



General Assembly

January Session, 2001

Raised Bill No. 6131

LCO No. 2889

Referred to Committee on Banks

Introduced by:

(BA)

AN ACT CONCERNING ABUSIVE HOME LOAN LENDING PRACTICES.

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 Section 36a-3 of the general statutes is repealed and the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 "Additional proceeds". Section 7 of this act.
7 "Advance fee". Sections 36a-510, 36a-485 and 36a-615.
8 "Advertise" or "advertisement". Sections 36a-485 and 36a-510.
9 "Agency bank". Section 36a-285.
10 "Alternative mortgage loan". Section 36a-265.
11 "Amount financed". Section 36a-690.
12 "Annual percentage rate". Section 36a-690.
13 "Annual percentage yield". Section 36a-316.
14 "Applicant". Section 36a-736.
15 "APR". Section 3 of this act.
16 "Associate". Section 36a-184.
17 "Bank". Section 36a-30.

- 18 "Bankers' bank". Section 36a-70.
- 19 "Banking business". Section 36a-425.
- 20 "Billing cycle". Section 36a-565.
- 21 "Bona fide nonprofit organization". Section 36a-655.
- 22 "Branch". Sections 36a-145 and 36a-410.
- 23 "Branch or agency net payment entitlement". Section 36a-428n.
- 24 "Branch or agency net payment obligation". Section 36a-428n.
- 25 "Broker". Section 36a-510.
- 26 "Business and industrial development corporation". Section 36a-
- 27 626.
- 28 "Business and property in this state". Section 36a-428n.
- 29 "Cash advance". Section 36a-564.
- 30 "Cash price". Section 36a-770.
- 31 "Certificate of organization". Section 36a-435.
- 32 "Closely related activities". Section 36a-250.
- 33 "Collective managing agency account". Section 36a-365.
- 34 "Commercial vehicle". Section 36a-770.
- 35 "Community bank". Section 36a-70.
- 36 "Community development bank". Section 36a-70.
- 37 "Connecticut holding company". Section 36a-410.
- 38 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- 39 "Consumer Credit Protection Act". Section 36a-676.
- 40 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.
- 41 "Consumer collection agency". Section 36a-800.
- 42 "Controlling interest". Section 36a-276.
- 43 "Credit". Sections 36a-645 and 36a-676.
- 44 "Creditor". Sections 36a-676, 36a-695 and 36a-800.
- 45 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- 46 "Credit clinic". Section 36a-695.
- 47 "Credit rating agency". Section 36a-695.
- 48 "Credit report". Section 36a-695.
- 49 "Credit sale". Section 36a-676.
- 50 "De novo branch". Section 36a-410.
- 51 "Debt". Section 36a-645.
- 52 "Debt adjustment". Section 36a-655.
- 53 "Debt mutual fund". Section 36a-275.
- 54 "Debt securities". Section 36a-275.
- 55 "Deliver". Section 36a-316.
- 56 "Deposit". Section 36a-316.
- 57 "Deposit account". Section 36a-316.
- 58 "Deposit account charge". Section 36a-316.

- 59 "Deposit account disclosures". Section 36a-316.
- 60 "Deposit contract". Section 36a-316.
- 61 "Deposit services". Section 36a-425.
- 62 "Depositor". Section 36a-316.
- 63 "Earning period". Section 36a-316.
- 64 "Electronic payment instrument". Section 36a-596.
- 65 "Eligible account holder". Section 36a-136.
- 66 "Eligible collateral". Section 36a-330.
- 67 "Equity mutual fund". Section 36a-276.
- 68 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- 69 "Fiduciary". Section 36a-365.
- 70 "Filing fee". Section 36a-770.
- 71 "Finance charge". Sections 36a-690 and 36a-770.
- 72 "Financial institution". Sections 36a-41, 36a-155, 36a-316, 36a-330
- 73 and 36a-736.
- 74 "Financial records". Section 36a-41.
- 75 "First mortgage loan". Sections 36a-485, 36a-705 and 36a-715.
- 76 "Fiscal year". Section 36a-435.
- 77 "Foreign banking corporation". Section 36a-425.
- 78 "General facility". Section 36a-580.
- 79 "Global net payment entitlement". Section 36a-428n.
- 80 "Global net payment obligation". Section 36a-428n.
- 81 "Goods". Sections 36a-535 and 36a-770.
- 82 "Graduated payment mortgage loan". Section 36a-265.
- 83 "Guardian". Section 36a-365.
- 84 "High cost home loan". Section 3 of this act.
- 85 "Holder". Section 36a-596.
- 86 "Home banking services". Section 36a-170.
- 87 "Home banking terminal". Section 36a-170.
- 88 "Home improvement loan". Section 36a-736.
- 89 "Home purchase loan". Section 36a-736.
- 90 "Home state". Section 36a-410.
- 91 "Immediate family". Section 36a-435.
- 92 "Installment loan contract". Sections 36a-535 and 36a-770.
- 93 "Instrument". Section 36a-596.
- 94 "Insurance bank". Section 36a-285.
- 95 "Insurance department". Section 36a-285.
- 96 "Interest". Section 36a-316.
- 97 "Interest rate". Section 36a-316.
- 98 "Lender". Sections 36a-510, [and] 36a-770 and section 2 of this
- 99 act.

- 100 "Lessor". Section 36a-676.
- 101 "License". Section 36a-626.
- 102 "Licensee". Sections 36a-510, 36a-596 and 36a-626.
- 103 "Limited branch". Section 36a-145.
- 104 "Limited facility". Section 36a-580.
- 105 "Loan broker". Section 36a-615.
- 106 "Loss". Section 36a-330.
- 107 "Made in this state". Section 36a-770.
- 108 "Managing agent". Section 36a-365.
- 109 "Member". Section 36a-435.
- 110 "Membership share". Section 36a-435.
- 111 "Money order". Section 36a-596.
- 112 "Mortgage broker". Section 36a-485.
- 113 "Mortgage insurance". Section 36a-725.
- 114 "Mortgage lender". Sections 36a-485 and 36a-705.
- 115 "Mortgage loan". Sections 36a-261 and 36a-265.
- 116 "Mortgage rate lock-in". Section 36a-705.
- 117 "Mortgage servicing company". Section 36a-715.
- 118 "Mortgagor". Section 36a-715.
- 119 "Motor vehicle". Section 36a-770.
- 120 "Multiple common bond membership". Section 36a-435.
- 121 "Municipality". Section 36a-800.
- 122 "Net worth". Section 36a-596.
- 123 "Network". Section 36a-155.
- 124 "Note account". Sections 36a-301 and 36a-445.
- 125 "Office". Section 36a-316.
- 126 "Open-end credit plan". Section 36a-676.
- 127 "Open-end loan". Section 36a-565.
- 128 "Organization". Section 36a-800.
- 129 "Out-of-state holding company". Section 36a-410.
- 130 "Outstanding". Section 36a-596.
- 131 "Passbook savings account". Section 36a-316.
- 132 "Periodic statement". Section 36a-316.
- 133 "Permissible investment". Section 36a-596.
- 134 "Person". Section 36a-184.
- 135 "Post". Section 36a-316.
- 136 "Prepaid finance charge". Section 3 of this act.
- 137 "Prepayment penalty". Section 3 of this act.
- 138 "Prime quality". Section 36a-596.
- 139 "Principal amount of the loan". Section 36a-510.
- 140 "Principal officer". Section 36a-485.

- 141 "Processor". Section 36a-155.
- 142 "Public deposit". Section 36a-330.
- 143 "Purchaser". Section 36a-596.
- 144 "Qualified financial contract". Section 36a-428n.
- 145 "Qualified public depository" and "depository". Section 36a-330.
- 146 "Records". Section 36a-17.
- 147 "Relocate". Section 36a-145.
- 148 "Residential property". Section 36a-485.
- 149 "Retail buyer". Sections 36a-535 and 36a-770.
- 150 "Retail credit transaction". Section 42-100b.
- 151 "Retail deposits". Section 36a-70.
- 152 "Retail installment contract". Sections 36a-535 and 36a-770.
- 153 "Retail installment sale". Sections 36a-535 and 36a-770.
- 154 "Retail seller". Sections 36a-535 and 36a-770.
- 155 "Reverse annuity mortgage loan". Section 36a-265.
- 156 "Sales finance company". Sections 36a-535 and 36a-770.
- 157 "Savings department". Section 36a-285.
- 158 "Savings deposit". Section 36a-316.
- 159 "Secondary mortgage loan". Section 36a-510.
- 160 "Security convertible into a voting security". Section 36a-184.
- 161 "Share". Section 36a-435.
- 162 "Simulated check". Sections 36a-485 and 36a-510.
- 163 "Single common bond membership". Section 36a-435.
- 164 "Social purpose investment". Section 36a-277.
- 165 "Standard mortgage loan". Section 36a-265.
- 166 "Tax and loan account". Sections 36a-301 and 36a-445.
- 167 "The Savings Bank Life Insurance Company". Section 36a-285.
- 168 "Time account". Section 36a-316.
- 169 "Transaction". Section 36a-215.
- 170 "Travelers check". Section 36a-596.
- 171 "Troubled financial institution". Section 36a-215.
- 172 "Uninsured bank". Section 36a-70.
- 173 "Unsecured loan". Section 36a-615.

174 Sec. 2. (NEW) Sections 2 to 8, inclusive, of this act shall be known
175 and may be cited as the "Connecticut Abusive Home Loan Lending
176 Practices Act".

177 Sec. 3. (NEW) As used in sections 3 to 8, inclusive, of this act:

178 (1) "APR" means the annual percentage rate for the loan calculated

179 according to the provisions of the federal Truth-in-Lending Act, 15
180 USC Section 1601 et seq. and the regulations promulgated thereunder.
181 For open-end lines of credit, the APR is the highest corresponding
182 annual percentage rate required to be disclosed under 12 CFR Sections
183 226.6(a)(2) and 226.14(b);

184 (2) "High cost home loan" means any loan or extension of credit,
185 including an open-end line of credit but excluding a reverse mortgage
186 transaction, in which:

187 (A) The borrower is a natural person;

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

190 (C) The loan is secured by a mortgage upon any interest in one-to-
191 four family residential real property located in this state which is or
192 will be occupied by the borrower as a principal residence; and

193 (D) The APR at consummation meets the trigger set forth in 12 CFR
194 Section 226.32(a)(1)(i);

195 (3) "Lender" means any person who originates one or more high
196 cost home loans in any twelve consecutive month period;

197 (4) "Prepaid finance charge" means any charge imposed as an
198 incident to or a condition of the loan or extension of credit payable by
199 the borrower at or before the closing of the transaction, including, loan
200 fees, points, commissions, broker's fees or commissions, transaction
201 fees, or similar finance charges determined in accordance with sections
202 36a-675 to 36a-685, inclusive, of the general statutes and regulations
203 adopted thereunder, and any charge for the sale of credit life, accident,
204 health, disability or unemployment insurance products or unrelated
205 goods or services sold in conjunction with the loan or extension of
206 credit that are prepaid with the proceeds of the loan or extension of
207 credit and financed as part of the principal amount of the loan or
208 extension of credit;

209 (5) "Prepayment penalty" means any charge or penalty for paying
210 all or part of the principal before the date on which the principal is due
211 and includes computing a refund of unearned interest by a method
212 that is less favorable to the borrower than the actuarial method, as
213 defined by Section 933(d) of the Housing and Community
214 Development Act of 1992, 15 USC 1615(d).

215 Sec. 4. (NEW) A lender making a high cost home loan shall disclose
216 to the prospective borrower in writing:

217 (1) The following statement: "You are not required to complete this
218 agreement merely because you have received these disclosures or have
219 signed a loan application. If you obtain this loan, the lender will have a
220 mortgage on your home. You could lose your home, and any money
221 you have put into it, if you do not meet your obligations under the
222 loan";

223 (2) The APR;

224 (3) The amount of the regular monthly or other periodic payment;
225 and

226 (4) For variable-rate transactions, a statement that the interest rate
227 and monthly payment may increase, and the amount of the single
228 maximum monthly payment, based on the maximum interest rate that
229 may be imposed during the term of the loan.

230 Sec. 5. (NEW) A high cost home loan shall not provide for or include
231 the following:

232 (1) A loan with a term of less than seven years, a payment schedule
233 with regular periodic payments that when aggregated does not fully
234 amortize the outstanding principal balance, provided this limitation
235 shall not apply to loans with maturities of less than one year, if the
236 purpose of the loan is a "bridge" loan connected with the acquisition or
237 construction of a dwelling intended to become the borrower's principal
238 dwelling;

239 (2) A payment schedule with regular periodic payments that causes
240 the principal balance to increase;

241 (3) A payment schedule that consolidates more than two periodic
242 payments and pays them in advance from the proceeds;

243 (4) An increase in the interest rate after default or default charges in
244 excess of five per cent of the amount in default;

245 (5) A refund calculated by a method less favorable than the actuarial
246 method, as defined by Section 933(d) of the Housing and Community
247 Development Act of 1992, 15 USC 1615(d), for rebates of interest
248 arising from a loan acceleration due to default;

249 (6) A prepayment penalty except as allowed by this subdivision. A
250 high cost home loan may provide for a prepayment penalty, including
251 a refund calculated according to the rule of 78s, if:

252 (A) The penalty can be exercised only for the first three years
253 following consummation of the high cost home loan. No prepayment
254 penalty shall exceed three per cent of the balance prepaid for any
255 payment occurring earlier than one year after consummation of the
256 loan, two per cent of the balance prepaid for any payment occurring
257 between one and two years after consummation of the loan, and one
258 per cent of the balance prepaid for any payment occurring between
259 two and three years after consummation of the loan;

260 (B) The source of the prepayment funds is not a refinancing by the
261 lender or an affiliate of the lender; and

262 (C) At consummation of the high cost home loan, the borrower's
263 total monthly debts, including amounts owed under the high cost
264 home loan, do not exceed fifty per cent of the borrower's monthly
265 gross income, as verified by the borrower's signed financial statement,
266 a credit report and payment records for employment income;

267 (7) A mandatory arbitration clause or a waiver of participation in a

268 class action; or

269 (8) A call provision that permits the lender, in its sole discretion, to
270 accelerate the indebtedness. This prohibition shall not apply when
271 repayment of the loan has been accelerated by bona fide default,
272 pursuant to a due-on-sale clause provision, or pursuant to some other
273 provision of the loan agreement unrelated to the payment schedule
274 such as bankruptcy or receivership.

275 Sec. 6. (NEW) Any lender who makes a high cost home loan shall
276 report both the favorable and unfavorable payment history of the
277 borrower to a nationally recognized consumer credit bureau at least
278 annually during such period as the lender holds or services the loan.

279 Sec. 7. (NEW) In the making of a high cost home loan no lender
280 shall:

281 (1) Pay a contractor under a home improvement contract from the
282 proceeds of the loan, other than:

283 (A) By an instrument payable to the borrower or jointly to the
284 borrower and the contractor; or

285 (B) At the election of the borrower, through a third-party escrow
286 agent in accordance with terms established in a written agreement
287 signed by the borrower, the lender and the contractor prior to the
288 disbursement;

289 (2) Sell or otherwise assign such loan without furnishing the
290 following statement in writing to the purchaser or assignee: "Notice:
291 This is a loan subject to special rules under the Connecticut Abusive
292 Home Loan Lending Practices Act. Purchasers or assignees of this loan
293 could be liable for all claims and defenses with respect to the loan that
294 the borrower could assert against the lender";

295 (3) Charge, impose or cause to be paid, directly or indirectly, any
296 prepaid finance charge that exceeds in the aggregate, the greater of five

297 per cent of the principal amount of the loan or two thousand dollars. If
298 the proceeds of a high cost home loan are used to refinance an existing
299 high cost home loan, the aggregate of the prepaid finance charges for
300 the current refinancing and any previous financings by the same
301 lender or affiliate of the same lender within two years of the current
302 refinancing shall not exceed the greater of five per cent of the principal
303 amount of the loan, or two thousand dollars. The provisions of this
304 subdivision shall not prohibit a lender from charging, imposing or
305 causing to be paid, directly or indirectly, prepaid finance charges in
306 addition to those permitted by this subdivision in connection with any
307 additional proceeds received by the borrower in the refinancing,
308 provided such prepaid finance charges on the additional sum shall not
309 exceed five per cent of the additional proceeds. For purposes of this
310 subdivision, "additional proceeds" means: (A) For a closed-end loan,
311 the amount over and above the current principal balance of the
312 existing high cost home loan, and (B) for an open-end loan, the amount
313 by which the line of credit on the new loan exceeds the maximum
314 credit limit of the existing high cost home loan;

315 (4) Charge a borrower any fees to modify, renew, extend or amend a
316 high cost home loan or defer any payment due under a high cost home
317 loan, if after the modification, renewal, extension or amendment, the
318 loan is still a high cost home loan, or if no longer a high cost home
319 loan, the APR has not been reduced by at least two percentage points.
320 For purposes of this subdivision, fees do not include interest that is
321 otherwise payable and consistent with the provisions of the loan
322 documents. The provisions of this subdivision shall not prohibit a
323 lender from charging, imposing or causing to be paid, directly or
324 indirectly, prepaid finance charges in connection with any additional
325 proceeds, as defined in subdivision (3) of this section, received by the
326 borrower in connection with the modification, renewal, extension or
327 amendment, provided the prepaid finance charges on the additional
328 proceeds do not exceed five per cent of the additional proceeds. The
329 provisions of this subdivision shall not apply if the existing high cost
330 home loan is sixty or more days delinquent and the modification,

331 renewal, extension, amendment or deferral is part of a work-out
332 process;

333 (5) Make such loan unless the lender reasonably believes at the time
334 the loan is consummated that the borrower will be able to make the
335 scheduled payments to repay the loan based upon a consideration of
336 the borrower's current and expected income, current obligations,
337 employment status, and other financial resources, excluding the
338 borrower's equity in the dwelling that secures repayment of the loan.
339 The borrower shall be presumed to be able to make the scheduled
340 payments to repay the loan if at the time the loan is consummated, or
341 at the time of the first rate adjustment in the case of a lower
342 introductory interest rate, the borrower's monthly debts, including
343 amounts owed under the mortgage, do not exceed fifty per cent of the
344 borrower's monthly gross income, as verified by the borrower's signed
345 financial statement, a credit report, and payment records for
346 employment income;

347 (6) Advertise that refinancing preexisting debt with a high cost
348 home loan will reduce a borrower's aggregate monthly debt payment
349 without also disclosing in writing that the high cost home loan may
350 increase both the borrower's aggregate number of monthly debt
351 payments and the aggregate amount paid by the borrower over the
352 term of the high cost home loan;

353 (7) Recommend or encourage default or further default by a
354 borrower on an existing loan or other debt, prior to the closing of a
355 high cost home loan that refinances all or any portion of such existing
356 loan or debt;

357 (8) Make such loan to a borrower which refinances an existing loan
358 unless the high cost home loan provides a benefit to the borrower
359 considering all of the circumstances, including the terms of both the
360 new and refinanced loans, the cost of the new loan, and the borrower's
361 circumstances;

362 (9) Make such loan with an interest rate that is unconscionable. A
363 lender shall base the interest rate for a high cost home loan on proper
364 and reasonable factors including, but not limited to, creditworthiness,
365 other risk related standards and sound underwriting. For purposes of
366 this subdivision, an interest rate that is not based on such factors, or
367 that significantly deviates from industry standards for making that
368 type of high cost home loan, shall be deemed unconscionable; and

369 (10) Charge and retain fees paid by the borrower for services that
370 are not actually performed, or which are not bona fide and reasonable.

371 Sec. 8. (NEW) The lender and any assignee of the lender shall have
372 the obligation, jointly and severally, to refund or credit the borrower
373 for any default charges, prepayment penalties or prepaid finance
374 charges collected in excess of the limits set forth in sections 5 and 7 of
375 this act.

376 Sec. 9. Subdivision (2) of subsection (a) of section 36a-50 of the
377 general statutes is repealed and the following is substituted in lieu
378 thereof:

379 (2) If a hearing is requested within the time specified in the notice,
380 the commissioner shall hold a hearing upon the matters asserted in the
381 notice unless such person fails to appear at the hearing. After the
382 hearing, if the commissioner finds that the person has violated any
383 such provision, regulation, rule or order, the commissioner may, in the
384 commissioner's discretion and in addition to any other remedy
385 authorized by law, order that a civil penalty not exceeding seven
386 thousand five hundred dollars per violation, and in the case of a
387 violation of sections 4 to 8, inclusive, of this act, not exceeding fifteen
388 thousand dollars per violation, be imposed upon such person. If such
389 person does not request a hearing within the time specified in the
390 notice or fails to appear at the hearing, the commissioner may, as the
391 facts require, order that a civil penalty not exceeding seven thousand
392 five hundred dollars per violation, and in the case of a violation of
393 sections 4 to 8, inclusive, of this act, not exceeding fifteen thousand

394 dollars per violation, be imposed upon such person.

395 Sec. 10. Subsection (c) of section 36a-53 of the general statutes is
396 repealed and the following is substituted in lieu thereof:

397 (c) (1) Whenever the commissioner finds as the result of an
398 investigation that any such officer, director, Connecticut bank or
399 Connecticut credit union has (A) violated any provision of the general
400 statutes within the jurisdiction of the commissioner, or any regulation,
401 rule or order adopted or issued thereunder, or any condition imposed
402 in writing by the commissioner, (B) breached any written agreement
403 with the commissioner, (C) engaged or participated in any unsafe or
404 unsound practice, or (D) used such officer's or director's official
405 position in a manner contrary to the interest of any bank, Connecticut
406 credit union or federal credit union or its depositors or members, the
407 commissioner may send notice to and take action against such officer,
408 director, Connecticut bank or Connecticut credit union regarding the
409 violation, breach, unsafe or unsound practice, or misuse of official
410 position in accordance with section 36a-50, as amended by this act.
411 Any finding made by the commissioner pursuant to this subdivision
412 shall be considered a violation of this subsection for purposes of
413 section 36a-50, as amended by this act.

414 (2) Notwithstanding the provisions of section 36a-50, as amended
415 by this act, unless the violation, breach, unsafe or unsound practice, or
416 misuse of official position found to have occurred pursuant to this
417 subsection and section 36a-50, as amended by this act, is such that it
418 (A) is part of a pattern of misconduct, (B) has caused or is likely to
419 cause a loss other than a de minimis loss to any bank, Connecticut
420 credit union or federal credit union, (C) will result or has resulted in a
421 pecuniary gain to an officer or director of any Connecticut bank or
422 Connecticut credit union, or (D) is a violation of section 36a-53a or
423 sections 4 to 8, inclusive, of this act, the civil penalty the commissioner
424 may impose under this subsection and section 36a-50, as amended by
425 this act, shall not exceed one thousand dollars.

426 (3) In determining the amount of any penalty imposed under this
427 subsection and section 36a-50, as amended by this act, the
428 commissioner shall take into account (A) the size of the financial
429 resources and good faith of the Connecticut bank, Connecticut credit
430 union, officer or director of such Connecticut bank or Connecticut
431 credit union, (B) the gravity of the violation, breach, unsafe or unsound
432 practice or misuse of official position, (C) the history of previous
433 violations, breaches, unsafe or unsound practices, or misuse of official
434 position, and (D) such other matters as justice may require, except that
435 this subdivision does not apply to any violation of section 36a-53a and
436 sections 4 to 8, inclusive, of this act.

437 Sec. 11. Subsection (a) of section 36a-680 of the general statutes is
438 repealed and the following is substituted in lieu thereof:

439 (a) If the commissioner finds that the requirements of any other law
440 of this state relating to the disclosure of information in connection with
441 consumer credit transactions are inconsistent with the provisions of
442 sections 36a-675 to 36a-685, inclusive, or regulations adopted
443 thereunder, the commissioner [shall by regulation] may exempt
444 creditors who comply with said sections from compliance with such
445 inconsistent law. For purposes of this subsection, disclosure statutes
446 are inconsistent if both require disclosure of the same information even
447 though the prescribed definition, method of calculation or manner of
448 expression is different and, in case of such conflict or inconsistency, the
449 provisions of sections 36a-675 to 36a-685, inclusive, shall control,
450 provided sections 4 to 8, inclusive, of this act shall not be deemed
451 inconsistent with the provisions of sections 36a-675 to 36a-685,
452 inclusive, and shall control where applicable.

453 Sec. 12. (NEW) No licensee under section 36a-489 of the general
454 statutes and no person exempt from licensure under subdivisions (1),
455 (5) and (6) of section 36a-487 of the general statutes making a first
456 mortgage loan shall charge, impose or cause to be paid, directly or
457 indirectly, prepaid finance charges that exceed in the aggregate, the

458 greater of five per cent of the principal amount of the loan or two
459 thousand dollars. If the proceeds of the loan are used to refinance an
460 existing loan, the aggregate of the prepaid finance charges for the
461 current refinancing and any previous financings by such licensee or
462 exempt person or affiliate of such licensee or exempt person within
463 two years of current refinancing shall not exceed the greater of five per
464 cent of the principal amount of the loan or two thousand dollars. The
465 provisions of this section shall not prohibit such licensee or exempt
466 person from charging, imposing or causing to be paid, directly or
467 indirectly, prepaid finance charges in addition to those permitted by
468 this section in connection with any additional proceeds received by the
469 borrower in the refinancing, provided such prepaid finance charges on
470 the additional sum shall not exceed five per cent of the additional sum.
471 For purposes of this section, "additional proceeds" has the meaning
472 given to that term in subdivision (3) of section 7 of this act.

473 Sec. 13. Section 49-10a of the general statutes is repealed and the
474 following is substituted in lieu thereof:

475 A mortgagee shall, upon written request of the mortgagor or the
476 mortgagor's attorney or other authorized agent provide a payoff
477 statement in writing to the person requesting such statement on or
478 before the date specified in such request, provided such request date is
479 at least ten business days from the date of receipt of the written request
480 for a payoff statement. The mortgagee shall not impose any fee or
481 charge for the first payoff statement requested within a calendar year.
482 If the mortgagee fails to provide such payoff statement on or before
483 such request date, the mortgagee shall not be entitled to the payment
484 of any interest on the mortgage loan which is secured by such
485 mortgage which accrues after the expiration of such request date. If the
486 mortgagee provides the payoff statement to the person requesting the
487 same after the expiration of such request date, interest on the mortgage
488 loan which accrues after the receipt of such payoff statement by the
489 person who has requested it shall again be payable. The burden of
490 proof shall be on the mortgagor with respect to the receipt by the

491 mortgagee of the mortgagor's request for a payoff statement of the
492 mortgage loan, and thereafter shall be on the mortgagee with respect
493 to the receipt of the payoff statement by the mortgagor or the
494 mortgagor's attorney or other authorized agent.

Statement of Purpose:

To establish a statutory scheme to curb abusive lending practices; and to prohibit mortgagees from charging a mortgagor or the mortgagor's attorney or agent a fee for the first payoff statement provided in a calendar year.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]