



Senate

General Assembly

File No. 97

January Session, 2001

Substitute Senate Bill No. 793

Senate, April 2, 2001

The Committee on Banks reported through SEN. MCDERMOTT of the 34th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MONEY TRANSMISSION.

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

1 Section 1. Section 36a-3 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

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

5 "Account". Sections 36a-155 and 36a-365.

6 "Advance fee". Sections 36a-510, 36a-485 and 36a-615.

7 "Advertise" or "advertisement". Sections 36a-485 and 36a-510.

8 "Agency bank". Section 36a-285.

9 "Alternative mortgage loan". Section 36a-265.

10 "Amount financed". Section 36a-690.

- 11 "Annual percentage rate". Section 36a-690.
- 12 "Annual percentage yield". Section 36a-316.
- 13 "Applicant". Section 36a-736.
- 14 "Associate". Section 36a-184.
- 15 "Bank". Section 36a-30.
- 16 "Bankers' bank". Section 36a-70.
- 17 "Banking business". Section 36a-425.
- 18 "Billing cycle". Section 36a-565.
- 19 "Bona fide nonprofit organization". Section 36a-655.
- 20 "Branch". Sections 36a-145 and 36a-410.
- 21 "Branch or agency net payment entitlement". Section 36a-428n.
- 22 "Branch or agency net payment obligation". Section 36a-428n.
- 23 "Broker". Section 36a-510.
- 24 "Business and industrial development corporation". Section 36a-626.
- 25 "Business and property in this state". Section 36a-428n.
- 26 "Cash advance". Section 36a-564.
- 27 "Cash price". Section 36a-770.
- 28 "Certificate of organization". Section 36a-435.
- 29 "Closely related activities". Section 36a-250.
- 30 "Collective managing agency account". Section 36a-365.

- 31 "Commercial vehicle". Section 36a-770.
- 32 "Community bank". Section 36a-70.
- 33 "Community development bank". Section 36a-70.
- 34 "Connecticut holding company". Section 36a-410.
- 35 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- 36 "Consumer Credit Protection Act". Section 36a-676.
- 37 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.
- 38 "Consumer collection agency". Section 36a-800.
- 39 "Controlling interest". Section 36a-276.
- 40 "Credit". Sections 36a-645 and 36a-676.
- 41 "Creditor". Sections 36a-676, 36a-695 and 36a-800.
- 42 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- 43 "Credit clinic". Section 36a-695.
- 44 "Credit rating agency". Section 36a-695.
- 45 "Credit report". Section 36a-695.
- 46 "Credit sale". Section 36a-676.
- 47 "De novo branch". Section 36a-410.
- 48 "Debt". Section 36a-645.
- 49 "Debt adjustment". Section 36a-655.
- 50 "Debt mutual fund". Section 36a-275.

- 51 "Debt securities". Section 36a-275.
- 52 "Deliver". Section 36a-316.
- 53 "Deposit". Section 36a-316.
- 54 "Deposit account". Sections 36a-136 and 36a-316.
- 55 "Deposit account charge". Section 36a-316.
- 56 "Deposit account disclosures". Section 36a-316.
- 57 "Deposit contract". Section 36a-316.
- 58 "Deposit services". Section 36a-425.
- 59 "Depositor". Section 36a-316.
- 60 "Earning period". Section 36a-316.
- 61 "Electronic payment instrument". Section 36a-596, as amended by
62 this act.
- 63 "Eligible account holder". Section 36a-136.
- 64 "Eligible collateral". Section 36a-330.
- 65 "Equity mutual fund". Section 36a-276.
- 66 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- 67 "Fiduciary". Section 36a-365.
- 68 "Filing fee". Section 36a-770.
- 69 "Finance charge". Sections 36a-690 and 36a-770.
- 70 "Financial institution". Sections 36a-41, 36a-155, 36a-316, 36a-330 and
71 36a-736.

- 72 "Financial records". Section 36a-41.
- 73 "First mortgage loan". Sections 36a-485, 36a-705 and 36a-715.
- 74 "Fiscal year". Section 36a-435.
- 75 "Foreign banking corporation". Section 36a-425.
- 76 "General facility". Section 36a-580.
- 77 "Global net payment entitlement". Section 36a-428n.
- 78 "Global net payment obligation". Section 36a-428n.
- 79 "Goods". Sections 36a-535 and 36a-770.
- 80 "Graduated payment mortgage loan". Section 36a-265.
- 81 "Guardian". Section 36a-365.
- 82 "Holder". Section 36a-596, as amended by this act.
- 83 "Home banking services". Section 36a-170.
- 84 "Home banking terminal". Section 36a-170.
- 85 "Home improvement loan". Section 36a-736.
- 86 "Home purchase loan". Section 36a-736.
- 87 "Home state". Section 36a-410.
- 88 "Immediate family". Section 36a-435.
- 89 "Installment loan contract". Sections 36a-535 and 36a-770.
- 90 ["Instrument". Section 36a-596.]
- 91 "Insurance bank". Section 36a-285.

- 92 "Insurance department". Section 36a-285.
- 93 "Interest". Section 36a-316.
- 94 "Interest rate". Section 36a-316.
- 95 "Lender". Sections 36a-510 and 36a-770.
- 96 "Lessor". Section 36a-676.
- 97 "License". Section 36a-626.
- 98 "Licensee". Sections 36a-510, 36a-596, as amended by this act, and
99 36a-626.
- 100 "Limited branch". Section 36a-145.
- 101 "Limited facility". Section 36a-580.
- 102 "Loan broker". Section 36a-615.
- 103 "Loss". Section 36a-330.
- 104 "Made in this state". Section 36a-770.
- 105 "Managing agent". Section 36a-365.
- 106 "Material litigation". Section 36a-596, as amended by this act.
- 107 "Member". Section 36a-435.
- 108 "Membership share". Section 36a-435.
- 109 "Money order". Section 36a-596, as amended by this act.
- 110 "Money transmission". Section 36a-365, as amended by this act.
- 111 "Mortgage broker". Section 36a-485.
- 112 "Mortgage insurance". Section 36a-725.

- 113 "Mortgage lender". Sections 36a-485 and 36a-705.
- 114 "Mortgage loan". Sections 36a-261 and 36a-265.
- 115 "Mortgage rate lock-in". Section 36a-705.
- 116 "Mortgage servicing company". Section 36a-715.
- 117 "Mortgagor". Section 36a-715.
- 118 "Motor vehicle". Section 36a-770.
- 119 "Multiple common bond membership". Section 36a-435.
- 120 "Municipality". Section 36a-800.
- 121 "Net worth". Section 36a-596, as amended by this act.
- 122 "Network". Section 36a-155.
- 123 "Note account". Sections 36a-301 and 36a-445.
- 124 "Office". Section 36a-316.
- 125 "Open-end credit plan". Section 36a-676.
- 126 "Open-end loan". Section 36a-565.
- 127 "Organization". Section 36a-800.
- 128 "Out-of-state holding company". Section 36a-410.
- 129 "Outstanding". Section 36a-596, as amended by this act.
- 130 "Passbook savings account". Section 36a-316.
- 131 "Payment instrument". Section 36a-596, as amended by this act.
- 132 "Periodic statement". Section 36a-316.

- 133 "Permissible investment". Section 36a-596, as amended by this act.
- 134 "Person". Section 36a-184.
- 135 "Post". Section 36a-316.
- 136 "Prime quality". Section 36a-596, as amended by this act.
- 137 "Principal amount of the loan". Section 36a-510.
- 138 "Principal officer". Section 36a-485.
- 139 "Processor". Section 36a-155.
- 140 "Public deposit". Section 36a-330.
- 141 "Purchaser". Section 36a-596, as amended by this act.
- 142 "Qualified financial contract". Section 36a-428n.
- 143 "Qualified public depository" and "depository". Section 36a-330.
- 144 "Records". Section 36a-17.
- 145 "Relocate". Section 36a-145.
- 146 "Residential property". Section 36a-485.
- 147 "Retail buyer". Sections 36a-535 and 36a-770.
- 148 "Retail credit transaction". Section 42-100b.
- 149 "Retail deposits". Section 36a-70.
- 150 "Retail installment contract". Sections 36a-535 and 36a-770.
- 151 "Retail installment sale". Sections 36a-535 and 36a-770.
- 152 "Retail seller". Sections 36a-535 and 36a-770.

- 153 "Reverse annuity mortgage loan". Section 36a-265.
- 154 "Sales finance company". Sections 36a-535 and 36a-770.
- 155 "Savings department". Section 36a-285.
- 156 "Savings deposit". Section 36a-316.
- 157 "Secondary mortgage loan". Section 36a-510.
- 158 "Security convertible into a voting security". Section 36a-184.
- 159 "Share". Section 36a-435.
- 160 "Simulated check". Sections 36a-485 and 36a-510.
- 161 "Single common bond membership". Section 36a-435.
- 162 "Social purpose investment". Section 36a-277.
- 163 "Standard mortgage loan". Section 36a-265.
- 164 "Tax and loan account". Sections 36a-301 and 36a-445.
- 165 "The Savings Bank Life Insurance Company". Section 36a-285.
- 166 "Time account". Section 36a-316.
- 167 "Transaction". Section 36a-215.
- 168 "Travelers check". Section 36a-596, as amended by this act.
- 169 "Troubled financial institution". Section 36a-215.
- 170 "Uninsured bank". Section 36a-70.
- 171 "Unsecured loan". Section 36a-615.
- 172 Sec. 2. Section 36a-595 of the general statutes is repealed and the
- 173 following is substituted in lieu thereof:
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174 Sections 36a-595 to 36a-610, inclusive, as amended by this act, shall
175 be known and may be cited as the ["Money Order and Travelers Check
176 Licensees Act"] "Money Transmission Act".

177 Sec. 3. Section 36a-596 of the general statutes is repealed and the
178 following is substituted in lieu thereof:

179 As used in sections 36a-595 to 36a-610, inclusive, as amended by this
180 act:

181 (1) "Electronic payment instrument" means a card or other tangible
182 object for the transmission or payment of money which contains a
183 microprocessor chip, magnetic stripe, or other means for the storage of
184 information, that is prefunded and for which the value is decremented
185 upon each use, but does not include a card or other tangible object that
186 is redeemable by the issuer in the issuer's goods or services.

187 (2) "Holder" means a person, other than a purchaser, who is either in
188 possession of a Connecticut payment instrument and is the named
189 payee thereon or in possession of a Connecticut payment instrument
190 issued or endorsed to [him] such person or bearer or in blank. "Holder"
191 does not include any person who is in possession of a lost, stolen or
192 forged Connecticut payment instrument.

193 [(3) "Instrument" means a money order, travelers check or electronic
194 payment instrument that evidences either an obligation for the
195 transmission or payment of money, or the purchase or the deposit of
196 funds for the purchase of such money order, travelers check or
197 electronic payment instrument. An instrument is a "Connecticut
198 instrument" if it is sold in this state.]

199 [(4)] (3) "Licensee" means any person licensed pursuant to sections
200 36a-595 to 36a-610, inclusive, as amended by this act.

201 (4) "Material litigation" means any litigation that, according to
202 generally accepted accounting principles, is deemed significant to a

203 person's financial health and would be required to be referenced in a
204 person's annual audited financial statements, report to shareholders or
205 similar documents.

206 (5) "Money order" means any check, draft, money order or other
207 payment instrument. [for the transmission or payment of money.]
208 "Money order" does not include a travelers check or electronic
209 payment instrument.

210 (6) "Money transmission" means engaging in the business of
211 receiving money for transmission or the business of transmitting
212 money within the United States or to locations outside the United
213 States by any and all means including, but not limited to, payment
214 instrument, wire, facsimile or electronic transfer.

215 [(6)] (7) "Net worth" means the excess of assets over liabilities as
216 determined by generally accepted accounting principles.

217 [(7) A money order, travelers check or electronic payment
218 instrument is "outstanding" if:]

219 (8) "Outstanding" means, in the case of a money order, travelers
220 check or electronic payment instrument, that: (A) It is sold in the
221 United States; (B) a report of it has been received by a licensee from its
222 agents or subagents; and (C) it has not yet been paid by the issuer.

223 (9) "Payment instrument" means a money order, travelers check or
224 electronic payment instrument that evidences either an obligation for
225 the transmission or payment of money, or the purchase or the deposit
226 of funds for the purchase of such money order, travelers check or
227 electronic payment instrument. A payment instrument is a
228 "Connecticut payment instrument" if it is sold in this state.

229 [(8)] (10) "Permissible investment" means: (A) Cash in United States
230 currency; (B) time deposits, as defined in subdivision (63) of section
231 36a-2, or other debt instruments of a bank; (C) bills of exchange or

232 bankers acceptances which are eligible for purchase by member banks
233 of the Federal Reserve System; (D) commercial paper of prime quality;
234 (E) interest-bearing bills, notes, bonds, debentures or other obligations
235 issued or guaranteed by: (i) The United States or any of its agencies or
236 instrumentalities, or (ii) any state, or any agency, instrumentality,
237 political subdivision, school district or legally constituted authority of
238 any state if such investment is of prime quality; (F) interest-bearing
239 bills or notes, or bonds, debentures or preferred stocks, traded on any
240 national securities exchange or on a national over-the-counter market,
241 if such debt or equity investments are of prime quality; (G) receivables
242 due from selling agents consisting of the proceeds of the sale of
243 payment instruments which are not past due or doubtful of collection;
244 (H) gold; and (I) any other investments approved by the
245 commissioner. Notwithstanding the provisions of this subdivision, if
246 the commissioner at any time finds that an investment of a licensee is
247 unsatisfactory for investment purposes, the investment shall not
248 qualify as a permissible investment.

249 [(9) An investment is of "prime quality" if]

250 (11) "Prime quality" of an investment means that it is within the top
251 four rating categories in any rating service recognized by the
252 commissioner unless the commissioner determines for any licensee
253 that only those investments in the top three rating categories qualify as
254 "prime quality".

255 [(10)] (12) "Purchaser" means a person who buys or has bought a
256 Connecticut payment instrument.

257 [(11)] (13) "Travelers check" means [an] a payment instrument for
258 the payment of money that contains a provision for a specimen
259 signature of the purchaser to be completed at the time of a purchase of
260 the instrument and a provision for a countersignature of the purchaser
261 to be completed at the time of negotiation.

262 Sec. 4. Section 36a-597 of the general statutes is repealed and the
263 following is substituted in lieu thereof:

264 No person shall engage in the business of issuing Connecticut
265 payment instruments, or engage in the business of [receiving money
266 for transmitting the same] money transmission, without first obtaining
267 a license from the commissioner as provided in section 36a-600, as
268 amended by this act. No person shall engage in such business or in the
269 business of selling Connecticut payment instruments as an agent or
270 subagent, except as an agent or subagent of a licensee as provided in
271 section 36a-607, as amended by this act.

272 Sec. 5. Section 36a-598 of the general statutes is repealed and the
273 following is substituted in lieu thereof:

274 Each application for an original or renewal license required under
275 sections 36a-595 to 36a-610, inclusive, as amended by this act, shall be
276 made in writing and under oath to the commissioner in such form as
277 the commissioner may prescribe. The application shall [state] include:

278 (1) The exact name of the applicant and, if incorporated, the date of
279 incorporation and the state where incorporated;

280 (2) The complete address of the principal office from which the
281 business is to be conducted, and of the office where the books and
282 records of the applicant are maintained and to be maintained,
283 including the street and number, if any, and the municipality and
284 county of such offices;

285 (3) The complete name and address of each of the applicant's
286 branches, subsidiaries, affiliates and agents and subagents, if any,
287 engaging in this state in the business of selling or issuing Connecticut
288 payment instruments, or [of receiving money for transmitting the
289 same] engaging in the business of money transmission;

290 (4) The name, title, address and telephone number of the person to

291 whom notice of the commissioner's approval or disapproval of the
292 application shall be sent and to whom any inquiries by the
293 commissioner concerning the application shall be directed;

294 (5) The name and residence address of (A) [of] the [applicant, if]
295 individual, if the applicant is an individual; (B) [if a partnership, of its
296 partners] the partners, if the applicant is a partnership; or (C) [if a
297 corporation or association, of its] the directors, trustees, principal
298 officers, and any shareholder owning [twenty] ten per cent or more of
299 each class of its [stock] securities, if the applicant is a corporation or
300 association, and sufficient information pertaining to the name and
301 address, in a form acceptable to the commissioner, on such partners,
302 directors, trustees, principal officers, and any shareholder owning ten
303 per cent or more of each class of its securities, as the commissioner
304 deems necessary to make the findings under section 36a-600, as
305 amended by this act;

306 (6) The most recently audited unconsolidated financial statement of
307 the applicant, including its balance sheet and receipts and
308 disbursements for the preceding year, prepared by an independent
309 certified public accountant acceptable to the commissioner;

310 (7) A list of the applicant's permissible investments, the book and
311 market values of such investments, and the dollar amount of the
312 applicant's aggregate outstanding payment instruments (A) as of the
313 date of the financial statement filed in accordance with [subsection]
314 subdivision (6) of this section; and (B) as of a date no earlier than thirty
315 business days prior to the filing of the application;

316 (8) The history of material litigation and criminal convictions for the
317 five-year period prior to the date of the application of (A) the
318 individual, if the applicant is an individual; (B) the partners, if the
319 applicant is a partnership; or (C) the directors, trustees, principal
320 officers and any shareholder owning ten per cent or more of each class
321 of its securities, if the applicant is a corporation or association, and

322 sufficient information pertaining to the history of material litigation
323 and criminal convictions, in a form acceptable to the commissioner, on
324 such partners, directors, trustees, principal officers and any share
325 holder owning ten per cent or more of each class of its securities.

326 [(8)] (9) (A) The surety bond required by subsection (a) of section
327 36a-602, as amended by this act, if applicable;

328 (B) A list of the investments maintained in accordance with
329 subsection (b) of section 36a-602, as amended by this act, if applicable,
330 and the book and market values of any such investments (i) as of the
331 date of the financial statement filed in accordance with subdivision (6)
332 of this section; and (ii) as of a date no earlier than thirty business days
333 prior to the filing of the application;

334 (C) The commissioner may defer compliance with the provisions of
335 this [subsection] subdivision until after the commissioner rules on the
336 application, but the commissioner shall not issue a license until an
337 applicant complies with the provisions of this subdivision;

338 [(9)] (10) A statement of whether the applicant will engage in the
339 [money order, travelers check or electronic payment instrument
340 business, or any two or all of such businesses,] business of issuing
341 money orders, travelers checks, electronic payment instruments or
342 engage in the business of money transmission in this state;

343 [(10)] (11) Any other information the commissioner may require.

344 Sec. 6. Section 36a-599 of the general statutes is repealed and the
345 following is substituted in lieu thereof:

346 (a) Each application for an original [or renewal] license shall be
347 accompanied by a nonrefundable investigation fee of five hundred
348 dollars and a license fee of one thousand dollars. Each application for a
349 renewal license shall be accompanied by a license fee of one thousand
350 dollars. The license fee shall be refunded if the application for an

351 original license is denied, [or] the commissioner refuses to issue a
352 renewal license or an application for a license or renewal license is
353 withdrawn prior to issuance of a license or renewal license by the
354 commissioner.

355 (b) A license issued pursuant to sections 36a-595 to 36a-610,
356 inclusive, as amended by this act, shall remain in full force and effect
357 through the thirtieth day of June following its date of issuance, unless
358 earlier surrendered, suspended or revoked pursuant to said sections.

359 Sec. 7. Section 36a-600 of the general statutes is repealed and the
360 following is substituted in lieu thereof:

361 (a) Upon the filing of an application for an original license, and the
362 payment of the fees for investigation and license, the commissioner
363 shall investigate the financial condition and responsibility, financial
364 and business experience, character and general fitness of the applicant.
365 The commissioner shall approve conditionally any application, if the
366 commissioner finds that:

367 (1) The applicant's financial condition is sound;

368 (2) The applicant's business will be conducted honestly, fairly,
369 equitably, carefully and efficiently within the purposes and intent of
370 sections 36a-595 to 36a-610, inclusive, as amended by this act, and in a
371 manner commanding the confidence and trust of the community;

372 (3) (A) If the applicant is an individual, such individual is in all
373 respects properly qualified and of good character, (B) if the applicant is
374 a partnership, each partner is in all respects properly qualified and of
375 good character, (C) if the applicant is a corporation or association, each
376 president, chairperson of the executive committee, senior officer
377 responsible for the corporation's business, chief financial officer or any
378 other person who performs similar functions as determined by the
379 commissioner, director, trustee and each shareholder owning ten per

380 cent or more of each class of the securities of such corporation is in all
381 respects properly qualified and of good character;

382 [(3)] (4) The applicant is in compliance with the provisions of
383 sections 36a-603, as amended by this act, and 36a-604, as amended by
384 this act;

385 [(4)] (5) No person on behalf of the applicant knowingly has made
386 any incorrect statement of a material fact in the application, or in any
387 report or statement made pursuant to sections 36a-595 to 36a-610,
388 inclusive, as amended by this act;

389 [(5)] (6) No person on behalf of the applicant knowingly has omitted
390 to state any material fact necessary to give the commissioner any
391 information lawfully required by the commissioner.

392 (b) If the commissioner conditionally approves an application, the
393 applicant shall have thirty days, which the commissioner may extend
394 for cause, to comply with the requirements of section 36a-602, as
395 amended by this act. Upon such compliance, the commissioner's
396 conditional approval shall become final, and the commissioner shall
397 issue a license to the applicant. The commissioner shall not issue a
398 license to any applicant unless the applicant is in compliance with all
399 the requirements of subsection (a) of this section and section 36a-602,
400 as amended by this act.

401 Sec. 8. Section 36a-601 of the general statutes is repealed and the
402 following is substituted in lieu thereof:

403 A license may be renewed for the ensuing twelve-month period
404 upon the filing of an application containing all information required by
405 section 36a-598, as amended by this act, including the information
406 required by subdivisions (6), (7), [and] (8) and (9) of said section if not
407 previously filed with the commissioner. Such renewal application shall
408 be filed no later than a date specified each year by the commissioner in

409 writing to the licensee. [No investigation fee shall be payable to the
410 commissioner in connection with such renewal application.] If an
411 application for a renewal license has been filed with the commissioner
412 on or before the date the commissioner has specified, the license
413 sought to be renewed shall continue in full force and effect until the
414 issuance by the commissioner of the renewal license applied for or
415 until the commissioner has notified the licensee in writing of the
416 commissioner's refusal to issue such renewal license together with the
417 grounds upon which such refusal is based. The commissioner may
418 refuse to issue a renewal license on any ground on which the
419 commissioner might refuse to issue an original license.

420 Sec. 9. Section 36a-602 of the general statutes is repealed and the
421 following is substituted in lieu thereof:

422 (a) As a condition for the issuance and retention of the license,
423 applicants for a license and licensees shall file with the commissioner a
424 corporate surety bond in a form satisfactory to the commissioner and
425 issued by a bonding company or insurance company authorized to do
426 business in this state. The bond shall be in favor of the commissioner,
427 shall remain in place for two years after such licensee ceases to engage
428 in business in this state, and shall be in the principal sum of (1) three
429 hundred thousand dollars for any applicant and any licensee that
430 engages in the business of issuing Connecticut payment instruments
431 with an average daily balance of outstanding Connecticut payment
432 instruments during the two previous reporting quarters of three
433 hundred thousand dollars or less or any licensee that engages in the
434 business of [receiving money for transmitting the same] money
435 transmission with an average weekly amount of money or equivalent
436 thereof transmitted during the two previous reporting quarters of one
437 hundred fifty thousand dollars or less; (2) five hundred thousand
438 dollars for any licensee that engages in the business of issuing
439 Connecticut payment instruments with an average daily balance of
440 outstanding Connecticut payment instruments during the two

441 previous reporting quarters of greater than three hundred thousand
442 dollars but less than five hundred thousand dollars or any licensee that
443 engages in the business of [receiving money for transmitting the same]
444 money transmission with an average weekly amount of money
445 equivalent thereof transmitted during the two previous reporting
446 quarters of greater than one hundred fifty thousand dollars but less
447 than two hundred fifty thousand dollars; and (3) one million dollars
448 for any licensee that engages in the business of issuing Connecticut
449 payment instruments with an average daily balance of outstanding
450 Connecticut payment instruments during the two previous reporting
451 quarters equal to or greater than five hundred thousand dollars or any
452 licensee that engages in the business of [receiving money for
453 transmitting the same] money transmission with an average weekly
454 amount of money or equivalent thereof transmitted during the two
455 previous reporting quarters of two hundred fifty thousand dollars or
456 greater. The proceeds of the bond, [shall constitute a trust fund for the
457 exclusive benefit of the purchasers and holders of Connecticut
458 instruments issued by such licensee] even if commingled with other
459 assets of the licensee, shall be deemed by operation of law to be held in
460 trust for the benefit of any claimants against the licensee to serve the
461 faithful performance of the obligations of the licensee with respect to
462 the receipt, handling, transmission or payment of money in connection
463 with the sale and issuance of payment instruments or transmission of
464 money in the event of the bankruptcy of the licensee, and shall be
465 immune from attachment by creditors or judgment creditors.

466 (b) In lieu of all or part of the principal sum of such corporate surety
467 bonds, applicants for a license and licensees may invest such sum as
468 provided in this subsection. The book or market value, whichever is
469 lower, of such investments shall be equal to the amount of the bond
470 required by subsection (a) of this section less the amount of the bond
471 filed with the commissioner by the applicant or licensee. Such
472 investments may be:

473 (1) Deposits with such banks as such applicants or licensees may
474 designate and the commissioner may approve, and in accordance with
475 such regulations as the commissioner may adopt; or

476 (2) Interest-bearing bills, notes, bonds, debentures or other
477 obligations issued or guaranteed by (A) the United States or any of its
478 agencies or instrumentalities, or (B) any state, or any agency,
479 instrumentality, political subdivision, school district or legally
480 constituted authority of any state if such investment is of prime
481 quality.

482 (c) The investments provided for in subsection (b) of this section
483 shall secure the same obligation as would a corporate surety bond filed
484 under this section. As long as a licensee continues business in the
485 ordinary course, it shall be permitted to collect interest on such
486 investments and at any time to exchange, examine, and compare such
487 investments. The investments made pursuant to this section, [shall be
488 maintained in trust for the exclusive benefit of the purchasers and
489 holders of Connecticut instruments issued by such licensee] even if
490 commingled with other assets of the licensee, shall be deemed by
491 operation of law to be held in trust for the benefit of any claimants
492 against the licensee to serve the faithful performance of the obligations
493 of the licensee with respect to the receipt, handling, transmission or
494 payment of money in connection with the sale and issuance of
495 payment instruments or transmission of money in the event of the
496 bankruptcy of the licensee, and shall be immune from attachment by
497 creditors or judgment creditors.

498 Sec. 10. Section 36a-603 of the general statutes is repealed and the
499 following is substituted in lieu thereof:

500 (a) Each licensee shall at all times maintain permissible investments
501 having a value, computed in accordance with generally accepted
502 accounting principles, at least equal to the aggregate amount of its
503 outstanding payment instruments.

504 (b) As used in subsection (a) of this section, "value" means the lower
505 of book or market value, except that with regard to debt obligations
506 which the licensee as a matter of policy retains until maturity, "value"
507 means the greater of book or market value unless the commissioner
508 orders that for some or all investments of a particular licensee, "value"
509 means the lower of book or market value.

510 (c) Permissible investments, even if commingled with other assets of
511 the licensee, shall be deemed by operation of law to be held in trust for
512 the benefit of any claimants against the licensee to serve the faithful
513 performance of the obligations of the licensee with respect to the
514 receipt, handling, transmission or payment of money in connection
515 with the sale and issuance of payment instruments or transmission of
516 money in the event of the bankruptcy of the licensee, and shall be
517 immune from attachment by creditors or judgment creditors.

518 Sec. 11. Section 36a-604 of the general statutes is repealed and the
519 following is substituted in lieu thereof:

520 (a) Each licensee which issues Connecticut payment instruments
521 which are money orders shall at all times have a net worth of at least
522 one hundred thousand dollars.

523 (b) Each licensee which issues Connecticut payment instruments
524 which are travelers checks or electronic payment instruments shall at
525 all times have a net worth of at least one million dollars.

526 (c) Each licensee that engages in the business of [receiving money
527 for transmitting the same] money transmission shall at all times have a
528 net worth of at least five hundred thousand dollars.

529 Sec. 12. Section 36a-605 of the general statutes is repealed and the
530 following is substituted in lieu thereof:

531 [At least once each year, the commissioner shall visit each licensee
532 and examine its books, accounts, records, files and other papers to

533 ascertain whether it is in sound financial condition and whether its
534 business has been and is being carried on pursuant to law. In lieu of or
535 in addition to any examination required by this section, the
536 commissioner may require a licensee to file a report certified to by an
537 independent certified public accountant containing such information
538 and in such form as the commissioner may require.]

539 (a) In connection with the examination of a licensee under section
540 36a-17, the commissioner may also examine the agents and subagents
541 of such licensee. The commissioner, in lieu of conducting an
542 examination, may accept the report of examination of any other state
543 or federal supervisory agency or any organization affiliated with or
544 representing such supervisory agency with respect to the examination
545 or other supervision of any person subject to the provisions of sections
546 36a-595 to 36a-610, inclusive, as amended by this act, or a report
547 prepared by an independent accounting firm, and reports so accepted
548 are considered for purposes of sections 36a-595 to 36a-610, inclusive, as
549 amended by this act, as an official examination report of the
550 commissioner.

551 (b) The commissioner may enter into cooperative, coordinating and
552 information sharing agreements with any other state or federal
553 supervisory agency or any organization affiliated with or representing
554 such supervisory agency with respect to the examination, examination
555 fees or other supervision of any person subject to the provisions of
556 sections 36a-595 to 36a-610, inclusive, as amended by this act.

557 Sec. 13. Section 36a-606 of the general statutes is repealed and the
558 following is substituted in lieu thereof:

559 (a) On or before the thirtieth day of April each year, each licensee
560 shall file with the commissioner:

561 (1) Its most recently audited unconsolidated financial statement,
562 including its balance sheet and receipts and disbursements for the

563 preceding year, prepared by an independent certified public
564 accountant acceptable to the commissioner;

565 (2) A list of permissible investments, the book and market value of
566 such investments, and the dollar amount of the licensee's aggregate
567 outstanding payment instruments; and

568 (3) A list of investments maintained in accordance with subsection
569 (b) of section 36a-602, as amended by this act, if applicable, the book
570 and market values of such investments and the dollar amount of the
571 licensee's aggregate outstanding Connecticut payment instruments.

572 (b) The lists and other information filed as provided in subdivisions
573 (2) and (3) of subsection (a) of this section shall be as of the same date
574 as the financial statement filed in accordance with subdivision (1) of
575 subsection (a) of this section.

576 (c) The commissioner may require of any licensee such additional
577 reports, under oath, certified, or otherwise, concerning such licensee's
578 business in this state as the commissioner may consider necessary for
579 the enforcement of sections 36a-595 to 36a-610, inclusive, as amended
580 by this act.

581 Sec. 14. Section 36a-607 of the general statutes is repealed and the
582 following is substituted in lieu thereof:

583 A licensee may conduct its business at one or more locations within
584 this state as follows:

585 (1) The business may be conducted by the licensee or through or by
586 means of such agents and subagents as the licensee may periodically
587 designate or appoint.

588 (2) No license under sections 36a-595 to 36a-610, inclusive, as
589 amended by this act, shall be required of any agent or subagent of a
590 licensee.

591 (3) Each agent and subagent shall, from the moment of receipt, hold
592 the proceeds of a sale or delivery of a licensee's Connecticut payment
593 instruments in trust for the benefit of such licensee or of an agent of the
594 licensee on behalf of such licensee.

595 (4) A licensee shall be liable for the loss caused to any purchaser or
596 holder of the licensee's Connecticut payment instruments by the failure
597 of an agent or subagent of the licensee to forward to the licensee the
598 amount due from the proceeds of a sale or delivery of the licensee's
599 Connecticut payment instruments, or money received for transmission.

600 Sec. 15. Section 36a-608 of the general statutes is repealed and the
601 following is substituted in lieu thereof:

602 (a) The commissioner shall make such investigations and conduct
603 such hearings as the commissioner considers necessary to determine
604 whether any licensee or any other person has violated or is about to
605 violate any of the provisions of sections 36a-595 to 36a-610, inclusive,
606 as amended by this act, or whether any licensee has acted in such
607 manner as otherwise would justify the suspension or revocation of the
608 license. The provisions of section 36a-17 shall apply to such
609 investigation.

610 (b) The commissioner may suspend or revoke a license, in
611 accordance with section 36a-51, on any ground on which the
612 commissioner might refuse to issue an original license, for any [wilful]
613 violation of sections 36a-595 to 36a-610, inclusive, as amended by this
614 act, or of any regulation adopted under said sections, for
615 noncompliance with an order which the commissioner may issue
616 under said sections to a licensee, or for failure of the licensee to pay a
617 judgment ordered by any court within or outside this state within
618 thirty days after the judgment becomes final or within thirty days after
619 expiration or termination of a stay of execution of the judgment.

620 (c) Whenever it appears to the commissioner that any person has

621 violated, is violating or is about to violate any provision of sections
622 36a-595 to 36a-610, inclusive, as amended by this act, or any regulation
623 adopted under said sections, the commissioner may take action against
624 such person in accordance with section 36a-50.

625 (d) The commissioner may order a licensee to terminate its agency
626 relationship with any agent or subagent who refuses to allow an
627 examination of its books and records regarding the business of such
628 licensee as provided in section 36a-605, as amended by this act.

629 Sec. 16. Section 36a-609 of the general statutes is repealed and the
630 following is substituted in lieu thereof:

631 The provisions of sections 36a-595 to 36a-610, inclusive, as amended
632 by this act, shall not apply to:

633 (1) Except in its capacity as an agent of a licensee, any [bank the
634 insurable deposits in which are insured by the Federal Deposit
635 Insurance Corporation] federally insured bank, out-of-state bank,
636 Connecticut credit union, federal credit union or out-of-state credit
637 union, provided such institution does not issue or sell Connecticut
638 payment instruments or transmit money through an agent or subagent
639 which is not a federally insured bank, out-of-state bank, Connecticut
640 credit union, federal credit union or out-of-state credit union;

641 (2) The United States Postal Service; and

642 [(3) The receipt of money by an incorporated telegraph or cable
643 company at any office or agency of such company for immediate
644 transmission by telegraph or cable.]

645 (3) A person whose activity is limited to the electronic funds transfer
646 of governmental benefits for or on behalf of a federal, state or other
647 governmental agency, quasi-governmental agency or government
648 sponsored enterprise.

649 Sec. 17. Section 36a-610 of the general statutes is repealed and the
650 following is substituted in lieu thereof:

651 The commissioner may adopt regulations, in accordance with
652 chapter 54, which are necessary or appropriate for the [enforcement]
653 administration of sections 36a-595 to 36a-609, inclusive, as amended by
654 this act.

Statement of Legislative Commissioners:

Moved the definition of "executive officer" that was in section 3 to replace the term "executive officer" in section 7(a)(3)(C), for accuracy and clarity.

BA JOINT FAVORABLE SUBST.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Revenue Loss (Banking Fund)

Affected Agencies: Department of Banking

Municipal Impact: None

Explanation

State Impact:

The bill requires the Department of Banking examine additional requirements prior to allowing financial institutions to engage in money transactions. The bill requires a money transmission application to include a history of any material litigation and criminal convictions for the last five years. The bill also requires the Banking Commissioner to find the applicant to be properly qualified and of good character. The bill allows the commissioner to hold a hearing if someone violates a money transmission provision. There will be a workload increase for the Banking commissioner associated with examining this additional information provided by institutions that apply for a money transmission license. This can be handled within the anticipated budgetary resources of the Department of Banking.

The bill removes the annual examination requirement by the Banking Commissioner of a non - depository institution engaging in money transaction. The commissioner may conduct the examination if he deems it necessary or the bill allows the commissioner to use other

state reports for the examination requirements. This is a potential workload decrease for the Department of Banking.

The bill also requires the Banking Commissioner to periodically examine the agents and subagents of a non- depository institution. Since the bill allows the Banking Commissioner to use other state reports, there may not be a workload increase with this requirement.

The bill removes a nonrefundable \$500 investigation fee for a money transmission license. The Department of Banking will still collect a \$1,000 renewal fee if the Banking commissioner approves the renewal application. The Banking Fund will incur a revenue loss with the \$500 fee eliminated. There are 25 licensees for money transmission who will not be charged this fee. The Banking Fund will incur a \$25,000 revenue loss.

OLR Bill Analysis

sSB 793

AN ACT CONCERNING MONEY TRANSMISSION.**SUMMARY:**

This bill expands license application requirements for people and businesses wishing to engage in money transmission by requiring information on additional shareholders and on the applicants' legal and criminal histories. It also redirects the proceeds of bonds and investments held by the licensee as surety. It establishes new guidelines for the banks commissioner to use when examining licensees and their agents, as well as for investigating and revoking licenses.

The bill changes the name of the act governing money transmission from "Money Order and Travelers Check Licensees Act" to "Money Transmission Act." It specifies banking entities that are exempt from the act's provisions. It also makes minor technical changes.

EFFECTIVE DATE: October 1, 2001

LICENSE APPLICATIONS***Identity of Applicants***

Under current law, a license application for a corporation must include the name and address of any shareholder owning 20% or more of each class of securities. The bill reduces that threshold to 10% or more. It also requires corporations and associations to include sufficient information about the names and addresses, as the banking commissioner deems necessary, of the partners, directors, trustees, principal officers, and shareholders owning at least 10% of each class of securities. Current law already requires submission of names and addresses.

Material Litigation and Criminal Convictions

The bill requires an application to include a history of any material litigation and criminal convictions for the five years before the application for (1) an individual applicant and (2) the partners, if the applicant is a partnership. Corporate and association applications must contain the history and sufficient information about the litigation and convictions for the directors, trustees, principal officeholders, and shareholders owning 10% or more of each class of securities. The bill defines “material litigation” as any litigation that is significant to a person’s financial health and would need to be reported in a financial statement or report to shareholders.

Statement of Activities

The bill adds a requirement that an applicant for a new or renewed license state whether he will engage in the business of money transmission. Current law requires an applicant to state whether he will issue money orders, travelers checks, or electronic payment instruments. The bill defines “money transmission” as engaging in the business of receiving money for transmission or transmitting money by payment instrument, wire, facsimile, electronic transfer, or other means.

Application Fees

The bill explicitly removes the \$500 investigation fee for a renewal license. It eliminates two conflicting statutes, one imposing the \$500 fee and the other exempting licensees from it. Currently, one section (C.G.S. § 36a-599) imposes the fee, while another (C.G.S. § 36a-601) says it is not payable for a renewal license. The bill also differentiates between the commissioner’s actions when he denies an application for a first license and when he refuses to renew an existing license. It adds a provision making the license fee refundable if an application is withdrawn before the commissioner issues the license.

Conditional License

The bill adds to the findings the commissioner must make before conditionally approving any license application. He must find the

applicant or applicants to be properly qualified and of good character. This provision applies to individuals, partners, and each association or corporation's president, chairman of the executive committee, senior officer responsible for the corporation's business, chief financial officer, and other people performing similar functions, as well as the directors, trustees, and any shareholder owning 10% or more of each class of securities.

SURETY BONDS AND INVESTMENTS

Under current law, applicants for a new or renewed license must file a corporate surety bond with the commissioner or invest a like amount instead. The amount of the bond varies depending on the volume of the applicant's business. Each licensee is also required to maintain investments valued at at least the amount of its outstanding payment instruments.

The bill eliminates the requirement that bond and surety investment proceeds go into a trust fund for the exclusive benefit of purchasers and holders of instruments issued by the licensee. Instead, it requires the proceeds to be held in a trust for the benefit of anyone who brings a successful claim against the licensee. The funds can be used to pay the claimant the amount the licensee owes for the receipt, handling, transmission, or payment of money for selling or issuing a payment instrument or money transmission if the licensee is bankrupt. The bank's creditors or judgment holders cannot attach the proceeds.

EXAMINATION OF A LICENSEE

The bill removes the commissioner's annual examination requirement, but authorizes him to examine a licensee's agents and subagents. It allows him to accept any other state or federal supervisory agency's report, or that of an affiliated organization or independent accounting firm, instead of conducting his own examination, and to consider this as an official examination report. The bill also allows the commissioner to enter into cooperative, coordinating, and information-sharing agreements with any of these groups regarding examinations, examination fees, or other supervision of people engaged in the business of money transmission.

LICENSEE'S LIABILITY

The bill makes a licensee liable for any loss caused to a buyer or holder of the licensee's payment instruments because of an agent or subagent's failure to forward money received for transmission to the licensee. Under current law, licensees are liable for their agents' failure to deliver money when they sell or deliver travelers' checks, money orders, and electronic payment instruments.

INVESTIGATION AND REVOCATION***Investigation of a Licensee***

The bill broadens the commissioner's ability to investigate licensees' conduct by allowing him to investigate and hold hearings to determine if someone is about to violate a provision regarding money transmission. Current law requires the commissioner to investigate and conduct hearings to determine only if a licensee or other person has violated a provision of banking law. But it allows him to ask for an injunction, restitution, or civil penalty when it appears someone is about to violate the law.

Revocation of a License

By removing the requirement that a violation of money transmission laws be willful before the commissioner may suspend or revoke a license, the bill allows him to suspend or revoke a license for any violation of money transmission laws.

Termination of Agency Relationship

The bill allows the commissioner to order a licensee to end its agency relationship with any agent or any subagent who refuses to allow an examination of its books and records regarding the licensee's business.

EXEMPTIONS

The bill specifies the banking entities that are exempt from the provisions of the Money Transmission Act. Under current law, only banks insured by the Federal Deposit Insurance Corporation are

exempt. The bill specifically exempts federally insured banks, out-of-state banks, Connecticut credit unions, federal credit unions, and out-of-state credit unions, provided they do not issue or sell payment instruments or transmit money through agents or subagents that are not also exempt. These entities are subject to the act in their capacities as agents of the licensee. The bill also exempts a person whose activity is limited to the electronic funds transfer of governmental benefits for a governmental, quasi-governmental, or government-sponsored entity. It removes an obsolete provision exempting telegraph and cable transmission companies.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0