smith@ct.gov**Lead agency division requesting this proposal:** Consumer Credit Division**Agency Analyst/Drafter of Proposal:** Jeffrey T. Schuyler; Melissa M. Desmond**Title of Proposal:** An Act Concerning Consumer Credit Licenses**Statutory Reference:** 36a-598, 36a-485, 36a-486, 36a-490(b)(1), 36a-540(a), 36a-566(a), 36a-583(a)(1), 36a-658(a), 36a-671(h), 36a-719a(a), 36a-801(i), 36a-848(b)**Proposal Summary:**

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

Sections 2 and 3 conforms to Federal law by granting mortgage loan originator temporary authority to operate in the state if they are licensed in another jurisdiction, pending action by the commissioner on their CT application.

Sections 4 through 11, inclusive, clarifies the definition of “change of control” for purposes of filing with the Commissioner an advance change notice with respect to a change of a director, general partner or executive officer of licensees.

PROPOSAL BACKGROUND

◇ Reason for Proposal

Please consider the following, if applicable:

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

This proposal: (1) makes it possible for start-up companies seeking a money transmission license to do business in the state by allowing them to file relevant financial information as part



of the license application instead of requiring audited financial statements which a start-up company would not yet have and clarifies audited financial statement requirements; (2) conforms state law to federal law permitting transitional licensing for licensed mortgage loan originators and registered mortgage loan originators not currently licensed in Connecticut; (3) clarifies the term “change of control” which requires advance change notices to be filed with the Commissioner; and these changes reduce regulatory burden on our licensees.

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

If this is a resubmission, please share:
(1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?
(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
(4) What was the last action taken during the past legislative session?
Initially introduced in the 2019 legislative session, these technical and conforming changes were voted out of committee and passed by the house. The bill did not make it on the senate consent calendar during the last hours of the 2019 session. The bill was reintroduced in 2020, but the session was cut short due to COVID-19.

PROPOSAL IMPACT

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

Agency Name:
Agency Contact (name, title, phone):
Date Contacted:
Approve of Proposal **YES** **NO** **Talks Ongoing**
Summary of Affected Agency’s Comments
Will there need to be further negotiation? **YES** **NO**

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

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

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

None.



◇ EVIDENCE BASE

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

AN ACT CONCERNING CONSUMER CREDIT LICENSES

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

Section 1. Section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Each application for an initial or renewal license required under sections 36a-595 to 36a-612, inclusive, shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the commissioner. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of sections 36a-595 to 36a-612, inclusive. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager responsible for the actions of the licensee, including, but not limited to, information related to such person's personal history and experience and any administrative, civil or criminal findings by any governmental jurisdiction. As part of an application, the commissioner may, (1) in accordance with section 29-17a, conduct a state or national criminal history records check of the applicant, any control person of the applicant, the qualified individual and any branch manager, and, (2) in accordance with section 36a-24b, (A) require the submission of fingerprints of any such person to the Federal Bureau of Investigation or other state, national or international criminal databases, and (B) investigate the financial condition of any such person



and require authorization from any such person for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. An application for an initial license shall also include:

(i) (I) A copy of the applicant's audited financial statements for the most recent fiscal year, [. If] and (II) (A) if the applicant is a wholly-owned subsidiary of another corporation, [the applicant shall include] the most recent audited consolidated annual financial statements of the parent corporation, [or the applicant's most recent audited consolidated annual financial statement, and the most recent audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year. If], (B) if the applicant is publicly traded, [the applicant shall include] a copy of the most recent 10-K report that such applicant filed with the Securities and Exchange Commission or, if the applicant is a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report that was filed with the Securities and Exchange Commission, [. If] and (C) if the applicant or parent company of a wholly-owned subsidiary applicant is publicly traded on a foreign exchange, [the applicant shall include] a copy of documentation similar to the 10-K report that was filed with the applicable securities regulator [;] for the applicant or the parent company of the wholly-owned subsidiary applicant, as applicable. If the applicant is a start-up company, an initial statement of condition of the start-up company may be submitted in lieu of audited financial statements of the applicant;

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

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

(II) A list of the investments maintained in accordance with subsection (d) of section 36a-602, if applicable, and the book and market values of any such investments as of the date of the financial statement



filed in accordance with clause (i) of this subparagraph; and as of a date no earlier than thirty business days prior to the filing of the application;

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

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

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

(vii) Any other information the commissioner may require.

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

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



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

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

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

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



- (1) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization or the filing of a petition under the United States Bankruptcy Code for bankruptcy or reorganization by any control person, qualified individual or authorized delegate of the licensee;
- (2) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;
- (3) The commencement of a proceeding to revoke or suspend its license to engage in money transmission in another state or a foreign country, or other formal or informal regulatory action by any governmental agency against the licensee or any control person, qualified individual or authorized delegate of the licensee and the reasons therefor;
- (4) The commencement of any action by the Attorney General or the attorney general of any other state against the licensee or any control person, qualified individual or authorized delegate of the licensee and the reasons therefor;
- (5) The cancellation or other impairment of the licensee's bond or other security, including notice of claims filed against the licensee's bond or other security;
- (6) A conviction or indictment of the licensee or of any control person or qualified individual of the licensee for a misdemeanor involving the money transmission business or a felony; or
- (7) A conviction or indictment of an authorized delegate for a misdemeanor involving the money transmission business or a felony.

Sec. 2. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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



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

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

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

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

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

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



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

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

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

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

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

(12) “Individual” means a natural person;

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

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

(15) “Loan processor or underwriter” means an individual who performs clerical or support duties. The term “clerical or support duties” includes, subsequent to the receipt of an application, (A) the receipt, collection,



distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

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

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

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

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

(20) “Mortgage loan originator” means an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan. “Mortgage loan originator” does not include (i) an individual engaged solely as a loan processor



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

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

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

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

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

[(24)] (25) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (A) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property; (B) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property; (C) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction; (D) engaging in any activity for which a person engaged in the activity is



required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
(E) offering to engage in any activity, or act in any capacity, described in this subdivision;

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

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

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

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

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

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

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

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

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



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

Sec. 3. Section 36a-486 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) No person shall engage in the business of making residential mortgage loans or act as a mortgage broker in this state unless such person has first obtained a license for its main office and for each branch office where such business is conducted in accordance with the provisions of sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a and 36a-534b. Any activity subject to licensure pursuant to sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a or 36a-534b, shall be conducted from an office located in a state, as defined in section 36a-2. Any such person who is an individual shall also obtain a mortgage loan originator license prior to conducting such business unless such individual does not engage directly in the activities of a mortgage loan originator or conducts such business pursuant to the temporary authority provided in subsection (e) of this section. A person, other than a licensed mortgage loan originator acting on behalf of a mortgage lender or mortgage correspondent lender, shall be deemed to be engaged in the business of making residential mortgage loans if such person advertises, causes to be advertised, solicits or offers to make residential mortgage loans, either directly or indirectly. A person, other than a licensed mortgage loan originator acting on behalf of a mortgage broker, shall be deemed to be acting as a mortgage broker if such person advertises or causes to be advertised that such person will negotiate, solicit, place or find a residential mortgage loan, either directly or indirectly. A mortgage correspondent lender shall not be deemed to be acting as a mortgage lender if such mortgage correspondent lender makes a loan utilizing its own funds in a situation where another person does not honor such person’s commitment to fund the loan. A licensed lead generator shall not be deemed to be acting as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator when engaged in the activities of a lead generator, as described in section 36a-485 if such person does not: (1) Obtain compensation or gain contingent upon the consummation of a residential mortgage loan or the



receipt of a residential mortgage loan application, or (2) utilize financial criteria particular to the consumer or the residential mortgage loan transaction to selectively place a lead or to steer a consumer to a specific person for a residential mortgage loan.

(b) (1) No person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker shall engage the services of a mortgage loan originator or of a loan processor or underwriter required to be licensed under this section unless such mortgage loan originator or loan processor or underwriter is licensed under section 36a-489 or acting pursuant to the temporary authority provided in subsection (e) of this section. An individual, unless specifically exempted under subdivision (2) of this subsection or acting pursuant to the temporary authority provided in subsection (e) of this section, shall not engage in the business of a mortgage loan originator on behalf of a licensee or a person exempt under section 36a-487 with respect to any residential mortgage loan without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489. An individual, unless specifically exempted under subdivision (2) of this subsection, shall be deemed to be engaged in the business of a mortgage loan originator if such individual: (A) Acts as a mortgage loan originator in connection with any residential mortgage loan on behalf of a licensee or person exempt under section 36a-487; or (B) makes any representation to the public through advertising or other means of communication that such individual can or will act as a mortgage loan originator on behalf of a licensee or person exempt under section 36a-487. Each licensed mortgage loan originator and each licensed loan processor or underwriter shall register with and maintain a valid unique identifier issued by the system. No individual may act as a mortgage loan originator for more than one person at the same time. No loan processor or underwriter licensee may be sponsored by more than one person at a time. The license of a mortgage loan originator or a loan processor or underwriter is not effective during any period when such mortgage loan originator or [a] loan processor or underwriter is not sponsored by a licensed mortgage lender, mortgage correspondent lender or mortgage broker, or by a person registered as an exempt registrant under subsection (d) of section 36a-487, or during any period in which the license of the mortgage lender, mortgage correspondent



lender or mortgage broker with whom such originator or loan processor or underwriter is associated has been suspended. Either the mortgage loan originator, the loan processor or underwriter or the sponsor may file a notification of the termination of sponsorship with the system.

(2) The following are exempt from this section: (A) A registered mortgage loan originator or an employee of an institution or subsidiary described in subdivision [(25)] (26) of section 36a-485, 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.

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

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

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

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

(4) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

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



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

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

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

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

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

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

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

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

(e) (1) On and after the effective date of Section 106 of Public Law 115-174, an individual who is employed by a person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker in this



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

(2) On and after the effective date of Section 106 of Public Law 115-174, an out-of-state mortgage loan originator employed by a person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker in this state, shall have temporary authority to act as a mortgage loan originator in this state for the period described in subdivision (3) of this subsection, provided the individual (A) meets the requirements of subparagraphs (A) to (D), inclusive, of subdivision (1) of this subsection; and (B) was an out-of-state mortgage loan originator during the thirty-day period immediately preceding the date on which the individual submits in connection with the application for licensure as a mortgage loan originator in this state, the individual's personal history and experience, including authorization to obtain an independent credit report, criminal background check and information relating to administrative, civil or criminal findings by any governmental jurisdiction.

(3) The period of temporary authority described in subdivisions (1) and (2) of this subsection shall commence on the date the registered loan originator or out-of-state mortgage loan originator submits the



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

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

Sec. 4. Subdivision (1) of subsection (b) of section 36a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

Sec. 5. Subsection (a) of section 36a-540 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):



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

Sec. 6. Subsection (a) of section 36a-566 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

Sec. 7. Subdivision (1) of subsection (a) of section 36a-583 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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



any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

Sec. 8. Subsection (a) of section 36a-658 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

Sec. 9. Subsection (h) of section 36a-671 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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



Sec. 10. Subsection (a) of section 36a-719a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

Sec. 11. Subsection (i) of section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(i) No person licensed to act within this state as a consumer collection agency shall do so under any other name or at any other place of business than that named in the license. No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee may not use its legal name if the commissioner disapproves use of such name. A licensee may change the name of the licensee or address of the office specified on the most recent filing with the system if, at least thirty calendar days prior to such change, (1) the licensee files such change with the system and provides a bond rider, endorsement or addendum, as applicable, to the surety bond on file with the commissioner that reflects the new name or address, and (2) the commissioner does not disapprove such change, in writing, or request further information from the



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



Agency Legislative Proposal - 2021 Session

Document Name:

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

State Agency: Department of Banking

Liaison: Matthew Smith

Phone: 860-240-8105

E-mail: Matthew.Smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Jeffrey T. Schuyler

Title of Proposal: An Act Concerning Shared Appreciation Agreements

Statutory Reference: 36a-485

Proposal Summary:

This proposal amends Section 36a-485 to add a definition of the term “shared appreciation agreement” and includes shared appreciation agreements in the definition of “residential mortgage loan”.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

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

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

◇ **Origin of Proposal**

New Proposal

Resubmission



If this is a resubmission, please share:

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

Initially, this proposal saw broad support among democrats on the committee during the 2019 legislative session but was initially opposed by the ranking house republican, who wanted to prohibit these agreements all together. However, after discussions, the republican caucus agreed to support the bill. During the 2020 session, there was support for the bill on the committee from both parties. The Department is engaged in ongoing negotiations with industry and will likely submit an amendment to this bill.

PROPOSAL IMPACT

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

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

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

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



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

None.

◇ **EVIDENCE BASE**

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

AN ACT CONCERNING SHARED APPRECIATION AGREEMENTS

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

Section 1. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

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

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



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

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

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

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

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

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



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

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

(12) “Individual” means a natural person;

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

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

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

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

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



correspondent lender, mortgage broker or exempt registrant, or (ii) an individual exempt from mortgage loan originator licensure under subdivision (2) of subsection (b) of section 36a-486 when acting within the scope of such exemption;

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



Agency Legislative Proposal - 2021 Session

Document Name: [Click here to enter text.](#)

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matthew Smith

Phone: 860-240-8105

E-mail: matthew.smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey Serrano

Title of Proposal: An Act Concerning Student Loan Servicers

Statutory Reference: 36a-846, 36a-847, 36a-848, 36a-849, 36a-850, 36a-851, 36a-852, 36a-17, 36a-24b, 36a-50, 36a-52, 36a-52a, 36a-65

Proposal Summary:

Section 1 amends Section 36a-846 to include new definitions pertaining to persons that service federal student education loans and private student loans. Sections 2 through 7 make various changes to the student loan servicing statutes to distinguish between servicers of private student loans and federal student loans and require that servicers of federal student loans be registered with the Department and comply with various consumer protection and record retention requirements. Section 2 also amends Section 36a-847(a) to clarify that banks and credit unions and their subsidiaries are exempt from the student loan servicer statutes. Section 3 also amends Section 36a-848(b) to clarify the definition of “change of control” for purposes of filing with the Commissioner an advance change notice with respect to a change of a director, general partner or executive officer of a student loan servicer. Sections 8 through 13 make various conforming changes to the general banking statutes to reflect the new registration requirement for student loan servicers of federal student loans.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

This proposal conforms state statute to federal case law which exempts certain vendors of the federal government from licensure requirements by states, the proposal creates distinctions in Connecticut’s student loan statutory scheme between student loan servicers of federal student loans and private student loans, requiring that servicers of federal student loans be registered instead of licensed with the Department. Without this change, the Department will be unable to enforce consumer protection statutes for federal student loan borrowers.

◇ **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?*

Click here to enter text.

PROPOSAL IMPACT

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

Agency Name: Click here to enter text.

Agency Contact (name, title, phone): Click here to enter text.

Date Contacted: Click here to enter text.

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

Summary of Affected Agency's Comments

Click here to enter text.

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

Click here to enter text.

Federal

Click here to enter text.

Additional notes on fiscal impact

Click here to enter text.

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

Click here to enter text.

◇ **EVIDENCE BASE**

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

Click here to enter text.

AN ACT CONCERNING STUDENT LOAN SERVICERS

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

Section 1. Section 36a-846 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

As used in this section and sections 36a-847 to 36a-854, inclusive, as amended by this act:

- (1) “Advertise” or “advertising” has the same meaning as provided in section 36a-485;
- (2) “Branch office” means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a student loan servicer;
- (3) “Control person” has the same meaning as provided in section 36a-485;
- (4) “Federal student education loan” means any student education loan (A)(i) made pursuant to the William D. Federal Direct Loan Program under 20 USC Section 1087a, et seq., or (ii) purchased by the United States Secretary of Education pursuant to 20 USC Section 1087i-1(a), as amended from time to time, and (B) currently owned by the United States Secretary of Education;
- (5) “Federal student loan servicer” means any student loan servicer responsible for the servicing of any federal student education loan to a student loan borrower pursuant to a contract awarded by the United States Secretary of Education under 20 USC Section 1087f, as amended from time to time;

[(4)] (6) “Main office” has the same meaning as provided in section 36a-485;

(7) “Private student education loan” means any student education loan that is not a federal student education loan;

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

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

[(7)] (10) “Servicing” means (A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; or (C) performing other administrative services with respect to a student education loan;

[(8)] (11) “Student education loan” means any loan primarily for personal use to finance education or other school-related expenses; and

[(9)] (12) “Unique identifier” has the same meaning as provided in section 36a-485.

Sec. 2. Section 36a-847 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

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

(2) The provisions of sections 36a-846 to 36a-854, inclusive, shall not apply to the following persons; [are exempt from student loan servicer licensing requirements:] (A) Any bank, out-of-state

bank, Connecticut credit union, federal credit union or out-of-state credit union; (B) any wholly owned subsidiary of any such bank or credit union; and (C) any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

(b)(1) An application for a license as a student loan servicer of private student education loans or for renewal of such license shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the commissioner. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of sections 36a-846 to 36a-854, inclusive, as amended by 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 responsible for the actions of the licensee, including, but not limited to, information related to such person's personal history and experience, and any administrative, civil or criminal findings by any governmental jurisdiction. As part of the application the commissioner may (A) in accordance with section 29-17a, conduct a state or national criminal history records check of the applicant, any control person of the applicant, the qualified individual or any branch manager, and (B) in accordance with section 36a-24b, (i) require the submission of fingerprints of the applicant, any control person of the applicant, the qualified individual or any branch manager to the Federal Bureau of Investigation or other state, national or international criminal databases, and (ii) investigate the financial condition of any such person and require authorization from any such person for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. Such application shall be accompanied by a financial statement prepared by a certified public accountant, except that the commissioner may waive such requirement in connection with any renewal application, provided the system requires annual reports of condition that capture financial statement information and the applicant has filed such information in accordance with section 36a-848, as amended by this act.

(2) Each applicant for a student loan servicer license shall pay to the system any required fees or charges and a license fee of nine hundred dollars. Each such license shall expire at the close of business on December thirty-first of the year in which the license was approved, unless such license is renewed, except that any such license 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 renewal of a student loan servicer license shall pay to the system any required fees or charges and a renewal fee of nine hundred dollars.

(3) Each license shall remain in force and effect until the license has been surrendered, revoked or suspended or has expired in accordance with the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act. No abatement of the license fee shall be made if the application is denied or withdrawn prior to issuance of the license or 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.

[(c)] (4) Upon the filing of an application for an initial license and the payment of required fees, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The commissioner may issue a license if the commissioner finds that:

[(1)] (A) The applicant's financial condition is sound;

[(2)] (B) The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of sections 36a-846 to 36a-854, inclusive, as amended by this act, and in a manner commanding the confidence and trust of the community;

[(3)] (C) Each control person, qualified individual, branch manager and trustee of the applicant is in all respects properly qualified and of good character, including, but not limited to, assessment of such person's financial responsibility and any criminal convictions, provided any license denial based on a criminal conviction shall be subject to the provisions of section 46a-80;

[(4)] (D) No control person, qualified individual, branch manager or other person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to sections 36a-846 to 36a-854, inclusive, as amended by this act;

[(5)] (E) No control person, qualified individual, branch manager or other person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the commissioner any information lawfully required by the commissioner;

[(6)] (F) The applicant has paid the fees required under [subsection (b) of this section] subdivision (2) of this subsection; and

[(7)] (G) The applicant has met any other similar requirements as determined by the commissioner.

[(d)] (5) Not later than fifteen days after the date a licensee ceases to engage in the business of student loan servicing of private student education loans in this state for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall surrender to the commissioner, in accordance with subsection (c) of section 36a-51, its license for each location in which such licensee has ceased to engage in such business. The licensee shall also identify to the commissioner, in writing, the location where the records of the licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the commissioner to revoke or suspend a license, assess a civil penalty, order restitution or exercise any other authority provided to the commissioner.

[(e)] (6) If an application for a renewal license has been filed with the commissioner on or before the date the license expires, the license sought to be renewed shall continue in full force and effect until the issuance by the commissioner of the renewal license applied for or until the commissioner has notified the licensee in writing of the commissioner's refusal to issue such renewal license together with the grounds upon which such refusal is based. The commissioner may refuse to issue a renewal license (1) on any ground on which the commissioner might refuse to issue an initial license, or (2) if the applicant

has not paid any required fee for renewal or has not paid any outstanding examination fees or other moneys due to the commissioner. The license of a student loan 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.

[(f)] (7) The commissioner may automatically suspend a license if the licensee 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 has been automatically suspended pursuant to this section, the commissioner shall [(1)] (A) give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 36a-852, as amended by this act, and an opportunity for a hearing on such action in accordance with section 36a-51, and [(2)] (B) require such licensee to take or refrain from taking such action as the commissioner deems necessary to effectuate the purposes of this section.

[(g)] (8) Except as specified in section 36a-848, as amended by this act, the applicant or licensee, and each individual designated as a control person, qualified individual or branch manager, shall file [to] on the system any change in the information such applicant, licensee, control person, qualified individual or branch manager most recently submitted to the system in connection with the application or license, or, if the information cannot be filed on the system, notify the commissioner of such change, in writing, not later than fifteen days after the date the applicant, licensee, control person, qualified individual or branch manager had reason to know of the change.

[(h)] (9) The commissioner may deem an application for a license abandoned if the applicant fails to respond to any request for information required under sections 36a-846 to 36a-854, inclusive, as amended by this act, or any regulations adopted pursuant to said sections. The commissioner shall notify the applicant on the system that if the applicant fails to submit such information not later than sixty days after 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 the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act.

(c) Any federal student loan servicer, as defined in section 36a-846, as amended by this act, shall register with the commissioner as follows:

(1) The applicant shall complete a registration application on the system in a form prescribed by the commissioner;

(2) The applicant shall appoint and thereafter maintain a resident agent in this state with authority to accept service of process for the registrant in this state. Service of process upon the agent shall be deemed sufficient service upon the registrant and any process may be served upon a control person, as agent of the registrant, in the event that no resident agent can be found upon whom service can be made, or the registrant has failed to designate a resident agent as required.

(3) The applicant shall designate and provide contact information for an individual to represent the registrant in communications with the commissioner. Such contact information shall be updated within ten days of any change thereto.

(4) Registration shall be valid for one calendar year, and the registrant shall be required to renew its registration with the commissioner annually. Each applicant for a federal student loan servicer registration shall pay to the system any required fees or charges. Each such registration shall expire at the close of business on December thirty-first of the year in which the registration was approved, unless such registration is renewed, except that any such registration 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 registration shall be filed between November first and December thirty-first of the year in which the registration expires. Each applicant for renewal of a federal student loan servicer registration shall pay to the system any required fees or charges.

(5) Each registration shall be effective upon completion of the required form and remain in force and effect until the registration has been surrendered, revoked or suspended or has expired in accordance with the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act.

(6) Any registrant shall provide the commissioner with written notice within seven days following notification of the expiration, revocation or termination of any contract awarded by the United States Secretary of Education under 20 USC Section 1087f, as amended from time to time. The registration shall be deemed expired upon the effective date of any such expiration, revocation or termination of its contract with the United States Secretary of Education.

(7) The commissioner may impose a civil penalty upon any federal student loan servicer that services federal student education loans for thirty or more days without registering and complying with the conditions provided in this subsection, after notice and an opportunity for a hearing on such action in accordance with section 36a-50.

Sec. 3. Section 36a-848 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) No person licensed to act within this state as a student loan servicer of private student education loans or registered to act as a federal student loan servicer, as defined in section 36a-846, as amended by this act, shall do so under any other name or at any other place of business than that named in the license or registration. No licensee or registrant may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee or registrant may not use its legal name if the commissioner disapproves use of such name. A licensee or registrant may change the name of the licensee or registrant or address of the office specified on the most recent filing with the system if, at least thirty calendar days prior to such change, the licensee or registrant files such change with the system and the commissioner does not disapprove such change, in writing, or request further information from the licensee or registrant within such thirty-day period. Not more than one place of business shall be maintained under the same license or registration, but the commissioner may issue more than one license or registration to the same licensee or registrant upon compliance with the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act, as to each new licensee or registrant.

(b) A license or registration shall not be transferable or assignable. Any change in any control person of the licensee or registrant, except a change of a director, general partner or executive officer that

is not the result of an acquisition or change of control of the licensee or registrant, shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and no such change shall occur without the commissioner's approval. For purposes of this section, "change of control" means any change causing the majority ownership, voting rights or control of a licensee to be held by a different control person or group of control persons.

(c) The commissioner may automatically suspend any license for a violation of subsection (a) or (b) of this section. After a license has been automatically suspended pursuant to this subsection, the commissioner shall (1) give the licensee notice of such automatic suspension pending proceedings for revocation of or refusal to renew the license pursuant to section 36a-852, as amended by this act, and an opportunity for a hearing in accordance with section 36a-51, and (2) require the licensee to take or refrain from taking action as the commissioner deems necessary to effectuate the purpose of this section.

(d) The commissioner may impose of a civil penalty against any registrant for a violation of subsection (a) or (b) of this section after a notice and an opportunity for a hearing in accordance with section 36a-50.

[(d)] (e) A student loan servicer licensee or registrant shall file on the system or, if the information cannot be filed on the system, notify the commissioner, in writing, of the occurrence of any of the following developments not later than fifteen days after the date the licensee or registrant had reason to know of the occurrence of any of the following developments:

(1) Filing for bankruptcy or the consummation of a corporate restructuring of the licensee or registrant;

(2) Filing of a criminal indictment against the licensee or registrant in any way related to the student loan servicer activities of the licensee or registrant, or receiving notification of the filing of any criminal felony indictment or felony conviction of any control person, branch manager or qualified individual of the licensee or registrant;

(3) Receiving notification of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal action by any governmental agency against the

licensee or registrant, or any control person, branch manager or qualified individual of the licensee or registrant and the reasons therefor;

(4) Receiving notification of the initiation of any action against the licensee or registrant, or any control person, branch manager or qualified individual of the licensee or registrant by the Attorney General or the attorney general of any other state and the reasons therefor; or

(5) Receiving notification of filing for bankruptcy of any control person, branch manager or qualified individual of the licensee or registrant.

[(e)] (f) Any person filing or submitting any information on the system shall do so in accordance with the procedures and requirements of the system and shall pay the applicable fees or charges to the system. Each student loan servicer licensee or registrant shall, to the extent required by the system, timely submit to the system accurate reports of condition that shall be in such form and shall contain such information as the system may require. Failure by a licensee or registrant to submit a timely and accurate report of condition shall constitute a violation of this provision.

[(f)] (g) The unique identifier of any person licensed or registered under section 36a-847, as amended by this act, shall be clearly shown on all solicitations and advertisements, including business cards and Internet web sites, and any other documents as established by rule, regulation or order of the commissioner, and shall be clearly stated in all audio solicitations and advertisements. The solicitations and advertisements of any person licensed or registered under section 36a-847, as amended by this act:

(1) Shall not include any statement that such person is endorsed in any way by this state, except that such solicitations and advertisements may include a statement that such person is licensed or registered in this state; (2) shall not include any statement or claim that is deceptive, false or misleading; (3) shall otherwise conform to the requirements of sections 36a-846 to 36a-854, inclusive, as amended by this act, any regulations issued thereunder and any other applicable law; and (4) shall be retained for two years from the date of use of such solicitation or advertisement.

Sec. 4. Section 36a-849 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) [Each] Except as otherwise required pursuant to federal law, a federal student loan agreement, or contract between a licensee or registrant and the United States Secretary of Education, each student loan servicer licensee or registrant shall maintain adequate records of each student education loan transaction for not less than two years following the final payment on such student education loan or the assignment of such student education loan, whichever occurs first, or such longer period as may be required by any other provision of law.

(b) [If requested by the commissioner] Except as otherwise required pursuant to federal law, a federal student loan agreement, or contract between a licensee or registrant and the United States Secretary of Education, each student loan servicer licensee or registrant, if requested by the commissioner, shall make such records available 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] student loan servicer additional time to make such records available or send the records to the commissioner.

Sec. 5. Section 36a-850 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

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

- (1) Employ any scheme, device or artifice to defraud or mislead student loan borrowers;
- (2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;
- (3) Obtain property by fraud or misrepresentation;

(4) Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;

(5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

(6) Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer [licensee] regularly reports information to a credit bureau;

(7) Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer [licensee] may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower;

(8) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the commissioner or another governmental agency; or

(9) Fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable student loan servicing laws and regulations [; or] or fail to comply with the service standards set by the commissioner in accordance with section 59 of public act 16-65. This provision applies only to the extent it is not inconsistent with federal law, federal student loan agreements, or a contract between a federal student loan servicer and the United States Secretary of Education.

[(10) Fail to comply with the service standards set by the commissioner in accordance with section 59 of public act 16-65*.]

Sec. 6. Section 36a-851 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) In addition to any authority provided under this title, the [Banking Commissioner] commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing and registration, license renewal, license suspension, license revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 36a-846 to 36a-854, inclusive, as amended by 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-846 to 36a-854, inclusive, as amended by this act, or for the purposes of examination, the commissioner may review, investigate or examine any student loan servicer licensee, registrant 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 student education loan 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) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the student loan servicer licensee, registrant 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 student loan servicer licensee, registrant or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 36a-846 to 36a-854, inclusive, as amended by this act, the student loan

servicer licensee, registrant or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(c) 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 student loan servicer licensee, registrant or person subject to sections 36a-846 to 36a-854, inclusive, as amended by 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 student loan servicer licensee, registrant or person subject to sections 36a-846 to 36a-854, inclusive, as amended by 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.

(d) The authority of this section shall remain in effect, whether such student loan servicer licensee, registrant or person subject to sections 36a-846 to 36a-854, inclusive, as amended by this act, acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(e) No student loan servicer licensee, registrant 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. 7. Section 36a-852 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) The commissioner may suspend, revoke or refuse to renew any license issued under section 36a-847, as amended by this act, or take any other action, in accordance with section 36a-51, if the commissioner finds that (1) the licensee or any control person, qualified individual, branch manager, trustee, employee or agent of the licensee has violated any provision of this title or any regulation or order adopted or issued pursuant thereto pertaining to such person, or any other law or regulation applicable to the conduct of such licensee's student loan servicing business, or (2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted a denial of such license.

(b) The commissioner may suspend, revoke or refuse to renew any registration based on any fact or condition which, if it had existed at the time of the original application for registration, would have warranted a denial of such registration.

[(b)] (c) Whenever it appears to the commissioner that any (1) person has violated, is violating or is about to violate any of the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act, or any regulation adopted pursuant to said sections, (2) person is, was or would be a cause of the violation of any such provision or regulation due to an act or omission such person knew or should have known would contribute to such violation, or (3) any licensee, registrant, or any control person, qualified individual, branch manager, trustee, employee or agent of such licensee or registrant has committed any fraud, engaged in dishonest activities or made any misrepresentation, the commissioner may take action against such person, [or] licensee or registrant in accordance with sections 36a-50 and 36a-52.

[(c)] (d) The commissioner may order a licensee to remove any individual conducting business under sections 36a-846 to 36a-854, inclusive, as amended by this act, from office and from employment or retention as an independent contractor in the student loan servicer business in this state in accordance with section 36a-51a.

[[d)] (e) The commissioner may issue a temporary order to cease business under a license if the commissioner determines that such license was issued erroneously. Such temporary order shall be issued in accordance with subsection (j) of section 36a-24b.

Sec. 8. Section 36a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) The commissioner, in the commissioner's discretion and as often as the commissioner deems necessary to carry out the purposes of applicable law and the duties of the commissioner, may, subject to the provisions of section 36a-21 and the Freedom of Information Act, as defined in section 1-200: (1) Make, within or outside this state, such public or private investigations or examinations concerning any person subject to the jurisdiction of the commissioner; (2) require or permit any person to testify, produce a record or file a statement in writing, under oath, or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter to be investigated or about which an action or proceeding is pending; and (3) publish information concerning any violation of any provision of the general statutes within the jurisdiction of the commissioner or any regulation or order adopted or issued under such provision.

(b) Any Connecticut bank, Connecticut credit union or Connecticut credit union service organization which causes or has caused any electronic data processing services to be performed for such bank, credit union or credit union service organization either on or off its premises by an electronic data processing servicer shall enter into a written contract with such servicer. Such contract shall specify the duties and responsibilities of the bank, credit union or credit union service organization and such servicer and provide that such servicer shall allow the commissioner to examine such servicer's records in accordance with this subsection, if required by the commissioner. The Connecticut bank, Connecticut credit union or Connecticut credit union service organization shall promptly notify the commissioner of any material change in its electronic data processing services. In the case of a material change which triggers a notice requirement under 12 USC 1867, a Connecticut bank may satisfy the notice requirements of this subsection by providing the commissioner with a copy of the notice provided to the Federal

Deposit Insurance Corporation under 12 USC 1867. The commissioner may examine the records of any electronic data processing servicer that performs electronic data processing services for a Connecticut bank, Connecticut credit union or Connecticut credit union service organization, if such services substantially impact the operations of the Connecticut bank, Connecticut credit union or Connecticut credit union service organization as determined by the commissioner, in order to (1) determine whether such servicer has the capacity to protect the customer information of such bank, credit union or credit union service organization, and (2) assess such servicer's potential for continued service. The commissioner may assess a fee of one hundred fifty dollars per day plus costs for each examiner who conducts such examination, the total cost of which the commissioner may allocate on a pro rata basis to all Connecticut banks, Connecticut credit unions and Connecticut credit union service organizations under contract with such servicer.

(c) For the purpose of any investigation, examination or proceeding under this title the commissioner may administer oaths and affirmations, take evidence, direct, order, subpoena or compel the attendance of and examine under oath all persons whose testimony may be required about the business or subject matter of any such investigation, examination or proceeding, and direct, order or subpoena such person to produce records the commissioner deems relevant or material. The commissioner may require that certified copies of any such records be provided to the commissioner at the commissioner's office. The commissioner may issue subpoenas in this state at the request of another state, provided (1) the activities concerning which the information is sought would constitute a basis for an investigation, examination or proceeding under this title had such activities occurred in this state, and (2) such other state has reciprocal legal authority to issue subpoenas in such state on behalf of the commissioner.

(d) In addition to any authority provided under this section, the commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of issuing, renewing, suspending, conditioning, revoking or terminating any license or registration issued on the system, or for any general or specific inquiry or investigation of persons engaged in a business or activity subject to licensure or registration by the commissioner on the

system to determine compliance with applicable law, the commissioner may access, receive and use any records, information or evidence, including, but not limited to: (A) Criminal, civil and administrative history information; (B) personal history and experience information, including, but not limited to, 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 records, information or evidence the commissioner deems relevant to the inquiry or investigation, regardless of the location, possession, control or custody of such records, information or evidence.

(2) In conducting any examination or investigation authorized by this subsection, the commissioner may control access to any records of the person under examination or investigation. The commissioner may take possession of the records or place a person in exclusive charge of the records in the place where such records are usually kept. During the period of control, no person shall remove or attempt to remove any of the records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the records of the person under examination or investigation have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of applicable law, the owner of the records shall have access to the records as necessary to conduct its ordinary business affairs.

(3) In order to carry out the purposes of this subsection, the commissioner may:

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

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

(C) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the person;

(D) In lieu of an examination or investigation conducted by the commissioner, accept and rely upon examination or investigation reports made by another state or federal supervisory agency, any

organization affiliated with or representing such supervisory agency, or any other government official, within or outside this state. Any such examination or investigation report that is accepted and relied upon by the commission shall be considered an official examination or investigation report of the commissioner; and

(E) Accept audit reports made by an independent certified public accountant. Such reports may be considered an official examination or investigation report of the commissioner, or incorporated in the commissioner's official report of examination or investigation, or any other writing of the commissioner.

(e) Any person who is the subject of any inquiry, investigation, examination or proceeding pursuant to this section shall (1) make its records available to the commissioner in readable form; (2) provide personnel and equipment necessary, including, but not limited to, assistance in the analysis of computer-generated records; (3) provide copies or computer printouts of records when so requested; (4) 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 dates of transactions in a format prescribed by the commissioner or such other information as the commissioner deems necessary to carry out the purposes of this section; (5) furnish unrestricted access to all areas of its principal place of business or wherever records may be located; and (6) otherwise cooperate with the commissioner.

(f) The superior court for the judicial district of Hartford, upon application of the commissioner, may issue to any person refusing to obey a subpoena issued pursuant to subsection (c) of this section an order requiring that person to appear before the commissioner or any officer designated by the commissioner to produce records so ordered or to give evidence concerning the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(g) No person subject to inquiry, investigation, examination or proceeding under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any records or information.

(h) The authority of this section shall remain in effect, whether a person acts or claims to act under any licensing, registration or other authorizing requirement of the law of this state, or claims to act without such authority.

(i) As used in this section, “records” includes, but is not limited to, books, accounts, papers, files, correspondence, memoranda, agreements, diaries, logs, notes, ledgers, journals, visual, audio, magnetic or electronic recordings, computer printouts, software, computer systems and any other documents in any form.

Sec. 9. Section 36a-24b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) In addition to any other duties imposed upon the 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.

(b) In the event the commissioner elects to require system-based licensure or registration for persons engaged in a financial services industry 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 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 or registration expiration, renewal or transition dates or reporting dates or forms; (4) the requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the system; and (5) the use of electronic bonds. Such information may thereafter be used by the commissioner to determine an applicant's eligibility for licensing or registration under applicable law and any order issued by the commissioner pursuant to this section. 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 this title and establish new requirements as reasonably necessary. For the purpose of implementing an orderly and efficient licensing and registration process, the commissioner may adopt licensing regulations, in accordance with the provisions of chapter 54, and interim procedures for licensing and registration and acceptance of applications and registrations.

(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 this title, 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 or any other source as directed by the commissioner.

(e) A person 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. A challenge 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 subsection 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 this title.

(f) A 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 and 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.

(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 any other term as may be utilized by the system to indicate that payment was not accepted. After a license or registration has been automatically suspended pursuant to this subsection, 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 and require such licensee or registrant to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this subsection.

(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 within sixty days of 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 or registrant an opportunity for a hearing on such action in accordance with section 36a-52. 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. 10. Section 36a-50 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a)(1) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed by or registered with the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 36a-52a. The notice shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person in accordance with section 36a-52a. Any such notice shall include: (A) A statement of the time, place, and nature of the hearing; (B) a statement of the legal authority and jurisdiction under which the hearing is to be held; (C) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (D) a short and plain statement of the matters asserted; (E) the maximum penalty that may be imposed for such violation; and

(F) a statement indicating that such person may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such person fails to appear at the hearing. After the hearing, if the commissioner finds that the person has violated any such provision, regulation, rule or order, the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by law, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person. If such person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner may, as the facts require, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person.

(3) Each action undertaken by the commissioner under this subsection shall be in accordance with the provisions of chapter 54.

(b) Whenever it appears to the commissioner that any such person has violated, is violating or is about to violate any such provision, regulation, rule or order, the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by law: (1) Bring an action in the superior court for the judicial district of Hartford to enjoin the acts or practices and to enforce compliance with any such provision, regulation, rule or order. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for such person or such person's assets. The court shall not require the commissioner to post a bond; (2) seek a court order imposing a penalty not to exceed one hundred thousand dollars per violation against any such person found to have violated any such provision, regulation, rule or order; or (3) apply to the superior court for the judicial district of Hartford for an order of restitution whereby such person shall be ordered to make restitution of any sums shown by the commissioner to have been obtained by such person in violation of any such provision, regulation, rule or order, plus interest at the rate set forth in section 37-3a. Such restitution shall, at the option of the court, be payable to the receiver or conservator appointed pursuant to this subsection, or directly to the person

whose assets were obtained in violation of any such provision, regulation, rule or order. Whenever the commissioner prevails in any action brought under this subsection, the court may allow to the state its costs.

(c) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued under such provisions, the commissioner may, in addition to any other remedy authorized by law, order such person to (1) make restitution of any sums shown to have been obtained in violation of any such provision, regulation, rule or order plus interest at the legal rate set forth in section 37-1; (2) provide disgorgement of any sums shown to have been obtained in violation of any such provision, regulation, rule or order; or (3) both make restitution and provide disgorgement in accordance with subdivisions (1) and (2) of this subsection. After the commissioner issues such an order, the person named in the order may, not later than fourteen days after the receipt of such order, file a written request for a hearing. The order shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending. Any such hearing shall be held in accordance with the provisions of chapter 54.

(d) The provisions of this section shall not apply to chapters 672a, 672b and 672c.

Sec. 11. Section 36a-52 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule, or order adopted or issued thereunder, the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed or registered by the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 36a-52a. The notice shall be deemed received by the person on the earlier of the date of actual receipt, or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be

deemed received by the person in accordance with section 36a-52a. Any such notice shall include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (4) a short and plain statement of the matters asserted; and (5) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice, unless the person fails to appear at the hearing. After the hearing, the commissioner shall determine whether an order to cease and desist should be issued against the person named in the notice. If the person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner shall issue an order to cease and desist against the person. No such order shall be issued except in accordance with the provisions of chapter 54.

(b) If the commissioner finds that the public welfare requires immediate action, the commissioner may incorporate a finding to that effect in the notice sent in accordance with subsection (a) of this section and issue a temporary order requiring the person to cease and desist from the activity which constitutes such alleged violation and to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section. Such temporary order shall become effective on receipt 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.

(c) In the event that a party requests a continuance of the hearing and such request is granted by the presiding officer, the commissioner, in the commissioner's discretion, shall thereupon issue a temporary cease and desist order effective upon issuance. The issuance of such a temporary cease and desist order does not require a finding that the public welfare requires immediate action.

(d) Within five days of receipt of a temporary order issued pursuant to this section, any person named therein may apply to the superior court for the judicial district of Hartford for an injunction setting

aside, limiting or suspending the enforcement, operation or effectiveness of such order pending final determination by the commissioner, and the court shall have jurisdiction to issue such injunction.

Sec. 12. Section 36a-52a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

Notwithstanding the provisions of subsection (c) of section 4-182, the [Banking Commissioner] commissioner may provide notice pursuant to section 4-182 or sections 36a-50 to 36a-52, inclusive, to any person licensed by or registered with the commissioner by personal delivery, as defined in section 4-166. For licensed or registered persons who are not natural persons, the electronic mail addresses of the natural persons designated as primary contacts by such licensed or registered persons in the contact employee fields on the system shall constitute an acceptable means of communication for personal delivery, and a notice sent by electronic mail to such primary contacts at such electronic mail addresses shall constitute notice. For licensed or registered persons who are natural persons, the electronic mail address identified by such licensed persons on the system shall constitute an acceptable means of communication for personal delivery within the meaning of section 4-166, and a notice sent by electronic mail to such electronic mail address shall constitute notice. Any notice provided in accordance with this section shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person on the earlier of the date of actual receipt by any natural person to whom such notice was sent or seven days after such notice was sent.

Sec. 13. Section 36a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2021*):

(a) (1) Except as provided in subsection (e) of this section, the commissioner shall annually, on or after July first for the fiscal year commencing on said July first, collect pro rata based on asset size from each Connecticut bank and each Connecticut credit union an amount sufficient in the commissioner's judgment to meet the expenses of the Department of Banking, including a reasonable reserve for contingencies, provided the commissioner shall not collect such amount from a newly organized

Connecticut credit union until July first following the third full calendar year after issuance by the commissioner of such credit union's certificate of authority. Such assessments and expenses shall not exceed the budget estimates submitted in accordance with section 36a-13.

(2) In addition to any license, investigation or examination fee required under this title, the commissioner may levy assessments on persons licensed as money transmitters pursuant to sections 36a-595 to 36a-612, inclusive, and persons licensed as student loan servicers pursuant to sections 36a-846 to 36a-854, inclusive, as amended by this act. The commissioner shall annually, on or after July first for the fiscal year commencing on said July first, collect such additional amounts sufficient in the commissioner's judgment to meet the expenses of the Department of Banking, including a reasonable reserve for contingencies. Such assessment shall be determined pro rata based on: (A) For licensed money transmitters, dollar volume of money transmissions in this state, and (B) for licensed student loan servicers, dollar volume of student education loans, as defined in section 36a-846, as amended by this act, of student loan borrowers serviced. Each such licensee shall pay the commissioner the amount allocated to it not later than the date specified by the commissioner for payment. Failure by a licensee to timely make such payment shall constitute a violation of this section and a basis upon which the commissioner may take action against such licensee pursuant to section 36a-51.

(3) Such assessments may be made more frequently than annually at the discretion of the commissioner. Such assessments for any fiscal year shall be reduced pro rata by the amount of any surplus from the assessments of prior fiscal years, which surplus shall be maintained in accordance with subdivision (4) of subsection (b) of this section. The commissioner may reduce any such assessment collected from a Connecticut bank up to the amount of any assessment for the same fiscal year collected from such bank by another state in which such bank has established a branch, limited branch or mobile branch. The commissioner may reduce any such assessment collected from a Connecticut credit union up to the amount of any assessment for the same fiscal year collected from such credit union by another state in which such credit union has established a branch. Such assessments for any fiscal year shall be a

liability of such banks, credit unions and licensees as of the assessment date. Except as provided in this subsection, such assessments shall not be prorated for any reason.

(b) (1) Each such bank and credit union shall pay the commissioner the amount allocated to it not later than the date specified by the commissioner for payment. Any such bank or credit union shall pay the commissioner an additional two hundred dollars if such payment is not paid by the time specified. The provisions of this subdivision shall not apply to any person required to pay the commissioner any fee for license or registration or the whole cost of all examinations made by the commissioner.

(2) Except as provided in section 36a-60, the State Treasurer shall place all funds received from the commissioner in a special fund to be known as the State Banking Fund. Amounts in the fund may be expended only pursuant to appropriation by the General Assembly.

(3) The Comptroller shall determine for each fiscal year the expenses of the Department of Banking.

(4) The Secretary of the Office of Policy and Management shall examine the State Banking Fund annually after the Comptroller has made his determination and shall direct the Treasurer to set aside within the Banking Fund amounts in excess of a reasonable reserve for contingencies, which excess amounts shall be considered a surplus for the purposes of subsection (a) of this section.

(c) (1) The fee for an examination of a trust department of a Connecticut bank shall be the actual cost of the examination, as such cost is determined by the commissioner.

(2) The fee for an examination of a trust bank shall be the actual cost of the examination, as such cost is determined by the commissioner.

(3) The fee for an examination of a Connecticut credit union service organization is the actual cost of the examination, as such cost is determined by the commissioner.

(4) The fee for an examination of an out-of-state branch of a Connecticut bank or a branch in this state of an out-of-state bank shall be the actual cost of the examination, as such cost is determined by the commissioner, and the commissioner may share any such fee with other banking regulators in accordance

with agreements entered into by the commissioner pursuant to subsection (j) of section 36a-145 and subdivision (5) of subsection (a) and subsection (b) of section 36a-412.

(5) The fee for an examination of an out-of-state branch of a Connecticut credit union or a branch in this state of an out-of-state credit union shall be the actual cost of the examination, as such cost is determined by the commissioner, and the commissioner may share any such fee with other state or federal credit union regulators in accordance with agreements entered into by the commissioner pursuant to subsection (f) of section 36a-462a and subsection (b) of section 36a-462b.

(6) A licensee or registrant under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-600, 36a-628, 36a-656, 36a-671, 36a-719, 36a-801 or 36a-847, inclusive, as amended by this act, 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.

(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 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 dollars, except that no fee shall be charged for such application if it is filed in connection with an application to relocate a main office of a Connecticut bank under subsection (a) of section 36a-81 or establish (i) a branch in this state under subdivision (1) of

subsection (b) of section 36a-145, (ii) a limited branch in this state under subdivision (1) of subsection (c) of section 36a-145, or (iii) 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.

(2) The fee for investigating and processing each acquisition statement filed under section 36a-184 is two thousand five hundred dollars, except if the acquisition statement is filed in connection with a transaction that requires one or more applications, a reasonable fee not to exceed two thousand five hundred dollars.

(3) Any fee for processing a notice of closing of a branch, limited branch or special need limited branch under subdivision (1) of subsection (f) of section 36a-145, if charged, shall not exceed two thousand dollars. There shall be no fee for processing a notice of closing of any mobile branch.

(4) The fee for a miscellaneous investigation shall be the actual cost of the investigation, as such cost is determined by the commissioner.

(e) (1) If the commissioner determines that the assessment to be collected from an uninsured bank or a trust bank pursuant to subdivision (1) of subsection (a) of this section is unreasonably low or high based on the size and risk profile of the bank, the commissioner may require such bank to pay a fee in lieu of such assessment. Each such bank shall pay such fee to the commissioner not later than the date specified by the commissioner for payment. If payment of such fee is not made by the time specified by the commissioner, such bank shall pay to the commissioner an additional two hundred dollars.

(2) Any uninsured bank required to pay a fee in lieu of assessment shall also pay to the commissioner the actual cost of the examination of such bank, as such cost is determined by the commissioner.

Statement of Purpose: To require that student loan servicers of federal student education loans register with the Department of Banking and comply with record requirements and consumer protection mandates applicable to student loan servicers in Connecticut.



Agency Legislative Proposal - 2021 Session

Document Name:

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matthew Smith

Phone: 860-240-8105

E-mail: Matthew.Smith@ct.gov

Lead agency division requesting this proposal: Consumer Credit Division

Agency Analyst/Drafter of Proposal: Stacey L. Serrano

Title of Proposal: An Act Concerning Technical and Other Revisions to Consumer Credit Licenses

Statutory Reference: 36a-770(c)(14); 36a-801(b); 36a-801(c)

Proposal Summary:

Section 1 amends the definition of “retail seller” under Section 36a-770(c)(14) to reflect that the sale of goods to a retail buyer can be either with an installment loan contract or retail installment contract.

Section 2 amends subsections (a) and (b) of Section 36a-801, to clarify that applicants solely engaged in the business of debt buying must evidence a positive tangible net worth, while all other consumer collection agency applicants must evidence a tangible net worth of fifty thousand dollars prior to the issuance of a consumer collection agency license.

PROPOSAL BACKGROUND

◇ Reason for Proposal

This proposal makes minor revisions to certain consumer credit licensing provisions to clarify the requirements applicable to retail installment sales financing and consumer collection.

◇ Origin of Proposal

New Proposal

Resubmission



If this is a resubmission, please share:

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

n/a

PROPOSAL IMPACT

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

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

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

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



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

None.

◇ **EVIDENCE BASE**

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

AN ACT CONCERNING CONSUMER CREDIT LICENSEES

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

Section 1. Section 36a-770 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

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

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



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

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

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

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

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

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



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

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

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

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

(12) “Retail installment contract” means any security agreement, as defined in subdivision (74) of subsection (a) of section 42a-9-102, made in this state, including one in the form of a mortgage, conditional sale contract or other instrument evidencing an agreement to pay the retail purchase price of goods, or any part



thereof, in installments over a period of time and pursuant to which a security interest, as defined in subdivision (35) of subsection (b) of section 42a-1-201, is retained or taken by the retail seller for the payment of the amount of such retail installment contract. For purposes of this subdivision, “retail installment contract” does not include a rent-to-own agreement, as defined in section 42-240.

(13) “Retail installment sale” means any sale evidenced by a retail installment contract or installment loan contract wherein a retail buyer buys goods from a retail seller at a time sale price payable in two or more installments. The cash price of the goods, the amount, if any, included for other itemized charges which are included in the amount of the credit extended but which are not part of the finance charge under sections 36a-675 to 36a-686, inclusive, and the finance charge shall together constitute the time sale price. For purposes of this subdivision, “retail installment sale” does not include a rent-to-own agreement, as defined in section 42-240.

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

(15) “Sales finance company” means any person engaging in this state in the business, in whole or in part, of acquiring retail installment contracts from retail sellers or installment loan contracts from holders thereof, by purchase, discount or pledge, or by loan or advance to the holder of either on the security thereof, or otherwise.

Section 2. Section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) No person shall act within this state as a consumer collection agency, directly or indirectly, unless such person has first obtained a required consumer collection agency license for such person’s main office and for 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, property tax debtors or federal income tax debtors who reside within this state for creditors who are located within this state, or (B) collects from consumer debtors, property tax debtors or federal income 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, property tax debtors or federal income 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. Any activity subject to licensure pursuant to sections 36a-800 to 36a-814, inclusive, shall be conducted from an office located in a state, as defined in section 36a-2.

(b) An application for a license as a consumer collection agency or for renewal of such license shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the commissioner. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of sections 36a-800 to 36a-814, inclusive. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager responsible for the actions of the licensee, including, but not limited to, information related to such person's personal history and experience, and any administrative, civil or criminal findings by any governmental jurisdiction. As part of the application, the commissioner may (1) in accordance with section 29-17a, conduct a state or national criminal history records check of the applicant, any control person of the applicant, the qualified individual or any branch manager, and (2) in accordance with section 36a-24b (A) require the submission of fingerprints of the applicant, any control person of the applicant, the qualified individual or any branch manager to the Federal Bureau of Investigation or other state, national or international criminal databases, and (B) investigate the financial condition of any such person and require authorization from any such person for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. Such application shall be accompanied by a financial statement prepared by a certified public accountant and [, for] for any person solely engaged in the business of debt buying, shall evidence a positive



tangible net worth. For any applicant not solely engaged in the business of debt buying, such application shall evidence that the applicant has a minimum tangible net worth of fifty thousand dollars. The commissioner shall cause to be made such inquiry and examination as to the qualifications of each such applicant or any control person, qualified individual or branch manager of the applicant as the commissioner deems necessary. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially responsible.

(c) (1) Each applicant for a consumer collection agency license shall pay to the system any required fees or charges and a license fee of five hundred dollars. Each such license shall expire at the close of business on December thirty-first of the year in which the license was approved, unless such license is renewed, except that any such license 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 renewal of a consumer collection agency license shall pay to the system any required fees or charges and a renewal fee of four hundred dollars.

(2) If the commissioner finds, upon the filing of an application for a consumer collection agency, that (A) the financial responsibility, character, reputation, integrity and general fitness of the applicant, the control persons of the applicant, the qualified individual and any branch manager 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-814, inclusive, and (B) the applicant [is solvent] meets the applicable tangible net worth requirement in subsection (b) 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 control person,



qualified individual or branch manager 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.

(3) The minimum standards for renewal of a consumer collection agency license shall include the following: (A) The applicant continues to meet the minimum standards under this section; (B) the applicant has paid all required fees for renewal of the license; and (C) the applicant has paid all outstanding examination fees or other moneys due to the commissioner. The license of a consumer collection agency licensee 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. Every license shall remain in force and effect until the license has been surrendered, revoked or suspended or has expired in accordance with the provisions of sections 36a-800 to 36a-814, inclusive.

(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-814, 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 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-814, inclusive, or any regulations adopted pursuant to said sections 36a-801 to 36a-814, inclusive. The commissioner shall notify the applicant on the system 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-814, inclusive.

(f) (1) Not later than thirty days before a licensee ceases to engage in the business of a consumer collection agency for any reason, including, but not limited to, a business decision to terminate operations in this state, bankruptcy or voluntary dissolution, such licensee shall request surrender of the license on the system in accordance with subsection (c) of section 36a-51 for each location in which such licensee has ceased to engage in such business.

(2) Except as otherwise specified in subsection (i) of this section, each consumer collection agency applicant or licensee, and each individual designated as a control person, qualified individual or branch manager of such applicant or licensee, shall file on the system any change in the information such applicant, licensee, control person, qualified individual or branch manager most recently submitted to the system in connection with the application or license, or, if the information cannot be filed on the system, notify the commissioner of such change, in writing, not later than fifteen days after the date the applicant, licensee, control person, qualified individual or branch manager had reason to know of the change.

(3) A consumer collection agency licensee shall file on the system or, if the information cannot be filed on the system, notify the commissioner, in writing, of the occurrence of any of the following developments not later than fifteen days after the date the licensee had reason to know of the occurrence of any of the following developments:

(A) Filing for bankruptcy or the consummation of a corporate restructuring of the licensee;

(B) Filing of a criminal indictment against the licensee in any way related to the consumer collection activities of the licensee, or receiving notification of the filing of any criminal felony indictment or felony conviction of any control person, branch manager or qualified individual of the licensee;



(C) Receiving notification of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal action by any governmental agency against the licensee or any control person, branch manager or qualified individual of the licensee and the reasons therefor;

(D) Receiving notification of the initiation of any action against the licensee or any control person, branch manager or qualified individual of the licensee by the Attorney General or the attorney general of any other state and the reasons therefor;

(E) Receiving notification of filing for bankruptcy of any control person, branch manager or qualified individual of the licensee; or

(F) Any decrease in tangible net worth from the minimum amount required pursuant to subsection (b) of this section.

(g) The commissioner may automatically suspend a license if the licensee 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 has been automatically suspended pursuant to this section, the commissioner shall (1) give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to section 36a-804 and an opportunity for a hearing on such action in accordance with section 36a-51, and (2) require such licensee to take or refrain from taking such action as the commissioner deems necessary to effectuate the purposes of this section.

(h) No abatement of the license fee shall be made if the application is denied or withdrawn prior to issuance of the license or 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. No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee may not use its legal



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

(j) 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 and pay the applicable fees or charges to the system. Each consumer collection agency licensee shall, to the extent required by the system, timely submit to



the system accurate reports of condition that shall be in such form and shall contain such information as the system may require. Failure by a licensee to submit a timely and accurate report of condition shall constitute a violation of this provision.

(k) The unique identifier of any person licensed under section 36a-801 shall be clearly shown on all solicitations and advertisements, including business cards and Internet web sites, and any other documents as established by rule, regulation or order of the commissioner, and shall be clearly stated in all audio solicitations and advertisements. The solicitations and advertisements of any person licensed under section 36a-801: (1) Shall not include any statement that such person is endorsed in any way by this state, except that such solicitations and advertisements may include a statement that such person is licensed in this state; (2) shall not include any statement or claim that is deceptive, false or misleading; (3) shall otherwise conform to the requirements of sections 36a-801 to 36a-814, inclusive, any regulations issued thereunder and any other applicable law; and (4) shall be retained for two years from the date of use of such solicitation or advertisement.



Agency Legislative Proposal - 2021 Session

Document Name: 083121_DOB_FIDStatutoryNewProposals

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matt Smith

Phone: (860) 240-8105

E-mail: matthew.smith@ct.gov

Lead agency division requesting this proposal: Financial Institutions Division

Agency Analyst/Drafter of Proposal: Matt Saunig

Title of Proposal: Financial Institutions Critical Statutory Changes

Statutory Reference: 36a-145; 36a-330; 36a-333; 36a-412

Proposal Summary:

This new proposal makes two critical changes to The Banking Law of Connecticut. The first change incorporates new federal banking regulatory capital standards, which will allow community banks to continue to take public deposits and apply the new federal regulatory capital framework. The second change allows for the consideration of a bank's compliance with the Community Reinvestment Act in the approval of loan production office applications.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

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

(1) Yes; the recent federal creation of the community bank leverage ratio framework makes Sections 1 and 2 of the proposal necessary. (2) We are in process of researching some other states. (3) Feedback from the industry is in support of the public deposit changes. Even though no direct calls on the LPO proposal was received, there have been calls by activists and consumer advocate organizations to hold financial institutions accountable for CRA performance. (4) If these changes are not enacted this session, certain community banks will not be able to accept public deposits without an additional burden associated with calculating a risk-based capital ratio. Also, a bank's record of compliance with the Community Reinvestment Act will not be a basis to deny new loan production office applications.



Empty rectangular box for additional information.

◇ **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?*

These are new proposals.

PROPOSAL IMPACT

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

Agency Name: Department of Banking
Agency Contact (name, title, phone): Matt Smith, Director of Government Relations and Consumer Affairs, (860) 240-8105
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)*
 There is no municipal fiscal impact.

State
 There is no state fiscal impact.



Federal

There is no federal fiscal impact.

Additional notes on fiscal impact

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

Sections 1 and 2 allow banks that have elected to use the new federal community bank leverage ratio framework to accept public deposits. Sections 3 and 4 allow for a bank’s record of compliance with the Community Reinvestment Act to be considered in the loan production office approval process.

◇ **EVIDENCE BASE**

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

Not applicable.

Insert fully drafted bill here

Sec. 1. Section 36a-330 of the general statutes is amended by repealed and the following is substituted in lieu thereof (*effective upon passage*):

As used in sections 36a-330 to 36a-338, inclusive, unless the context otherwise requires:

- (1) “Business day” means any day other than a Saturday, Sunday or day on which a financial institution is closed as required or authorized by state or federal law;
- (2) “Close of business” means the time at which a financial institution closes for regular business operations on any business day;



(3) “Community bank leverage ratio framework” has the same meaning as provided in Section 324.12 of Subpart 324 of the Federal Deposit Insurance Corporation Rules and Regulations, as amended from time to time;

[(3)] (4) “Eligible collateral” means the following investments for which prices or values are quoted or readily available: (A) General obligations that are guaranteed fully as to principal and interest by the United States or this state or for which the full faith and credit of the United States or this state is pledged for the payment of principal and interest; (B) general obligations of any agency of the United States, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest; (C) mortgage pass-through or participation certificates or similar securities that have been issued or guaranteed by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association; (D) general obligations of municipalities and states other than this state that are rated in the three highest rating categories by a rating agency recognized by the commissioner; and (E) revenue obligations for essential services, including education, transportation, emergency, water and sewer services of municipalities and states that are rated in the three highest rating categories by a rating agency recognized by the commissioner and that are determined to be a prudent investment by the governing board of the qualified public depository, by a management committee or board committee appointed by such governing board or by an officer appointed by such governing board, management committee or board committee;

[(4)] (5) “Financial institution” means a bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch as defined in section 36a-410;

[(5)] (6) “Loss” means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository;

[(6)] (7) “Net worth ratio” has the same meaning as “net worth ratio” as provided in 12 CFR 702.2, as from time to time amended;

[(7)] (8) “Public deposit” means (A) moneys of this state or of any governmental subdivision of this state or any commission, committee, board or officer thereof, any



housing authority or any court of this state and (B) moneys held by the Judicial Department in a fiduciary capacity;

[(8)] (9) “Qualified public depository” or “depository” means a bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch, as defined in section 36a-410, which receives or holds public deposits and, to the extent applicable, (A) segregates eligible collateral for public deposits as described in section 36a-333, or (B) arranges for a letter of credit to be issued in accordance with section 36a-337;

[(9)] (10) “Risk-based capital ratio” has the same meaning as “total risk-based capital ratio” as provided in Section 325.2 of Subpart 325 of the Federal Deposit Insurance Corporation Rules and Regulations, as amended from time to time;

[(10)] (11) “Tier one leverage ratio” has the same meaning as “leverage ratio” as provided in Section 325.2 of Subpart 325 of the Federal Deposit Insurance Corporation Rules and Regulations, as amended from time to time; and

[(11)] (12) “Uninsured public deposit” means the portion of a public deposit that is not insured or guaranteed by the Federal Deposit Insurance Corporation or by the National Credit Union Administration. For purposes of this subdivision, amounts of a public deposit that are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration include amounts that have been redeposited, with the authorization of the public depositor, into deposit accounts in one or more federally insured banks, out-of-state banks, Connecticut credit unions or federal credit unions, including the qualified public depository, provided the full amounts so included are eligible for insurance coverage by the Federal Deposit Insurance Corporation or by the National Credit Union Administration.

Sec. 2. Section 36a-333 of the general statutes is amended by repealed and the following is substituted in lieu thereof (*effective upon passage*):

(a)(1) To secure public deposits, each qualified public depository that is not under a formal regulatory order shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount not less than twenty-five per cent of all uninsured public deposits held by the depository, provided if such depository: (A) (i) Is a bank or out-of-state bank having a tier one leverage ratio of not less than six per cent and a risk-based capital ratio of not less than twelve per cent, (ii) is a bank or out-of-state bank that has elected to use the community bank leverage ratio framework and has a tier one leverage ratio greater than nine per cent, (iii) or is a credit union or federal credit union having a net



worth ratio of not less than eight per cent, the amount of eligible collateral shall be a sum not less than ten per cent of all uninsured deposits held by the depository; or (B) is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent or a risk-based capital ratio of less than ten per cent, or is a credit union or federal credit union having a net worth ratio of less than seven per cent, the amount of eligible collateral shall be not less than a sum equal to one hundred ten per cent of all uninsured public deposits held by the depository.

(2) Notwithstanding the provisions of subdivisions (1) and (3) of this subsection, to secure public deposits, each qualified public depository that (A) has been conducting business in this state for a period of less than two years, except for a depository that is a successor institution to a depository which conducted business in this state for two years or more, or (B) is an uninsured bank, shall at all times maintain, segregated from its other assets as required under subsection (b) of this section, eligible collateral in an amount not less than one hundred twenty per cent of all uninsured public deposits held by the depository.

(3) To secure public deposits, each qualified public depository that is under a formal regulatory order shall at all times maintain, segregated from its other assets as required under subsection (b) of this section, eligible collateral in an amount not less than one hundred ten per cent of all uninsured public deposits held by the depository. However, if such regulatory order is not related to capital, asset quality, earnings or liquidity, the depository notifies each of its public depositors of the issuance of such order and such depository is a bank or out-of-state bank having a tier one leverage ratio of not less than five per cent and risk-based capital ratio of not less than ten per cent or a credit union or federal credit union having a net worth ratio of not less than seven per cent, such depository may reduce the amount of eligible collateral it is required to maintain under this subdivision to an amount not less than seventy-five per cent of all uninsured public deposits held by the depository, provided if such depository is a bank or out-of-state bank having a tier one leverage ratio of not less than seven and one-half per cent and a risk-based capital ratio of not less than fourteen per cent, or a bank or out-of-state bank that has elected to use the community bank leverage ratio framework and has a tier one leverage ratio greater than nine per cent, or a credit union or federal credit union having a net worth ratio of not less than nine and one-half per cent, the amount of eligible collateral may be reduced to a sum not less than fifty per cent of all uninsured public deposits held by the depository.

(4) Notwithstanding the provisions of this subsection, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under subdivision (1) or (3) of this subsection, as applicable. For purposes of this subsection, the amount of all uninsured public deposits held by the depository shall be determined at the close of business on the day of receipt of any public deposit and any deficiency in the amount of eligible collateral required



under this section shall be cured not later than the close of business on the following business day. For purposes of this subsection, the depository's tier one leverage ratio and risk-based capital ratio or net worth ratio shall be determined, in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, based on the most recent quarterly call report, provided if, during any calendar quarter after the issuance of such report, the depository experiences a decline in its tier one leverage ratio, risk-based capital ratio or net worth ratio to a level that would require the depository to maintain a higher amount of eligible collateral under subdivision (1) or (3) of this subsection, the depository shall increase the amount of eligible collateral maintained by it to the minimum required under subdivision (1) or (3) of this subsection, as applicable, based on such lower tier one leverage ratio, risk-based capital ratio or net worth ratio and shall notify the commissioner of its actions. The commissioner may, at any time, require the depository to increase its eligible collateral to an amount greater than that required by subdivision (1) or (3) of this subsection, as applicable, up to a maximum amount of one hundred twenty per cent, if the commissioner reasonably determines that such increase is necessary for the protection of public deposits. If the commissioner determines that such increase in eligible collateral is no longer necessary for the protection of public deposits, the commissioner may allow the depository to adjust the amount downward, as the circumstances warrant, to an amount not less than the minimum amount required by subdivision (1) or (3) of this subsection, as applicable.

(5) For purposes of this subsection, "formal regulatory order" means a written agreement related to enforcement, including a letter of understanding or agreement or a written order, that a supervisory agency is required to publish or publishes on its web site, but does not include any written agreement or written order under which the sole obligation of the depository is to pay a civil money penalty, fine or restitution.

(b) (1) Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of five per cent or greater [or] and a risk-based capital ratio of ten per cent or greater or that is a bank or out-of-state bank that has elected to use the community bank leverage ratio framework and has a tier one leverage ratio greater than nine percent shall transfer eligible collateral maintained under subsection (a) of this section to its own trust department, provided such trust department is located in this state unless the commissioner approves otherwise, to the trust department of another financial institution, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent or a risk-based capital ratio of less than ten per cent, each qualified public depository that is a bank or out-of-state bank that has elected to use the community bank leverage ratio framework and has a tier one leverage ratio of nine percent or less, and each qualified public depository that is a credit union or federal



credit union shall transfer eligible collateral maintained under subsection (a) of this section to the trust department of a financial institution that is not owned or controlled by the depository or by a holding company owning or controlling the depository, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Such transfers of eligible collateral shall be made in a manner prescribed by the commissioner. The qualified public depository shall determine and adjust the market value of such eligible collateral on a monthly basis. Without the requirement of any further action, the commissioner shall have, for the benefit of public depositors, a perfected security interest in all such eligible collateral held in such segregated trust accounts. Such security interest shall have priority over all other perfected security interests and liens. The commissioner may, at any time, require the depository to value the collateral more frequently than monthly if the commissioner reasonably determines that such valuation is necessary for the protection of public deposits. Each holder of eligible collateral shall file with the commissioner, at the end of each calendar quarter, a report with the CUSIP number, description and par value of each investment it holds as eligible collateral.

(2) No qualified public depository shall maintain eligible collateral in its own trust department pursuant to subdivision (1) of this subsection unless such depository is authorized under law to exercise fiduciary powers in this state.

(3) No financial institution shall accept a transfer of eligible collateral from a qualified public depository pursuant to subdivision (1) of this subsection unless such financial institution is (A) authorized under law to exercise fiduciary powers in this state, and (B) federally insured or receives approval of the commissioner. If a financial institution ceases to meet such requirements, it shall give immediate notice to the qualified public depository and the commissioner who shall thereupon instruct such institution with respect to the disposition of eligible collateral.

(4) Each qualified public depository shall enter into a written trust agreement with the financial institution, federal reserve bank or federal home loan bank serving as trustee. Such agreement shall include a statement by the financial institution that such institution shall be subject to and comply with the applicable requirements of sections 36a-330 to 36a-338, inclusive.

(c) The depository shall have the right to make substitutions of eligible collateral at any time without notice. The depository shall have the right to reduce the amount of eligible collateral maintained by it that is in excess of the amount required under subsection (a) of this section. The income from the assets which constitute segregated eligible collateral shall belong to the depository without restriction.



(d) Any qualified public depository that ceases to be a qualified public depository or no longer wishes to be a qualified public depository shall no longer receive public deposits and shall give immediate notice to the commissioner, who shall thereupon instruct such qualified public depository of the procedures to be followed with respect to the return of public deposits and eligible collateral.

Sec. 3. Subsection (o) of section 36a-145 of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2021*):

(o) (1) With the approval of the commissioner, a Connecticut bank may establish a loan production office in or outside this state. The commissioner shall not approve the establishment of a loan production office under this subdivision unless the commissioner has considered a Connecticut bank's record of compliance with the Community Reinvestment Act and such Connecticut bank's overall CRA rating.

(2) A Connecticut bank that 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 such loan production office for at least a thirty-day period ending on the date proposed for such closing.

Sec. 4. Subsection (d) of section 36a-412 of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2021*):

(d) With the approval of the commissioner, any out-of-state bank, other than a foreign bank, may establish a loan production office in this state. The commissioner shall not approve the establishment of a loan production office under this subdivision unless the commissioner has considered an out-of-state bank's record of compliance with the Community Reinvestment Act and such out-of-state bank's overall CRA rating.



Agency Legislative Proposal - 2021 Session

Document Name: 083121_DOB_FIDStatutoryResubmission

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Banking

Liaison: Matt Smith

Phone: (860) 240-8105

E-mail: matthew.smith@ct.gov

Lead agency division requesting this proposal: Financial Institutions Division

Agency Analyst/Drafter of Proposal: Matt Saunig

Title of Proposal: Financial Institutions Technical Statutory Changes

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

Proposal Summary:

This proposal is a resubmission from the prior legislative session and makes several technical changes to The Banking Law of Connecticut in order to streamline certain approvals and provide clarity. Section 1 eliminates a redundancy in the statute. Section 2 removes the outdated requirement that the Commissioner endorse an amendment to a credit union's certificate of incorporation. This aligns the process more closely to that for banks while retaining the Commissioner's approval authority for such amendments. Section 3 provides regulatory relief to the banking industry by eliminating an application requirement concerning consolidated audits while preserving the Commissioner's ability to require separate audits of bank subsidiaries for good cause. The FDIC does not require approval to submit a consolidated audit.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

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

(1) There have been no changes in federal, state, or local laws and regulations that make this legislation necessary. The State law change brings parity to federal regulations. (2) These are technical revisions. We are in process of researching some other states. (3) There have been no calls from constituencies for this action. The changes are proposed based on recommendations



from DOB staff to proactively reduce unnecessary regulatory burden. (4) If these changes are not enacted this session, the approval processes for credit union certificate of incorporation amendments and bank consolidated audit requests will remain unchanged and administrative inefficiencies related to those processes will continue.

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?*

These changes were supported by the committee, but were not voted out of committee due to the shorten session because of COVID-19

PROPOSAL IMPACT

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

Agency Name: Department of Banking
Agency Contact (name, title, phone): Matt Smith, Director of Government Relations and Consumer Affairs, (860) 240-8105
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)*
 Since this proposal only concerns state approval processes, there is no municipal fiscal impact.

State



There are no application fees associated with the applications at issue. However, certain minor administrative efficiencies could be realized by eliminating unnecessary application approval steps.

Federal

Since this proposal only concerns state approval processes, there is no federal fiscal impact.

Additional notes on fiscal impact

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

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

◇ **EVIDENCE BASE**

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

Not applicable.

Insert fully drafted bill here

Section 1. Subdivision (3) of subsection (h) of section 36a-437a of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2021*):

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



may be extended by the commissioner, in writing, if the commissioner determines that the proposed amendment raises issues that require additional information or additional time for analysis.

Sec. 2. Subsection (g) of section 36a-437a of the general statutes is repealed and the following is substituted in lieu thereof (*effective July 1, 2021*):

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

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

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

Sec. 3. Section 36a-86 of the general statutes is amended by repealed and the following is substituted in lieu thereof (*effective July 1, 2021*):

(a) The governing board of each Connecticut bank shall annually procure an audit or examination by certified public accountants or holders of certificates of authority as public accountants selected by vote of the governing board or a duly authorized committee thereof, and such accountants shall agree to provide related working papers, policies and procedures to the commissioner, if requested. The accountants shall thoroughly examine the books, records, accounts and affairs of such bank and submit a signed report of the audit or examination showing the condition of the bank to the governing board of such bank within a reasonable period of time following the conclusion of the audit or



examination. The signed report shall be kept on file in such bank and such governing board shall file the following documents with the commissioner not later than the earlier of (1) one hundred twenty days following the close of such bank's fiscal year, or (2) the date prescribed by federal law for such bank to file such audit or examination with the applicable federal banking regulator, unless the commissioner extends such deadline for good cause shown: (A) A copy of the signed report; (B) any written communication regarding matters that the accountants are required to communicate to the audit committee of the bank; and (C) any written communication from the accountants to the governing board noting significant deficiencies and material weaknesses in internal controls of the bank. Members of the governing board of such Connecticut bank shall not be personally liable for any loss suffered by such bank through the wrongdoing or negligence of any officer or employee, which wrongdoing or negligence should have been discovered by the accountants in the performance of their duties, provided such members shall have exercised due care to procure thorough and substantial audits by the accountants.

(b) Notwithstanding the provisions of subsection (a) of this section, the governing board of a Connecticut bank that is a subsidiary of a holding company may procure and file annually with the commissioner a signed consolidated report of the audit or examination of the holding company in lieu of that of the Connecticut bank, provided (1) prior to the engagement of an accountant, the governing board of such Connecticut bank has voted to allow and accept as adequate, a consolidated report of the audit or examination of the holding company; (2) the accountants selected to provide such consolidated report have agreed to provide related working papers, policies and procedures to the commissioner, if requested; [and the commissioner has approved, conditionally or unconditionally, the substitution of such consolidated report; (2)] (3) the accountants shall thoroughly examine the books, records, accounts and affairs of the Connecticut bank and shall submit a signed consolidated report to the governing board of such Connecticut bank within a reasonable period of time following the conclusion of the audit or examination; and [(3)] (4) the signed consolidated report shall be kept on file in such Connecticut bank and a copy shall be filed with the commissioner.

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