



# Senate

General Assembly

**File No. 80**

February Session, 2002

Substitute Senate Bill No. 231

*Senate, March 20, 2002*

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 CONSUMER CREDIT AND MONEY TRANSMITTER LICENSEES.**

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

1 Section 1. Section 36a-3 of the general statutes, as amended by  
2 section 1 of public act 01-9, section 1 of public act 01-34, section 1 of  
3 public act 01-56 and section 1 of public act 01-76, is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2002*):

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

T1 "Account". Sections 36a-155 and 36a-365.

T2 "Additional proceeds". Section 7 of [this act] public act 01-34.

T3 "Advance fee". Sections 36a-510, 36a-485, as amended by this act,  
T4 and 36a-615.

T5 "Advertise" or "advertisement". Sections 36a-485 and 36a-510, as  
T6 amended by this act.

- T7 "Agency bank". Section 36a-285.
- T8 "Alternative mortgage loan". Section 36a-265.
- T9 "Amount financed". Section 36a-690.
- T10 "Annual percentage rate". Section 36a-690.
- T11 "Annual percentage yield". Section 36a-316, as amended.
- T12 "Applicant". Section 36a-736.
- T13 "APR". Section 3 of [this act] public act 01-34.
- T14 "Assessment area". Section 2 of [this act] public act 01-9.
- T15 "Associate". Section 36a-184.
- T16 "Bank". Section 36a-30.
- T17 "Bankers' bank". Section 36a-70, as amended.
- T18 "Banking business". Section 36a-425, as amended.
- T19 "Billing cycle". Section 36a-565.
- T20 "Bona fide nonprofit organization". Section 36a-655, as amended by  
T21 this act.
- T22 "Branch". Sections 36a-145, as amended, and 36a-410.
- T23 "Branch or agency net payment entitlement". Section 36a-428n, as  
T24 amended.
- T25 "Branch or agency net payment obligation". Section 36a-428n, as  
T26 amended.
- T27 "Broker". Section [36a-510 and section] 3 of [this act] public act 01-34.
- T28 "Business and industrial development corporation". Section 36a-626.
- T29 "Business and property in this state". Section 36a-428n.
- T30 "Cash advance". Section 36a-564.
- T31 "Cash price". Section 36a-770, as amended.
- T32 "Certificate of organization". Section 36a-435.
- T33 "Closely related activities". Section 36a-250.
- T34 "Collective managing agency account". Section 36a-365.
- T35 "Commercial vehicle". Section 36a-770, as amended.
- T36 "Community bank". Section 36a-70, as amended.
- T37 "Community credit union". Section 2 of [this act] public act 01-9.
- T38 "Community development bank". Section 36a-70, as amended.
- T39 "Community reinvestment performance". Section 2 of [this act]  
T40 public act 01-9.
- T41 "Connecticut holding company". Section 36a-410.

- T42 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- T43 "Consumer Credit Protection Act". Section 36a-676.
- T44 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800, as
- T45 amended.
- T46 "Consumer collection agency". Section 36a-800, as amended.
- T47 "Consummation". Section 3 of [this act] public act 01-34.
- T48 "Controlling interest". Section 36a-276.
- T49 "Credit". Sections 36a-645 and 36a-676.
- T50 "Creditor". Sections 36a-676, 36a-695 and 36a-800, as amended.
- T51 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- T52 "Credit clinic". Section 36a-695.
- T53 "Credit rating agency". Section 36a-695.
- T54 "Credit report". Section 36a-695.
- T55 "Credit sale". Section 36a-676.
- T56 "De novo branch". Section 36a-410.
- T57 "Debt". Section 36a-645.
- T58 "Debt adjustment". Section 36a-655, as amended by this act.
- T59 "Debt mutual fund". Section 36a-275.
- T60 "Debt securities". Section 36a-275.
- T61 "Debtor". Section 36a-655, as amended by this act.
- T62 "Deliver". Section 36a-316, as amended.
- T63 "Deposit". Section 36a-316, as amended.
- T64 "Deposit account". Sections 36a-136 and 36a-316, as amended.
- T65 "Deposit account charge". Section 36a-316, as amended.
- T66 "Deposit account disclosures". Section 36a-316, as amended.
- T67 "Deposit contract". Section 36a-316, as amended.
- T68 "Deposit services". Section 36a-425, as amended.
- T69 "Depositor". Section 36a-316, as amended.
- T70 "Earning period". Section 36a-316, as amended.
- T71 "Electronic payment instrument". Section 36a-596, as amended.
- T72 "Eligible account holder". Section 36a-136.
- T73 "Eligible collateral". Section 36a-330.
- T74 "Equity mutual fund". Section 36a-276.
- T75 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- T76 "Fiduciary". Section 36a-365.

- T77 "Filing fee". Section 36a-770, as amended.
- T78 "Finance charge". Sections 36a-690 and 36a-770, as amended.
- T79 "Financial institution". Sections 36a-41, as amended, 36a-155,  
T80 36a-316, as amended, 36a-330 and section 3 of [this act] public act  
T81 01-76.
- T82 "Financial records". Section 36a-41, as amended.
- T83 "First mortgage broker". Section 36a-485, as amended by this act.
- T84 "First mortgage correspondent lender". Section 36a-485, as amended  
T85 by this act.
- T86 "First mortgage lender". Section 36a-485, as amended by this act.
- T87 "First mortgage loan". Sections 36a-485, as amended by this act, 36a-  
T88 705 and 36a-715.
- T89 "Fiscal year". Section 36a-435.
- T90 "Foreign banking corporation". Section 36a-425, as amended.
- T91 "General facility". Section 36a-580.
- T92 "Global net payment entitlement". Section 36a-428n, as amended.
- T93 "Global net payment obligation". Section 36a-428n, as amended.
- T94 "Goods". Sections 36a-535 and 36a-770, as amended.
- T95 "Graduated payment mortgage loan". Section 36a-265.
- T96 "Guardian". Section 36a-365.
- T97 "High cost home loan". Section 3 of [this act] public act 01-34.
- T98 "Holder". Section 36a-596, as amended.
- T99 "Home banking services". Section 36a-170.
- T100 "Home banking terminal". Section 36a-170.
- T101 "Home improvement loan". Section 36a-736.
- T102 "Home purchase loan". Section 36a-736.
- T103 "Home state". Section 36a-410.
- T104 "Immediate family". Section 36a-435.
- T105 "Installment loan contract". Sections 36a-535 and 36a-770, as  
T106 amended.
- T107 "Insurance bank". Section 36a-285.
- T108 "Insurance department". Section 36a-285.
- T109 "Interest". Section 36a-316, as amended.
- T110 "Interest rate". Section 36a-316, as amended.
- T111 "Lender". [Sections 36a-510,] Section 36a-770, as amended, and

- T112 section 3 of [this act] public act 01-34.
- T113 "Lessor". Section 36a-676.
- T114 "License". Section 36a-626.
- T115 "Licensee". Sections 36a-510, as amended by this act, 36a-596, as
- T116 amended, and 36a-626.
- T117 "Limited branch". Section 36a-145, as amended.
- T118 "Limited facility". Section 36a-580.
- T119 "Loan broker". Section 36a-615.
- T120 "Loss". Section 36a-330.
- T121 "Made in this state". Section 36a-770, as amended.
- T122 "Managing agent". Section 36a-365.
- T123 "Material litigation". Section 36a-596.
- T124 "Member". Section 36a-435.
- T125 "Membership share". Section 36a-435.
- T126 "Money order". Section 36a-596, as amended.
- T127 "Money transmission". Section 36a-365.
- T128 ["Mortgage broker". Section 36a-485.]
- T129 "Mortgage insurance". Section 36a-725.
- T130 "Mortgage lender". Sections 36a-485, 36a-510, as amended by this
- T131 act, and 36a-705.
- T132 "Mortgage loan". Sections 36a-261 and 36a-265.
- T133 "Mortgage rate lock-in". Section 36a-705.
- T134 "Mortgage servicing company". Section 36a-715.
- T135 "Mortgagor". Section 36a-715.
- T136 "Motor vehicle". Section 36a-770, as amended.
- T137 "Multiple common bond membership". Section 36a-435.
- T138 "Municipality". Section 36a-800, as amended.
- T139 "Net worth". Section 36a-596, as amended.
- T140 "Network". Section 36a-155.
- T141 "Nonrefundable". Sections 36a-498 and 36a-521, as amended by this
- T142 act.
- T143 "Note account". Sections 36a-301 and 36a-445.
- T144 "Office". Section 36a-316, as amended.
- T145 "Open-end credit plan". Section 36a-676.
- T146 "Open-end loan". Section 36a-565.

- T147 "Organization". Section 36a-800, as amended.
- T148 "Originator". Sections 36a-485 and 36a-510, as amended by this act.
- T149 "Out-of-state holding company". Section 36a-410.
- T150 "Outstanding". Section 36a-596, as amended.
- T151 "Passbook savings account". Section 36a-316, as amended.
- T152 "Payment instrument". Section 36a-596, as amended.
- T153 "Periodic statement". Section 36a-316, as amended.
- T154 "Permissible investment". Section 36a-596, as amended.
- T155 "Person". Section 36a-184.
- T156 "Post". Section 36a-316, as amended.
- T157 "Prepaid finance charge". Section 3 of [this act] public act 01-34.
- T158 "Prepayment penalty". Section 3 of [this act] public act 01-34.
- T159 "Prime quality". Section 36a-596, as amended.
- T160 "Principal amount of the loan". Section 36a-510, as amended by this  
T161 act.
- T162 ["Principal officer". Section 36a-485.]
- T163 "Processor". Section 36a-155.
- T164 "Public deposit". Section 36a-330.
- T165 "Purchaser". Section 36a-596, as amended.
- T166 "Qualified financial contract". Section 36a-428n, as amended.
- T167 "Qualified public depository" and "depository". Section 36a-330.
- T168 "Records". Section 36a-17.
- T169 "Relocate". Section 36a-145, as amended.
- T170 "Residential property". Section 36a-485, as amended by this act.
- T171 "Retail buyer". Sections 36a-535 and 36a-770, as amended.
- T172 "Retail credit transaction". Section 42-100b.
- T173 "Retail deposits". Section 36a-70, as amended.
- T174 "Retail installment contract". Sections 36a-535 and 36a-770, as  
T175 amended.
- T176 "Retail installment sale". Sections 36a-535 and 36a-770, as amended.
- T177 "Retail seller". Sections 36a-535 and 36a-770, as amended.
- T178 "Reverse annuity mortgage loan". Section 36a-265.
- T179 "Sales finance company". Sections 36a-535 and 36a-770, as amended.
- T180 "Savings department". Section 36a-285.
- T181 "Savings deposit". Section 36a-316, as amended.

- T182     "Secondary mortgage broker". Section 36a-510, as amended by this  
T183 act.
- T184     "Secondary mortgage correspondent lender". Section 36a-510, as  
T185 amended by this act.
- T186     "Secondary mortgage lender". Section 36a-510, as amended by this  
T187 act.
- T188     "Secondary mortgage loan". Section 36a-510, as amended by this act.
- T189     "Security convertible into a voting security". Section 36a-184.
- T190     "Share". Section 36a-435.
- T191     "Simulated check". Sections 36a-485 and 36a-510, as amended by this  
T192 act.
- T193     "Single common bond membership". Section 36a-435.
- T194     "Social purpose investment". Section 36a-277.
- T195     "Standard mortgage loan". Section 36a-265.
- T196     "Table funding agreement". Section 36a-485, as amended by this act.
- T197     "Tax and loan account". Sections 36a-301 and 36a-445.
- T198     "The Savings Bank Life Insurance Company". Section 36a-285.
- T199     "Time account". Section 36a-316, as amended.
- T200     "Transaction". Section 36a-215, as amended.
- T201     "Travelers check". Section 36a-596, as amended.
- T202     "Troubled financial institution". Section 36a-215, as amended.
- T203     "Uninsured bank". Section 36a-70, as amended.
- T204     "Unsecured loan". Section 36a-615.
- T205     "Warehouse agreement". Section 36a-485, as amended by this act.

7        Sec. 2. Section 36a-485 of the general statutes is repealed and the  
8 following is substituted in lieu thereof (*Effective October 1, 2002*):

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

11        (1) "Advance fee" means any consideration paid or given, directly or  
12 indirectly, to a mortgage lender, [or] first mortgage broker or  
13 originator required to be licensed or registered pursuant to sections  
14 36a-485 to 36a-498, inclusive, as amended by this act, prior to the  
15 closing of a first mortgage loan to any person, including, but not

16 limited to, loan fees, points, broker's fees or commissions, transaction  
17 fees or similar prepaid finance charges;

18 (2) "Advertise" or "advertisement" means the use of media, mail,  
19 computer, telephone, personal contact or any other means to offer the  
20 opportunity for a first mortgage loan;

21 (3) "First mortgage broker" means a person who, for a fee,  
22 commission or other valuable consideration, directly or indirectly,  
23 negotiates, solicits, arranges, places or finds a first mortgage loan that  
24 is to be made by a mortgage lender, whether or not the mortgage  
25 lender is required to be licensed under sections 36a-485 to 36a-498,  
26 inclusive, as amended by this act;

27 (4) "First mortgage correspondent lender" means a person engaged  
28 in the business of making first mortgage loans in such person's own  
29 name where the loans are not held by such person for more than  
30 ninety days and are funded by another person through a warehouse  
31 agreement, table funding agreement or similar agreement;

32 (5) "First mortgage lender" means a person engaged in the business  
33 of making first mortgage loans: (A) In such person's own name  
34 utilizing such person's own funds, or (B) by funding loans through a  
35 table funding agreement;

36 [(2)] (6) "First mortgage loan" means a loan or an extension of credit,  
37 including, but not limited to, an extension of credit pursuant to a  
38 contract or an assigned contract for the sale of goods or services, made  
39 to a natural person, the proceeds of which are to be used primarily for  
40 personal, family or household purposes, and which is secured by a  
41 first mortgage upon any interest in one-to-four-family residential  
42 owner-occupied real property located in this state which is not subject  
43 to any prior mortgages and includes the renewal or refinancing of an  
44 existing first mortgage loan;

45 [(3) "Mortgage broker" means a person who, for a fee, commission  
46 or other valuable consideration, negotiates, solicits, arranges, places or

47 finds a first mortgage loan which is to be made by a mortgage lender,  
48 whether or not such lender is required to be licensed under sections  
49 36a-485 to 36a-498, inclusive;]

50 [(4)] (7) "Mortgage lender" means [any person engaged in the  
51 business of making first mortgage loans] a first mortgage lender, a first  
52 mortgage correspondent lender, or both;

53 [(5) "Principal officer" means the president or treasurer of any  
54 licensee which is organized as a corporation;]

55 (8) "Originator" means an individual who is employed or retained  
56 by a mortgage lender or first mortgage broker that is required to be  
57 licensed under sections 36a-485 to 36a-498, inclusive, as amended by  
58 this act, for, or with the expectation of, a fee, commission or other  
59 valuable consideration, to negotiate, solicit, arrange or find a first  
60 mortgage loan. "Originator" does not include an officer, if the licensee  
61 is a corporation; a general partner, if the licensee is a partnership; a  
62 member, if the licensee is a limited liability company; or a sole  
63 proprietor, if the licensee is a sole proprietorship;

64 [(6)] (9) "Residential property" means improved real property used  
65 or occupied, or intended to be used or occupied, for residential  
66 purposes;

67 [(7)] (10) "Simulated check" means a document that imitates or  
68 resembles a check but is not a negotiable instrument; [and]

69 [(8) "Advertise" or "advertisement" means the use of media, mail,  
70 computer, telephone, personal contact or any other means to offer the  
71 opportunity for a first mortgage loan.]

72 (11) "Table funding agreement" means an agreement wherein a  
73 person agrees to fund mortgage loans to be made in another person's  
74 name and to purchase such loans after they are made; and

75 (12) "Warehouse agreement" means an agreement to provide credit  
76 to a person to enable the person to have funds to make mortgage loans

77 and hold such loans pending sale to other persons.

78 Sec. 3. Section 36a-486 of the general statutes is repealed and the  
79 following is substituted in lieu thereof (*Effective October 1, 2002*):

80 (a) No person shall engage in the business of making first mortgage  
81 loans or act as a first mortgage broker in this state unless such person  
82 has first obtained [a] the required license in accordance with the  
83 provisions of sections 36a-485 to [36a-495] 36a-498, inclusive, as  
84 amended by this act. [No person shall engage in the first mortgage  
85 loan business in this state as a mortgage broker unless such person has  
86 first obtained a license in accordance with the provisions of said  
87 sections.] A first mortgage correspondent lender shall not be deemed  
88 to be acting as a first mortgage lender if such first mortgage  
89 correspondent lender makes a loan utilizing its own funds in a  
90 situation where another person does not honor such person's  
91 commitment to fund the loan.

92 (b) No licensee shall employ or retain an originator without first  
93 registering such originator under sections 36a-485 to 36a-498, inclusive,  
94 as amended by this act, provided such registration shall not be  
95 required for any originator who is registered by such licensee under  
96 sections 36a-510 to 36a-524, inclusive, as amended by this act. No  
97 individual may act as an originator without being registered or act as  
98 an originator for more than one licensee. The registration of an  
99 originator is not effective during any period when such originator is  
100 not associated with a licensee. Both the originator and the licensee  
101 shall promptly notify the commissioner, in writing, of the termination  
102 of employment or services of an originator.

103 [(b)] (c) Each first mortgage loan negotiated, solicited, placed, found  
104 or made without a license or registration shall constitute a separate  
105 violation for purposes of section 36a-50, as amended.

106 Sec. 4. Section 36a-487 of the general statutes is repealed and the  
107 following is substituted in lieu thereof (*Effective October 1, 2002*):

108 The following are exempt from licensing under sections 36a-485 to  
109 36a-498, inclusive, as amended by this act:

110 (1) Any bank, out-of-state bank, Connecticut credit union, federal  
111 credit union, or out-of-state credit union, provided subsidiaries of such  
112 institutions are not exempt from licensure;

113 (2) Persons [granting] making five or fewer first mortgage loans  
114 within any period of twelve consecutive months;

115 (3) Bona fide nonprofit corporations [granting] making first  
116 mortgage loans to promote home ownership for the economically  
117 disadvantaged;

118 (4) Agencies of the federal government, or any state or municipal  
119 government, or any quasi-governmental agency [granting] making  
120 first mortgage loans under the specific authority of the laws of any  
121 state or the United States;

122 (5) Persons licensed under sections 36a-555 to 36a-573, inclusive, as  
123 amended, when making loans authorized by said sections;

124 (6) Persons licensed under sections 36a-510 to 36a-524, inclusive, as  
125 amended by this act, when making loans authorized by said sections,  
126 provided such licensed mortgage lender makes less than twelve first  
127 mortgage loans within any period of twelve consecutive months;

128 (7) Any corporation or its affiliate which makes first mortgage loans  
129 exclusively for the benefit of its employees or agents;

130 (8) Any corporation, licensed in accordance with section 38a-41, or  
131 its affiliate or subsidiary, which [grants] makes first mortgage loans to  
132 promote home ownership in urban areas; and

133 (9) Persons acting as fiduciaries with respect to any employee  
134 pension benefit plan qualified under the Internal Revenue Code of  
135 1986, or any subsequent corresponding internal revenue code of the  
136 United States, as from time to time amended, who make first mortgage

137 loans solely to plan participants from plan assets.

138 Sec. 5. Section 36a-488 of the general statutes is repealed and the  
139 following is substituted in lieu thereof (*Effective October 1, 2002*):

140 [(a) An application for a license under sections 36a-485 to 36a-498,  
141 inclusive, or renewal of such license shall be made in writing, under  
142 oath and on a form provided by the commissioner.]

143 [(b)] (a) (1) The commissioner shall not issue a license as a first  
144 mortgage lender, a first mortgage correspondent lender or a first  
145 mortgage broker to any person unless such person meets the following  
146 tangible net worth and experience requirements, as applicable: (A) The  
147 minimum tangible net worth requirement for a first mortgage lender  
148 shall be two hundred fifty thousand dollars and the minimum tangible  
149 net worth requirement for a first mortgage correspondent lender and a  
150 first mortgage broker shall be twenty-five thousand dollars, and (B) a  
151 mortgage lender shall have, at the location for which the license is  
152 sought, a person with supervisory authority over the lending activities  
153 who has at least three years experience in the mortgage lending  
154 business within the five years immediately preceding the application  
155 for the license and a first mortgage broker shall have, at the location  
156 for which the license is sought, a person with supervisory authority  
157 over the brokerage activities who has at least three years experience in  
158 the mortgage lending or mortgage brokerage business within the five  
159 years immediately preceding the application for the license, provided  
160 such experience requirements shall not apply to any person whose  
161 license is renewed effective October 1, 2002.

162 (2) Each licensee shall maintain the net worth required by this  
163 subsection and shall promptly notify the commissioner if such  
164 licensee's net worth falls below the net worth required by this  
165 subsection.

166 (b) The commissioner may issue a first mortgage lender license, a  
167 first mortgage correspondent lender license, or a first mortgage broker  
168 license. Each first mortgage lender licensee may also act as a first

169 mortgage correspondent lender and a first mortgage broker, and each  
170 first mortgage correspondent lender licensee may also act as a first  
171 mortgage broker. An application for a license or renewal of such  
172 license shall be made under oath and on a form provided by the  
173 commissioner. The application shall [set forth: (1) The] include: (1) The  
174 type of license sought; (2) the name and address of the applicant; [(2) if  
175 the applicant is a firm or partnership,] (3) the location for which the  
176 license is sought; (4) the name and address of each member, [of the  
177 firm or partnership; (3) if the applicant is a corporation, the name and  
178 address of each] partner, officer, director, authorized agent and [each]  
179 shareholder owning ten per cent or more of the outstanding stock, [of  
180 such corporation; (4) whether the applicant is a lender or a mortgage  
181 broker, or both, and (5)] as applicable; (5) if the applicant is a trust or  
182 the lead lender in one or more participation loans, the name and  
183 address of each trustee or lead lender and each beneficiary of the trust  
184 or other participant lenders in all outstanding participation loans; (6) a  
185 financial statement as of a date not more than six months prior to the  
186 filing of the application which reflects tangible net worth, and if such  
187 financial statement is unaudited, the proprietor, general partner, or  
188 duly authorized officer, trustee or member shall swear to its accuracy  
189 under oath before a notary public; (7) evidence that the person with  
190 supervisory authority over the lending or brokerage activities at the  
191 location for which the license is sought meets the experience required  
192 by subsection (a) of this section; (8) an application for registration of  
193 each originator or prospective originator of the applicant at such  
194 location; and (9) such other information pertaining to the applicant,  
195 [its] the applicant's background, the background of its principals and  
196 employees, and [its] the applicant's activities as the commissioner may  
197 require.

198 (c) An application for registration of an originator or renewal of  
199 such registration shall be made on a form provided by the  
200 commissioner.

201 Sec. 6. Section 36a-489 of the general statutes is repealed and the  
202 following is substituted in lieu thereof (*Effective October 1, 2002*):

203        (a) If the commissioner finds, upon the filing of an application for a  
204 license, that the applicant meets the requirements of subsection (a) of  
205 section 36a-488, as amended by this act, and that the financial  
206 responsibility, character, reputation, integrity and general fitness of the  
207 applicant and of the [members] partners thereof if the applicant is a  
208 partnership, of the members if the applicant is a limited liability  
209 company or association, and of the officers, directors and principal  
210 employees if the applicant is a corporation, are such as to warrant  
211 belief that the business will be operated soundly and efficiently, in the  
212 public interest and consistent with the purposes of sections 36a-485 to  
213 36a-498, inclusive, as amended by this act, the commissioner may  
214 thereupon issue the applicant [a] the license. [(1) to engage in the  
215 business of granting first mortgage loans or (2) to be a mortgage  
216 broker.] If the commissioner fails to make such findings, or if the  
217 commissioner finds that the applicant has made a material  
218 misstatement in the application, the commissioner shall not issue a  
219 license, and shall notify the applicant of the denial and the reasons for  
220 such denial. Any denial of an application by the commissioner shall,  
221 when applicable, be subject to the provisions of section 46a-80.

222        (b) Upon the filing of an application for registration, the  
223 commissioner shall register the originator named in the application  
224 unless the commissioner finds that the applicant has made a material  
225 misstatement in the application or that the financial responsibility,  
226 character, reputation, integrity and general fitness of the originator  
227 named in the application, are not such as to warrant belief that  
228 granting such registration would be in the public interest and  
229 consistent with the purposes of sections 36a-485 to 36a-498, inclusive,  
230 as amended by this act. If the commissioner denies registration, the  
231 commissioner shall notify the originator named in the application and  
232 the applicant filing the application of the denial and the reasons for  
233 such denial. Any denial of an application by the commissioner shall,  
234 when applicable, be subject to the provisions of section 46a-80. A  
235 registration shall remain in force and effect until it has been  
236 surrendered, revoked, suspended or expires in accordance with the  
237 provisions of sections 36a-485 to 36a-498, inclusive, as amended by this

238 act.

239 Sec. 7. Section 36a-490 of the general statutes is repealed and the  
240 following is substituted in lieu thereof (*Effective October 1, 2002*):

241 (a) Each license shall state the [address] location at which the  
242 business is to be conducted and shall state fully the name of the  
243 licensee. If the licensee desires to [grant] make first mortgage loans in  
244 more than one location or to act as a first mortgage broker in more  
245 than one location, the licensee shall procure a license for each location  
246 where the business is to be conducted. Each license shall be  
247 [prominently posted in each place of business of the licensee]  
248 maintained at the location for which the license was issued and shall  
249 be available for public inspection. Such license shall not be transferable  
250 or assignable. Any change of location [of a place of business] of a  
251 licensee shall require [the prior approval of] only prior written notice  
252 to the commissioner. [and requests for relocation shall be in writing.]  
253 No licensee shall use any name other than the name [set forth] stated  
254 on the license issued by the commissioner.

255 (b) The licensee shall promptly notify the commissioner, in writing,  
256 of [the name, address and position of each new officer, partner,  
257 director or, if the licensee is a corporation, each new shareholder  
258 owning ten per cent or more of the outstanding stock of the  
259 corporation, and provide such other information as the commissioner  
260 may require] any change in the information provided in the  
261 application for license or most recent renewal of such license.

262 (c) [Every] Each license shall remain in force and effect until it has  
263 been surrendered, revoked, suspended or expires in accordance with  
264 the provisions of sections 36a-485 to [36a-495] 36a-498, inclusive, as  
265 amended by this act.

266 Sec. 8. Section 36a-491 of the general statutes is repealed and the  
267 following is substituted in lieu thereof (*Effective October 1, 2002*):

268 (a) (1) Each applicant for a [license to be a] first mortgage lender

269 license or [to be both a mortgage lender and] a first mortgage [broker]  
270 correspondent lender license shall, at the time of making such  
271 application, pay to the commissioner a license fee of eight hundred  
272 dollars, provided if such application is filed prior to the date such  
273 license will expire, the applicant shall pay to the commissioner a  
274 license fee of four hundred dollars. Each applicant for a [license to be  
275 a] first mortgage broker license shall, at the time of making such  
276 application, pay to the commissioner a license fee of four hundred  
277 dollars, provided if such application is filed prior to the date such  
278 license will expire, the applicant shall pay to the commissioner a  
279 license fee of two hundred dollars. Each license issued pursuant to this  
280 section shall expire at the close of business on September thirtieth of  
281 [each year] the even-numbered year following its issuance unless such  
282 license is renewed. Such licensee shall, on or before September first of  
283 [each year] the year in which the license expires, pay to the  
284 commissioner the appropriate license fee as provided in this section for  
285 the succeeding [year] two years, commencing October first, together  
286 with such renewal application as the commissioner may require. Any  
287 renewal application filed with the commissioner after September first  
288 shall be accompanied by a one-hundred-dollar late fee.

289 [(2)] Whenever an application for a license, other than a renewal  
290 application, is filed under sections 36a-485 to 36a-498, inclusive, as  
291 amended by this act, by any person who was a licensee under said  
292 sections and whose license expired less than sixty days prior to the  
293 date such application was filed, such application shall be accompanied  
294 by a one-hundred-dollar processing fee in addition to the application  
295 fee.

296 (2) A licensee filing an application for registration of an originator  
297 shall, at the time of making such application, pay to the commissioner  
298 a registration fee of one hundred dollars for such originator, provided  
299 if such application is filed within one year or less of the date the license  
300 of the applicant will expire, the applicant shall pay to the  
301 commissioner a registration fee of fifty dollars for such originator.  
302 Each registration shall expire at such time as the licensee's license

303 expires unless such registration is renewed. Such licensee shall file an  
304 application for renewal of the registration and pay to the commissioner  
305 the appropriate registration fee as provided in this subsection for the  
306 succeeding two years, commencing October first.

307 (b) No abatement of the license or registration fee shall be made if  
308 the license or registration is surrendered, revoked or suspended prior  
309 to the expiration of the period for which it was issued. All fees  
310 required by this section shall be nonrefundable.

311 Sec. 9. Section 36a-492 of the general statutes is repealed and the  
312 following is substituted in lieu thereof (*Effective October 1, 2002*):

313 No such license, and no renewal thereof, shall be granted unless the  
314 applicant has filed a bond with the commissioner written by a surety  
315 authorized to write such bonds in this state, in the sum of forty  
316 thousand dollars, the form of which shall be approved by the Attorney  
317 General. Such bond shall be conditioned upon such licensee faithfully  
318 performing any and all written agreements or commitments with or  
319 for the benefit of borrowers and prospective borrowers, truly and  
320 faithfully accounting for all funds received from a borrower or  
321 prospective borrower by the licensee in the licensee's capacity as a  
322 mortgage lender or a first mortgage broker, and conducting such  
323 mortgage business consistent with the provisions of sections 36a-485 to  
324 36a-498, inclusive, as amended by this act. Any [person] borrower or  
325 prospective borrower who may be damaged by failure to perform any  
326 written agreements or commitments, or by the wrongful conversion of  
327 funds paid by a borrower or prospective borrower to a licensee, may  
328 proceed on such bond against the principal or surety thereon, or both,  
329 to recover damages. The commissioner may proceed on such bond  
330 against the principal or surety thereon, or both, to collect any civil  
331 penalty imposed upon the licensee pursuant to subsection (a) of  
332 section 36a-50, as amended. The proceeds of the bond, even if  
333 commingled with other assets of the licensee, shall be deemed by  
334 operation of law to be held in trust for the benefit of such claimants  
335 against the licensee in the event of bankruptcy of the licensee and shall

336 be immune from attachment by creditors and judgment creditors. The  
337 bond shall run concurrently with the period of the license granted to  
338 the applicant, and the aggregate liability under the bond shall not  
339 exceed the penal sum of the bond.

340 Sec. 10. Section 36a-493 of the general statutes is repealed and the  
341 following is substituted in lieu thereof (*Effective October 1, 2002*):

342 (a) Each licensee shall maintain adequate records of each loan  
343 transaction at the [place of business] location named in the license, or  
344 shall make such records available at such [place of business] location  
345 not later than five business days after requested by the commissioner  
346 to do so. Such records shall provide the following information: (1) A  
347 copy of any disclosures required under part III of chapter 669; (2)  
348 whether the licensee acted as a mortgage lender, a first mortgage  
349 broker or both; (3) if the licensee is acting as a mortgage lender, and  
350 retains the first mortgage loan or receives payments thereon, an  
351 adequate loan history for those loans retained or upon which  
352 payments are received, itemizing the amount and date of each  
353 payment and the unpaid balance at all times; (4) the purpose for which  
354 the loan was made; (5) the original or an exact copy of the note and  
355 mortgage deed; [and] (6) a statement signed by the borrowers  
356 acknowledging the receipt of such statement which discloses the full  
357 amount of any fee, commission or consideration paid to the first  
358 mortgage broker for all services in connection with the mortgage loan;  
359 and (7) the name and address of the broker, if any, involved in the loan  
360 transaction.

361 (b) [Each licensee acting as a mortgage lender] For each loan that is  
362 made and serviced by a licensee, the licensee shall retain records of  
363 [each] such loan transaction for not less than [one year] two years  
364 following the final payment thereon, or the assignment of such loan,  
365 whichever occurs first, or such longer period as may be required by  
366 any other provision of law.

367 (c) [Each licensee acting as a mortgage broker] For each loan  
368 transaction in which a licensee acts as a mortgage lender or first

369 mortgage broker but does not service the loan, the licensee shall retain  
370 the records of [each] such loan transaction for not less than two years  
371 from the date of the transaction or such longer period as may be  
372 required by any other provision of law.

373 (d) Any person who furnishes to a licensee any records required to  
374 be maintained under this section or any information necessary to  
375 complete such records may charge a fee to the licensee in an amount  
376 not to exceed fifty dollars.

377 Sec. 11. Subsection (a) of section 36a-494 of the general statutes is  
378 repealed and the following is substituted in lieu thereof (*Effective*  
379 *October 1, 2002*):

380 (a) (1) The commissioner may suspend, revoke or refuse to renew  
381 any license, in accordance with the provisions of section 36a-51, as  
382 amended by this act, for any reason which would be sufficient grounds  
383 for the commissioner to deny an application for a license under  
384 sections 36a-485 to 36a-498, inclusive, as amended by this act, or if the  
385 commissioner finds that the licensee or any [owner] proprietor,  
386 director, officer, member, partner, shareholder, trustee, employee or  
387 agent of such licensee has done any of the following: [(1)] (A) Made  
388 any material misstatement in the application; [(2)] (B) committed any  
389 fraud, misappropriated funds or misrepresented, concealed,  
390 suppressed, intentionally omitted or otherwise intentionally failed to  
391 disclose any of the material particulars of any first mortgage loan  
392 transaction, including disclosures required by subdivision (6) of  
393 subsection (a) of section 36a-493, as amended by this act, or part III of  
394 chapter 669 or regulations adopted pursuant thereto, to anyone  
395 entitled to such information; [(3)] (C) violated any of the provisions [of  
396 sections 36a-485 to 36a-498, inclusive, as amended by this act, or of  
397 parts I, III and V of chapter 669 or] of title 36a or of any regulations  
398 adopted pursuant thereto, or any other law or regulation applicable to  
399 the conduct of its business; or [(4)] (D) failed to perform any agreement  
400 with a licensee or a borrower.

401 (2) The commissioner may suspend, revoke or refuse to renew any

402 registration of an originator, in accordance with the provisions of  
403 section 36a-51, as amended, for any reason which would be sufficient  
404 grounds for the commissioner to deny an application for a registration  
405 under sections 36a-485 to 36a-498, inclusive, as amended by this act, or  
406 if the commissioner finds that the registrant has committed any fraud,  
407 misappropriated funds or misrepresented any of the material  
408 particulars of any first mortgage loan transaction.

409 Sec. 12. Section 36a-496 of the general statutes is repealed and the  
410 following is substituted in lieu thereof (*Effective October 1, 2002*):

411 No person engaged in the business of making first mortgage loans  
412 in this state, whether licensed in accordance with the provisions of  
413 sections 36a-485 to 36a-498, inclusive, as amended by this act, or  
414 exempt from licensing, shall accept applications or referral of  
415 applicants from, or pay a fee to, any first mortgage broker or originator  
416 who is required to be licensed or registered under said sections but is  
417 not licensed or registered to act as such by the commissioner, if the  
418 mortgage lender has actual knowledge that the first mortgage broker  
419 or originator is not licensed or registered by the commissioner.

420 Sec. 13. Section 36a-497 of the general statutes is repealed and the  
421 following is substituted in lieu thereof (*Effective October 1, 2002*):

422 No person licensed pursuant to section 36a-489, as amended by this  
423 act, shall:

424 (1) Advertise or cause to be advertised in this state, any first  
425 mortgage loan in which such person intends to act only as a first  
426 mortgage broker unless the advertisement includes the following  
427 statement, clearly and conspicuously expressed: BROKER ONLY, NOT  
428 A LENDER; or

429 (2) In connection with an advertisement in this state, use (A) a  
430 simulated check; (B) a comparison between the loan payments under  
431 the first mortgage loan offered and the loan payments under a  
432 hypothetical loan or extension of credit, unless the advertisement

433 includes, with respect to both the hypothetical loan or extension of  
434 credit and the first mortgage loan being offered, the interest rate, the  
435 loan balance, the total amount of finance charges, the total number of  
436 payments and the monthly payment amount that would be required to  
437 pay off the outstanding loan balance shown; (C) representations such  
438 as "verified as eligible", "eligible", "preapproved", "prequalified" or  
439 similar words or phrases, without also disclosing, in immediate  
440 proximity to and in similar size print, language which sets forth  
441 prerequisites to qualify for the first mortgage loan, including, but not  
442 limited to, income verification, credit check, and property appraisal or  
443 evaluation; or (D) any words or symbols in the advertisement or on the  
444 envelope containing the advertisement that give the appearance that  
445 the mailing was sent by a government agency.

446 Sec. 14. Section 36a-498 of the general statutes is repealed and the  
447 following is substituted in lieu thereof (*Effective October 1, 2002*):

448 (a) Except as provided in subsection (b) of this section, every  
449 advance fee paid or given, directly or indirectly, to a mortgage lender,  
450 [or] first mortgage broker or originator required to be licensed or  
451 registered pursuant to sections 36a-485 to 36a-498, inclusive, as  
452 amended by this act, shall be refundable.

453 (b) Subsection (a) of this section shall not apply if: (1) The person  
454 providing the advance fee and the mortgage lender or first mortgage  
455 broker agree in writing that the advance fee shall not be refundable, in  
456 whole or in part; and (2) the written agreement complies in all respects  
457 with the provisions of subsection (c) of this section.

458 (c) An agreement under subsection (b) of this section shall meet all  
459 of the following requirements to be valid and enforceable: (1) The  
460 agreement shall be dated, signed by both parties, and be executed  
461 prior to the payment of any advance fee; (2) the agreement shall  
462 expressly state the total advance fee required to be paid and any  
463 amount of the advance fee that shall not be refundable; (3) the  
464 agreement shall clearly and conspicuously state any conditions under  
465 which the advance fee will be retained by the licensee or originator; (4)

466 the term "nonrefundable" shall be used to describe each advance fee or  
467 portion thereof to which the term is applicable, and shall appear in  
468 boldface type in the agreement each time it is used; and (5) the form of  
469 the agreement shall (A) be separate from any other forms, contracts, or  
470 applications utilized by the licensee or originator, (B) contain a  
471 heading in a size equal to at least ten-point boldface type that shall title  
472 the form "AGREEMENT CONCERNING NONREFUNDABILITY OF  
473 ADVANCE FEE", (C) provide for a duplicate copy which shall be  
474 given to the person paying the advance fee at the time of payment of  
475 the advance fee, and (D) include such other specifications as the  
476 commissioner may by regulation prescribe.

477 (d) An agreement under subsection (b) of this section that does not  
478 meet the requirements of subsection (c) of this section shall be voidable  
479 at the election of the person paying the advance fee.

480 Sec. 15. Section 36a-510 of the general statutes is repealed and the  
481 following is substituted in lieu thereof (*Effective October 1, 2002*):

482 As used in sections 36a-510 to 36a-524, inclusive, as amended by this  
483 act, unless the context otherwise requires:

484 (1) "Advance fee" means any consideration paid or given, directly or  
485 indirectly, to a [licensee] mortgage lender, secondary mortgage broker  
486 or originator required to be licensed or registered pursuant to sections  
487 36a-510 to 36a-524, inclusive, as amended by this act, prior to the  
488 closing of a secondary mortgage loan to any person, including, but not  
489 limited to, loan fees, points, broker's fees or commissions, transaction  
490 fees, [broker's fees or commissions,] or similar prepaid finance charges;

491 [(2) "Broker" means a person who, for a fee or other consideration,  
492 negotiates, solicits, places or finds a secondary mortgage loan which is  
493 to be made by a lender;

494 (3) "Lender" means a person who makes a secondary mortgage  
495 loan;]

496 (2) "Advertise" or "advertisement" means the use of media, mail,

497 computer, telephone, personal contact or any other means to offer the  
498 opportunity for a secondary mortgage loan;

499 [(4)] (3) "Licensee" means any person who is required to be licensed  
500 pursuant to section 36a-511, as amended by this act;

501 (4) "Mortgage lender" means a secondary mortgage lender or a  
502 secondary mortgage correspondent lender, or both;

503 (5) "Originator" means an individual who is employed or retained  
504 by a mortgage lender or secondary mortgage broker that is required to  
505 be licensed under sections 36a-510 to 36a-524, inclusive, as amended  
506 by this act, for, or with the expectation of, a fee, commission or other  
507 valuable consideration, to negotiate, solicit, arrange or find a  
508 secondary mortgage loan. "Originator" does not include an officer, if  
509 the licensee is a corporation; a general partner, if the licensee is a  
510 partnership; a member, if the licensee is a limited liability company; or  
511 a sole proprietor, if the licensee is a sole proprietorship;

512 [(5)] (6) "Principal amount of the loan" means the gross loan amount  
513 the borrower is obligated to repay including any prepaid finance  
514 charge and other charges which are financed. The provisions of this  
515 subdivision apply to all loans negotiated before, on and after June 14,  
516 1993;

517 (7) "Secondary mortgage broker" means a person who, for a fee,  
518 commission or other valuable consideration, directly or indirectly,  
519 negotiates, solicits, arranges, places or finds a secondary mortgage loan  
520 that is to be made by a mortgage lender, whether or not the mortgage  
521 lender is required to be licensed under sections 36a-510 to 36a-524,  
522 inclusive, as amended by this act;

523 (8) "Secondary mortgage correspondent lender" means a person  
524 engaged in the business of making secondary mortgage loans in such  
525 person's own name where the loans are not held by such person for  
526 more than ninety days and are funded by another person through a  
527 warehouse agreement, table funding agreement or similar agreement;

528 (9) "Secondary mortgage lender" means a person engaged in the  
529 business of making secondary mortgage loans: (A) In such person's  
530 own name utilizing such person's own funds, or (B) by funding loans  
531 through a table funding agreement;

532 [(6)] (10) "Secondary mortgage loan" means (A) a loan or an  
533 extension of credit, including, but not limited to, an extension of credit  
534 pursuant to a contract or an assigned contract for the sale of goods or  
535 services, made to a person, the proceeds of which are to be used  
536 primarily for personal, family or household purposes, and which is  
537 secured in whole or in part by a mortgage upon any interest in  
538 one-to-four-family residential owner-occupied real property located in  
539 this state, provided such real property is subject to one or more prior  
540 mortgages, and (B) the renewal or refinancing of any existing loan or  
541 extension of credit described in subparagraph (A) of this subdivision;

542 [(7)] (11) "Simulated check" means a document that imitates or  
543 resembles a check but is not a negotiable instrument; [and]

544 [(8) "Advertise" or "advertisement" means the use of media, mail,  
545 computer, telephone, personal contact or any other means to offer the  
546 opportunity for a secondary mortgage loan.]

547 (12) "Table funding agreement" has the meaning given to that term  
548 in subdivision (11) of section 36a-485, as amended by this act; and

549 (13) "Warehouse agreement" has the meaning given to that term in  
550 subdivision (12) of section 36a-485, as amended by this act.

551 Sec. 16. Section 36a-511 of the general statutes is repealed and the  
552 following is substituted in lieu thereof (*Effective October 1, 2002*):

553 (a) No person shall engage in the business of making secondary  
554 mortgage [loan business in this state as a lender or a] loans or act as a  
555 secondary mortgage broker unless such person has first obtained [a]  
556 the required license under sections 36a-510 to 36a-524, inclusive, as  
557 amended by this act. [For the purposes of said sections, a] A person  
558 shall be deemed to be engaged in the business of making secondary

559 mortgage [loan business] loans if such person advertises, causes to be  
560 advertised, solicits, offers to make or makes [a] secondary mortgage  
561 [loan] loans, either directly or indirectly. [A person shall not be  
562 deemed to be engaging in the secondary mortgage loan business if in  
563 the course of the person's business as a licensed real estate broker, an  
564 accountant, or an attorney, the person negotiates a secondary  
565 mortgage loan, and the beneficiaries of a licensee's estate shall not be  
566 deemed to be engaging in such business unless such beneficiaries  
567 make new secondary mortgage loans.] A secondary mortgage  
568 correspondent lender shall not be deemed to be acting as a secondary  
569 mortgage lender if such secondary mortgage correspondent lender  
570 makes a loan utilizing its own funds in a situation where another  
571 person does not honor such person's commitment to fund the loan.

572 (b) No licensee shall employ or retain an originator without first  
573 registering such originator under sections 36a-510 to 36a-524, inclusive,  
574 as amended by this act, provided such registration shall not be  
575 required for any originator who is registered by such licensee under  
576 sections 36a-485 to 36a-498, inclusive, as amended by this act. No  
577 individual may act as an originator without being registered or act as  
578 an originator for more than one licensee. The registration of an  
579 originator is not effective during any period when such originator is  
580 not associated with a licensee. Both the originator and the licensee  
581 shall promptly notify the commissioner, in writing, of the termination  
582 of employment or services of an originator.

583 [(b)] (c) Each secondary mortgage loan negotiated, solicited, placed,  
584 found or made without a license shall constitute a separate violation  
585 for purposes of section 36a-50, as amended.

586 Sec. 17. Section 36a-512 of the general statutes is repealed and the  
587 following is substituted in lieu thereof (*Effective October 1, 2002*):

588 The following are exempt from the licensing requirements of  
589 sections 36a-510 to 36a-524, inclusive, as amended by this act: (1)  
590 Persons licensed as small business investment companies by the Small  
591 Business Administration; (2) persons owning real property who take

592 back from the buyer of such property a secondary mortgage loan in  
593 lieu of any portion of the purchase price of the property; (3) persons  
594 [granting] making secondary mortgage loans to persons related to the  
595 lender by blood or marriage; (4) any bank, out-of-state bank,  
596 Connecticut credit union, federal credit union or out-of-state credit  
597 union, provided subsidiaries of such institutions are not exempt from  
598 licensure; (5) persons [granting] making five or fewer secondary  
599 mortgage loans within any twelve consecutive months, provided (A)  
600 the aggregate total of such loans does not exceed one hundred  
601 thousand dollars, (B) each individual loan does not exceed twenty  
602 thousand dollars and (C) such loans are written in compliance with  
603 section 36a-521, as amended by this act; (6) nonprofit corporations  
604 [granting] making secondary mortgage loans to promote home  
605 ownership or improvements for the disadvantaged; (7) agencies of the  
606 federal government or any state or municipal government or any  
607 quasi-governmental agency [granting] making secondary mortgage  
608 loans under the specific authority of the laws of this state or the United  
609 States; (8) persons licensed under sections 36a-555 to 36a-573, inclusive,  
610 as amended by this act, when making loans authorized by said  
611 sections; (9) persons licensed under sections 36a-485 to 36a-498,  
612 inclusive, as amended by this act, when making loans authorized by  
613 said sections, provided such licensed lender makes fewer than twelve  
614 secondary mortgage loans within any twelve consecutive months and  
615 such loans are written in compliance with section 36a-521, as amended  
616 by this act; (10) any corporation or its affiliate which makes mortgage  
617 loans exclusively for the benefit of its employees or agents; (11) any  
618 corporation, licensed in accordance with section 38a-41, as amended,  
619 or its affiliate or subsidiary, which [grants] makes secondary mortgage  
620 loans to promote home ownership in urban areas; and (12) persons  
621 acting as fiduciaries with respect to any employee pension benefit plan  
622 qualified under the Internal Revenue Code of 1986, or any subsequent  
623 corresponding internal revenue code of the United States, as from time  
624 to time amended, who make secondary mortgage loans solely to plan  
625 participants from plan assets.

626 Sec. 18. Section 36a-513 of the general statutes is repealed and the

627 following is substituted in lieu thereof (*Effective October 1, 2002*):

628 [(a) An application for a secondary mortgage loan license or renewal  
629 of such license shall be in writing, under oath and on a form provided  
630 by the commissioner.]

631 [(b)] (a) (1) The commissioner shall not issue a license as a secondary  
632 mortgage lender, a secondary mortgage correspondent lender or a  
633 secondary mortgage broker to any person unless such person meets  
634 the following tangible net worth and experience requirements, as  
635 applicable: (A) The minimum tangible net worth requirement for a  
636 secondary mortgage lender shall be one hundred thousand dollars and  
637 the minimum tangible net worth requirement for a secondary  
638 mortgage correspondent lender and a secondary mortgage broker shall  
639 be twenty-five thousand dollars, and (B) a mortgage lender shall have  
640 at the location for which the license is sought, a person with  
641 supervisory authority over the lending activities who has had at least  
642 three years experience in the mortgage lending business within the five  
643 years immediately preceding the application for the license, and a  
644 secondary mortgage broker shall have, at the location for which the  
645 license is sought, a person with supervisory authority over the  
646 brokerage activities who has at least three years experience in the  
647 mortgage lending or mortgage brokerage business within the five  
648 years immediately preceding the application for the license, provided  
649 such experience requirements shall not apply to any person whose  
650 license is renewed effective July 1, 2003.

651 (2) Each licensee shall maintain the net worth required by this  
652 subsection and shall promptly notify the commissioner if such  
653 licensee's net worth falls below the net worth required by this  
654 subsection.

655 (b) The commissioner may issue a secondary mortgage lender  
656 license, a secondary mortgage correspondent lender license or a  
657 secondary mortgage broker license. Each secondary mortgage lender  
658 licensee may also act as a secondary mortgage correspondent lender  
659 and a secondary mortgage broker, and each secondary mortgage

660 correspondent lender licensee may also act as a secondary mortgage  
661 broker. Any application for a license or renewal of such license shall be  
662 under oath and on a form provided by the commissioner. The  
663 application shall [set forth: (1) The] include: (1) The type of license  
664 sought; (2) the name and address of the applicant; [(2) if the applicant  
665 is a firm or partnership,] (3) the location for which the license is  
666 sought; (4) the [names] name and address of each member, [of the firm  
667 or partnership; (3) if the applicant is a corporation, the names and  
668 address of each] partner, officer, director, authorized agent and [each]  
669 shareholder owning ten per cent or more of the outstanding stock, [of  
670 such corporation] as applicable; [(4)] (5) if the applicant is a trust or the  
671 lead lender in one or more participation loans, the name and address  
672 of each trustee or lead lender and each beneficiary of the trust or other  
673 participant lenders in all outstanding participation loans; [,  
674 respectively; and (5) whether the applicant is a lender or a broker, or  
675 both] (6) a financial statement as of a date not more than six months  
676 prior to the filing of the application which reflects tangible net worth,  
677 and if such financial statement is unaudited, the proprietor, general  
678 partner, or duly authorized officer, trustee or member shall swear to its  
679 accuracy under oath before a notary public; (7) evidence that the  
680 person with supervisory authority over the lending or brokerage  
681 activities at the location for which the license is sought meets the  
682 experience required by subsection (a) of this section; (8) an application  
683 for registration of each originator or prospective originator of the  
684 applicant at such location; and (9) such other information pertaining to  
685 the applicant, the applicant's background, the background of its  
686 principals and employees and the applicant's activities as the  
687 commissioner may require.

688 [(c) Upon the filing of the required application and license fee, the  
689 commissioner shall investigate the facts and may issue a license if the  
690 commissioner finds that the applicant is in all respects properly  
691 qualified and of good character and that granting such license would  
692 not be against the public interest. Any disapproval of an application by  
693 the commissioner shall, when applicable, be subject to the provisions  
694 of section 46a-80.]

695       (c) If the commissioner finds, upon the filing of an application for a  
696 license, that the applicant meets the requirements of subsection (a) of  
697 this section, and that the financial responsibility, character, reputation,  
698 integrity and general fitness of the applicant and of the partners  
699 thereof if the applicant is a partnership, of the members if the applicant  
700 is a limited liability company or association, and of the officers,  
701 directors and principal employees if the applicant is a corporation, are  
702 such as to warrant belief that the business will be operated soundly  
703 and efficiently, in the public interest and consistent with the purposes  
704 of sections 36a-510 to 36a-524, inclusive, as amended by this act, the  
705 commissioner may thereupon issue the applicant the license. If the  
706 commissioner fails to make such findings, or if the commissioner finds  
707 that the applicant made any material misstatement in the application,  
708 the commissioner shall not issue a license, and shall notify the  
709 applicant of the denial and the reasons for such denial. Any denial of  
710 an application by the commissioner shall, when applicable, be subject  
711 to the provisions of section 46a-80.

712       (d) An application for registration or renewal of such registration  
713 shall be made on a form provided by the commissioner.

714       (e) Upon the filing of an application for registration, the  
715 commissioner shall register the originator named in the application  
716 unless the commissioner finds that the applicant has made any  
717 material misstatement in the application or that the financial  
718 responsibility, character, reputation, integrity and general fitness of the  
719 originator named in the application, are not such as to warrant belief  
720 that granting such registration would be in the public interest and  
721 consistent with the purposes of sections 36a-510 to 36a-524, inclusive,  
722 as amended by this act. If the commissioner denies registration, the  
723 commissioner shall notify the originator named in the application and  
724 the applicant filing the application of the denial and the reasons for  
725 such denial. Any denial of an application by the commissioner shall,  
726 when applicable, be subject to the provisions of section 46a-80.

727       Sec. 19. Section 36a-514 of the general statutes is repealed and the

728 following is substituted in lieu thereof (*Effective October 1, 2002*):

729 (a) (1) Each applicant for a [license to be a] secondary mortgage  
730 lender license or [to be both] a secondary mortgage correspondent  
731 lender [and broker] license, at the time of making such application,  
732 shall pay to the commissioner a license fee of eight hundred dollars,  
733 provided if such application is filed prior to the date such license will  
734 expire, the applicant shall pay to the commissioner a license fee of four  
735 hundred dollars, and if such application is for renewal of a license that  
736 expires on June 30, 2003, the applicant shall pay to the commissioner a  
737 license fee of five hundred dollars. Each applicant for a [license to be a]  
738 secondary mortgage broker [, but not a lender] license, at the time of  
739 making such application, shall pay to the commissioner a license fee of  
740 four hundred dollars, provided if such application is filed prior to the  
741 date such license will expire, the applicant shall pay to the  
742 commissioner a license fee of two hundred dollars, and if such  
743 application is for renewal of a license that expires on June 30, 2003, the  
744 applicant shall pay to the commissioner a license fee of two hundred  
745 fifty dollars. Each license issued pursuant to this section shall expire at  
746 the close of business on [June] September thirtieth of [each year] the  
747 even-numbered year following its issuance unless such license is  
748 renewed. Each licensee shall, on or before [June] September first of  
749 [each year] the year in which the license expires, or in the case of a  
750 license that expires on June 30, 2003, on or before June 1, 2003, file a  
751 renewal application and pay to the commissioner the appropriate  
752 license fee as provided in this section to renew the license. [for the  
753 succeeding year, commencing July first.] Any renewal application filed  
754 with the commissioner after [June first] September first, or in the case  
755 of a license that expires on June 30, 2003, after June 1, 2003, shall be  
756 accompanied by a one-hundred-dollar late fee. (2) Whenever an  
757 application for a license, other than a renewal application, is filed  
758 under this section by any person who was a licensee [under sections  
759 36a-510 to 36a-524, inclusive,] and whose license expired less than sixty  
760 days prior to the date such application was filed, such application shall  
761 be accompanied by a one-hundred-dollar processing fee in addition to  
762 the application fee.

763 [(b) Each applicant or licensee shall pay the expenses of any  
764 examination or investigation made under sections 36a-510 to 36a-524,  
765 inclusive.]

766 (b) A licensee filing an application for registration of an originator  
767 shall, at the time of making such application pay to the commissioner a  
768 registration fee of one hundred dollars for each originator, provided if  
769 such application is filed prior to the date the license of the applicant  
770 will expire, the applicant shall pay to the commissioner a registration  
771 fee of fifty dollars for each originator. Each registration shall expire at  
772 such time as the licensee's license expires unless such registration is  
773 renewed. Such licensee shall file an application for renewal of the  
774 registration and pay to the commissioner the appropriate registration  
775 fee as provided in this subsection for the succeeding two years,  
776 commencing October first.

777 (c) No abatement of the license or registration fee shall be made if  
778 the license or registration is surrendered, revoked or suspended prior  
779 to the expiration of the period for which it was issued. All fees  
780 required by this section shall be nonrefundable.

781 Sec. 20. Section 36a-515 of the general statutes is repealed and the  
782 following is substituted in lieu thereof (*Effective October 1, 2002*):

783 [No license shall be assignable nor shall any license or certificate be  
784 transferable to cover a place of business located in another city or town  
785 unless the licensee moves his place of business to another city or town  
786 after written notice of such move is given to the commissioner. Each  
787 such license shall be kept conspicuously posted in the respective place  
788 of business of the licensee for which such license was issued. Every  
789 license shall remain in force and effect until the same has been  
790 surrendered, revoked or suspended in accordance with the provisions  
791 of sections 36a-510 to 36a-524, inclusive. Any license which is revoked  
792 or suspended shall be immediately surrendered to the commissioner.  
793 If any change occurs in the personnel of the partners, directors or  
794 officers of a licensee or, if the licensee is a trust or lead lender in any  
795 participation loans, a change in the trustees or other participant

796 lenders, respectively, the licensee shall forthwith notify the  
797 commissioner, and the commissioner may require a statement under  
798 oath giving such information as he may reasonably require with  
799 respect to such change.]

800 (a) Each license shall state the location at which the business is to be  
801 conducted and shall state fully the name of the licensee. If the licensee  
802 desires to make secondary mortgage loans in more than one location  
803 or to act as a mortgage broker in more than one location, the licensee  
804 shall procure a license for each location where the business is to be  
805 conducted. Each license shall be maintained at the location for which  
806 the license was issued and shall be available for public inspection.  
807 Such license shall not be transferable or assignable. Any change of  
808 location of a licensee shall require only prior written notice to the  
809 commissioner. No licensee shall use any name other than the name  
810 stated on the license issued by the commissioner.

811 (b) The licensee shall promptly notify the commissioner, in writing,  
812 of any change in the information provided in the application for  
813 license or most recent renewal of such license.

814 (c) Each license and registration shall remain in force and effect until  
815 it has been surrendered, revoked, suspended or expires in accordance  
816 with the provisions of sections 36a-510 to 36a-524, inclusive, as  
817 amended by this act.

818 Sec. 21. Section 36a-516 of the general statutes is repealed and the  
819 following is substituted in lieu thereof (*Effective October 1, 2002*):

820 (a) Each licensee shall maintain adequate records of each loan  
821 transaction at the place of business named in the license or shall make  
822 such records available at such place of business not later than five  
823 business days after requested by the commissioner to do so. Such  
824 records shall provide the following information: (1) A copy of any  
825 disclosures required under part III of chapter 669; (2) whether the  
826 licensee acted as mortgage lender, secondary mortgage broker, or both;  
827 (3) in the case of a licensee acting as a mortgage lender, an adequate

828 loan history, itemizing the amount and date of each payment and the  
829 unpaid balance at all times; (4) the purpose for which the loan was  
830 made; (5) the original or an exact copy of the note, contract or other  
831 evidence of indebtedness and the mortgage deed; and (6) the name  
832 and address of the mortgage broker, if any, involved in the loan  
833 transaction.

834 (b) [Each licensee acting as a lender] For each loan that is made and  
835 serviced by a licensee, the licensee shall retain records of [each] such  
836 loan transaction as required under subsection (a) of this section, for not  
837 less than [one year from the date of] two years following the final  
838 payment [to the licensee on such loan transaction] thereon, or the  
839 assignment of such loan, whichever occurs first, or such longer period  
840 as may be required by any other provision of law.

841 (c) [Each licensee acting as a broker] For each loan transaction in  
842 which a licensee acts as a mortgage lender or secondary mortgage  
843 broker but does not service the loan, the licensee shall retain the  
844 records [required under subsection (a) of this section] of such loan  
845 transaction for not less than two years from the date of the transaction  
846 or such longer period as may be required by any other provision of  
847 law.

848 Sec. 22. Subsection (a) of section 36a-517 of the general statutes is  
849 repealed and the following is substituted in lieu thereof (*Effective*  
850 *October 1, 2002*):

851 (a) (1) The commissioner may suspend, revoke or refuse to renew  
852 any license, in accordance with section 36a-51, as amended, for any  
853 reason which would be sufficient grounds for the commissioner to  
854 deny an application for a license under sections 36a-510 to 36a-524,  
855 inclusive, as amended by this act, or if the commissioner finds that the  
856 licensee or any [owner] proprietor, director, officer, member, partner,  
857 shareholder, trustee, employee or agent of such licensee has done any  
858 of the following: [(1)] (A) Made any material misstatement in the  
859 application; [(2)] (B) committed any fraud, misappropriated funds or  
860 misrepresented, concealed, suppressed, intentionally omitted or

861 otherwise intentionally failed to disclose any of the material particulars  
862 of any secondary mortgage loan transaction, including disclosures  
863 required by part III of chapter 669 or regulations adopted pursuant  
864 thereto, to anyone entitled to such information; [(3)] (C) violated any of  
865 the provisions of [sections 36a-510 to 36a-524, inclusive, parts I, III and  
866 V of chapter 669, sections 46a-65 to 46a-67, inclusive, or section 46a-98]  
867 title 36a, or of any regulations adopted pursuant thereto or any other  
868 law or regulation applicable to the conduct of its business; or [(4)] (D)  
869 failed to perform any agreement with a licensee or a borrower.

870 (2) The commissioner may suspend, revoke or refuse to renew any  
871 registration of an originator, in accordance with the provisions of  
872 section 36a-51, as amended, for any reason which would be sufficient  
873 grounds for the commissioner to deny an application for a registration  
874 under sections 36a-510 to 36a-524, inclusive, as amended by this act, or  
875 if the commissioner finds that the registrant has committed any fraud,  
876 misappropriated funds or misrepresented any of the material  
877 particulars of any secondary mortgage loan transaction.

878 Sec. 23. Section 36a-519 of the general statutes is repealed and the  
879 following is substituted in lieu thereof (*Effective October 1, 2002*):

880 In any transaction subject to part III of chapter 669, no licensee shall  
881 impose any charge as a penalty for the prepayment of principal of a  
882 [second] secondary mortgage loan which exceeds five per cent of the  
883 balance prepaid, provided no penalty shall be imposed for any  
884 prepayment occurring more than three years after the date of such  
885 loan.

886 Sec. 24. Section 36a-520 of the general statutes is repealed and the  
887 following is substituted in lieu thereof (*Effective October 1, 2002*):

888 (a) Each licensee shall deliver to the mortgagor a release of a  
889 [second] secondary mortgage: (1) Upon receipt by such licensee of cash  
890 or a certified check in the amount of the outstanding balance of the  
891 obligation secured by such mortgage; or (2) upon payment by the  
892 payor bank, as defined in section 42a-4-105, as amended, of any check

893 which is payable to such licensee or its assignee in the amount of the  
894 outstanding balance of the obligation secured by such mortgage.

895 (b) Each licensee shall advise any person designated by the  
896 mortgagor of the amount of the outstanding balance of the obligation  
897 secured by the [second] secondary mortgage granted to such licensee  
898 no later than the second business day after the licensee receives a  
899 request for such information.

900 Sec. 25. Section 36a-521 of the general statutes, as amended by  
901 section 14 of public act 01-34, is repealed and the following is  
902 substituted in lieu thereof (*Effective October 1, 2002*):

903 (a) No person engaged in the secondary mortgage loan business in  
904 this state as a mortgage lender, or a secondary mortgage broker,  
905 including any licensee under sections 36a-510 to 36a-524, inclusive, as  
906 amended by this act, and any person who is exempt from licensing  
907 under section 36a-512, as amended by this act, may (1) charge, impose  
908 or cause to be paid, directly or indirectly, as an incident to or a  
909 condition of the extension of credit in any secondary mortgage loan  
910 transaction, any loan fees, points, commissions, transaction fees or  
911 similar prepaid finance charges determined in accordance with  
912 sections 36a-675 to 36a-685, inclusive, as amended, and regulations  
913 adopted thereunder, except the time-price differential, which, when  
914 added to any secondary mortgage broker's fee or commission for  
915 which the borrower may be obligated, exceed in the aggregate eight  
916 per cent of the principal amount of the loan, or (2) include in the loan  
917 agreement upon which loan fees, points, commissions, transaction fees  
918 or similar prepaid finance charges have been assessed any provision  
919 which permits the mortgage lender to demand payment of the entire  
920 loan balance prior to the scheduled maturity, except that such loan  
921 agreement may contain a provision which permits the mortgage lender  
922 to demand payment of the entire loan balance if any scheduled  
923 installment is in default for more than sixty days or if any condition of  
924 default set forth in the mortgage note exists.

925 (b) Any mortgage lender who fails to comply with the provisions of

926 this section shall be liable to the borrower in an amount equal to the  
927 sum of: (1) The amount by which the total of all loan fees, points,  
928 commissions, transaction fees, other prepaid finance charges, and  
929 secondary mortgage broker's fees and commissions exceeds eight per  
930 cent of the principal amount of the loan; (2) eight per cent of the  
931 principal amount of the loan or two thousand five hundred dollars,  
932 whichever is less; and (3) the costs incurred by the borrower in  
933 bringing an action under this section, including reasonable attorney's  
934 fees, as determined by the court, provided no such mortgage lender  
935 shall be liable for more than the amount specified in this subsection in  
936 a secondary mortgage loan transaction involving more than one  
937 borrower.

938 (c) Except as provided in subsection (d) of this section, every  
939 advance fee shall be refundable.

940 (d) Subsection (c) of this section shall not apply if: (1) The person  
941 providing the advance fee and the licensee agree, in writing, that the  
942 advance fee shall not be refundable, in whole or in part; and (2) the  
943 written agreement complies in all respects with the provisions of  
944 subsection (e) of this section.

945 (e) An agreement under subsection (d) of this section shall meet all  
946 of the following requirements to be valid and enforceable: (1) The  
947 agreement shall be dated, signed by both parties, and be executed  
948 prior to the payment of any advance fee; (2) the agreement shall  
949 expressly state the total advance fee required to be paid and any  
950 amount of the advance fee that shall not be refundable; (3) the  
951 agreement shall clearly and conspicuously state any conditions under  
952 which the advance fee will be retained by the licensee; (4) the term  
953 "nonrefundable" shall be used to describe each advance fee or portion  
954 thereof to which the term is applicable and shall appear in boldface  
955 type in the agreement each time it is used; and (5) the form of the  
956 agreement shall (A) be separate from any other forms, contracts or  
957 applications utilized by the licensee, (B) contain a heading printed in a  
958 size equal to at least ten-point boldface type that shall title the form

959 "AGREEMENT CONCERNING NONREFUNDABILITY OF  
960 ADVANCE FEE", (C) provide for a duplicate copy, which shall be  
961 given to the person paying the advance fee at the time of payment of  
962 the advance fee, and (D) include such other specifications as the  
963 commissioner may by regulation prescribe.

964 (f) An agreement under subsection (d) of this section that does not  
965 meet the requirements of subsection (e) of this section shall be voidable  
966 at the election of the person paying the advance fee.

967 Sec. 26. Section 36a-523 of the general statutes is repealed and the  
968 following is substituted in lieu thereof (*Effective October 1, 2002*):

969 No person engaged in the business of making secondary mortgage  
970 [loan business] loans in this state, [as a lender,] whether licensed in  
971 accordance with the provisions of sections 36a-510 to 36a-524,  
972 inclusive, as amended by this act, or exempt from licensing, shall  
973 accept applications or referral of applicants from, or pay a fee to, any  
974 secondary mortgage broker who is required to be licensed under said  
975 sections but is not licensed to act as such by the commissioner, if the  
976 lender has actual knowledge that the broker is not licensed by the  
977 commissioner.

978 Sec. 27. Section 36a-524 of the general statutes is repealed and the  
979 following is substituted in lieu thereof (*Effective October 1, 2002*):

980 No person licensed pursuant to section 36a-513, as amended by this  
981 act, shall:

982 (1) Advertise or cause to be advertised in this state, any secondary  
983 mortgage loan in which such person intends to act only as a secondary  
984 mortgage broker unless the advertisement includes the following  
985 statement, clearly and conspicuously expressed: BROKER ONLY, NOT  
986 A LENDER; or

987 (2) In connection with an advertisement in this state, use (A) a  
988 simulated check; (B) a comparison between the loan payments under  
989 the secondary mortgage loan offered and the loan payments under a

990 hypothetical loan or extension of credit, unless the advertisement  
991 includes, with respect to both the hypothetical loan or extension of  
992 credit and the secondary mortgage loan being offered, the interest rate,  
993 the loan balance, the total amount of finance charges, the total number  
994 of payments and the monthly payment amount that would be required  
995 to pay off the outstanding loan balance shown; (C) representations  
996 such as "verified as eligible", "eligible", "preapproved", "prequalified"  
997 or similar words or phrases, without also disclosing, in immediate  
998 proximity to and in similar size print, language which sets forth  
999 prerequisites to qualify for the secondary mortgage loan, including,  
1000 but not limited to, income verification, credit check, and property  
1001 appraisal or evaluation; or (D) any words or symbols in the  
1002 advertisement or on the envelope containing the advertisement that  
1003 give the appearance that the mailing was sent by a government  
1004 agency.

1005 Sec. 28. Section 36a-534a of the general statutes is repealed and the  
1006 following is substituted in lieu thereof (*Effective October 1, 2002*):

1007 (a) Any first mortgage broker or mortgage lender, as defined in  
1008 section 36a-485, as amended by this act, and licensed pursuant to  
1009 section 36a-486, as amended by this act, and any secondary mortgage  
1010 broker or mortgage lender, as defined in section 36a-510, as amended  
1011 by this act, and licensed pursuant to section 36a-511, as amended by  
1012 this act, shall notify the commissioner by written affidavit if any such  
1013 broker or lender, as a result of a transaction in which such broker or  
1014 lender was involved, reasonably believes that the lending practices of a  
1015 financial institution or federal bank violate section 36a-737 or 46a-66.  
1016 Such broker or lender shall provide the commissioner with any written  
1017 document containing lending restrictions which a financial institution  
1018 or federal bank has provided to such broker or lender. In the event the  
1019 commissioner finds that there is a reasonable basis for said notification,  
1020 the commissioner shall notify the Commission on Human Rights and  
1021 Opportunities of said notification and the action the commissioner  
1022 plans to take with respect thereto.

1023 (b) The commissioner may suspend, revoke or refuse to renew the  
1024 license of any such broker or lender who violates subsection (a) of this  
1025 section.

1026 Sec. 29. Subsection (a) of section 36a-539 of the general statutes is  
1027 repealed and the following is substituted in lieu thereof (*Effective*  
1028 *October 1, 2002*):

1029 (a) Each person applying to the commissioner for a sales finance  
1030 company license [under sections 36a-535 to 36a-546, inclusive,] shall  
1031 pay a license fee of eight hundred dollars, provided if such application  
1032 is filed prior to the date such license will expire, such person shall pay  
1033 a license fee of four hundred dollars. Each license issued pursuant to  
1034 said sections shall expire at the close of business on [June] September  
1035 thirtieth of [each year] the odd-numbered year following its issuance  
1036 unless such license is renewed, provided any license that is renewed  
1037 effective July 1, 2003, shall expire on September 30, 2005. Whenever an  
1038 application for a license is filed under this section by any person who  
1039 was a licensee under sections 36a-535 to 36a-546, inclusive, as amended  
1040 by this act, and whose license expired less than sixty days prior to the  
1041 date such application was filed, such application shall be accompanied  
1042 by a one-hundred-dollar processing fee in addition to the application  
1043 fee. Not more than one place of business shall be maintained under the  
1044 same license, but the commissioner may issue more than one license to  
1045 the same licensee upon receipt of an application and the payment of  
1046 the appropriate license fee.

1047 Sec. 30. Section 36a-540 of the general statutes is repealed and the  
1048 following is substituted in lieu thereof (*Effective October 1, 2002*):

1049 Each license shall specify the location [of the office and shall be  
1050 conspicuously displayed there. If such location is changed, the  
1051 commissioner shall endorse the change of location on the license  
1052 without charge. No other reference to the licensing or supervision by  
1053 the commissioner may be made] at which the business is to be  
1054 conducted. Each license shall be maintained at the location for which it  
1055 was issued and shall be available for public inspection. Such license

1056 shall not be transferable or assignable. Any change of location of a  
1057 licensee shall require only prior written notice to the commissioner. No  
1058 licensee shall use any name other than the name specified on the  
1059 license issued by the commissioner.

1060 Sec. 31. Section 36a-541 of the general statutes is repealed and the  
1061 following is substituted in lieu thereof (*Effective October 1, 2002*):

1062 [(a) Upon the filing of an application for a license as a sales finance  
1063 company and receipt of the fee therefor, the commissioner (1) may  
1064 refuse to issue the license if the commissioner finds that the applicant,  
1065 or any person who at the time of the filing of such application is an  
1066 owner, director, officer, member, partner, employee, agent or spouse of  
1067 the applicant, has suffered revocation of a license under sections 36a-  
1068 535 to 36a-546, inclusive, or has been found to have violated any of the  
1069 provisions of sections 36a-535 to 36a-546, inclusive, or part XI of  
1070 chapter 669 or of any other law regulating retail installment sales  
1071 contracts, or has been responsible for any act or omission in  
1072 consequence of which a license issued under sections 36a-535 to 36a-  
1073 546, inclusive, to any person was revoked. The commissioner may  
1074 likewise refuse to issue a license if the commissioner finds the  
1075 experience, character or general fitness of the applicant are not such as  
1076 to command the confidence of the community and to warrant the  
1077 belief that the business will be conducted honestly and fairly within  
1078 the purposes and intent of sections 36a-535 to 36a-546, inclusive. For  
1079 the purpose of this subsection, the applicant shall be deemed to  
1080 include all the members of the applicant if it is a partnership or an  
1081 unincorporated association, and all the trustees, officers and directors  
1082 of the applicant if it is a corporation; or (2) shall issue and deliver to  
1083 the applicant a nonassignable license to engage in the business of a  
1084 sales finance company in accordance with the provisions of sections  
1085 36a-535 to 36a-546, inclusive, for a period which shall expire on June  
1086 thirtieth next following the date of its issuance.

1087 (b) No licensee shall transact any business provided for by sections  
1088 36a-535 to 36a-546, inclusive, under any other name.]

1089 If the commissioner finds, upon the filing of an application for a  
1090 license as a sales finance company, that the financial responsibility,  
1091 character, reputation, integrity and general fitness of the applicant and  
1092 of the partners thereof if the applicant is a partnership, of the members  
1093 if the applicant is a limited liability company or association, and of the  
1094 officers, directors and principal employees if the applicant is a  
1095 corporation, are such as to warrant belief that the business will be  
1096 operated soundly and efficiently, in the public interest and consistent  
1097 with the purposes of sections 36a-535 to 36a-546, inclusive, as amended  
1098 by this act, the commissioner may thereupon issue the applicant the  
1099 license. If the commissioner fails to make such findings, or if the  
1100 commissioner finds that the applicant has made any material  
1101 misstatement in the application, the commissioner shall not issue a  
1102 license, and shall notify the applicant of the denial and the reasons for  
1103 such denial. Any denial of an application by the commissioner shall,  
1104 when applicable, be subject to the provisions of section 46a-80.

1105 Sec. 32. Section 36a-542 of the general statutes is repealed and the  
1106 following is substituted in lieu thereof (*Effective October 1, 2002*):

1107 Each person licensed as a sales finance company may renew such  
1108 license [for the succeeding year commencing July first] by filing with  
1109 the commissioner on or before [June first] September first of the year in  
1110 which the license expires or, in the case of a license that expires on  
1111 June 30, 2003, on or before June 1, 2003, a renewal application on a  
1112 form prescribed by the commissioner [, in writing and] under oath,  
1113 together with such exhibits and other pertinent information as the  
1114 commissioner may require. The license fee shall be [four] eight  
1115 hundred dollars, provided the license fee for renewal of a license that  
1116 expires on June 30, 2003, shall be nine hundred dollars. Any renewal  
1117 application filed with the commissioner under this section after [June  
1118 first] September first, or in the case of a license that expires on June 30,  
1119 2003, after June 1, 2003, shall be accompanied by a one-hundred-dollar  
1120 late fee.

1121 Sec. 33. Section 36a-543 of the general statutes is repealed and the

1122 following is substituted in lieu thereof (*Effective October 1, 2002*):

1123 (a) The commissioner may suspend, revoke or refuse to renew any  
1124 sales finance company license, in accordance with section 36a-51, as  
1125 amended, if the commissioner finds that: (1) The licensee, knowingly  
1126 or without the exercise of due care to prevent such violation, has  
1127 violated any provision of sections 36a-535 to 36a-546, inclusive, as  
1128 amended by this act, or of any other law regulating installment sales  
1129 financing, or has failed to comply with any demand or requirement,  
1130 made by the commissioner under and within the authority of sections  
1131 36a-535 to 36a-546, inclusive, as amended by this act; or (2) there has  
1132 been any material misstatement or failure to give a true reply to a  
1133 question in the application for the license; or (3) the licensee has  
1134 defrauded any retail buyer to the buyer's damage; or wilfully failed to  
1135 perform any written agreement with any retail buyer; or (4) any fact or  
1136 condition exists which, if it had existed at the time of the original  
1137 application for such license, would have warranted the commissioner's  
1138 [refusal to issue] denial of such license originally; or (5) in the case of a  
1139 licensee other than a natural person, (A) any officer, director, trustee,  
1140 member or partner of such licensee has been guilty of any act or  
1141 omission which would be cause for revoking or suspending a license  
1142 of such party as an individual; or (B) any other agent or employee of  
1143 such licensee has been guilty of such act or omission and the licensee  
1144 has approved or had knowledge thereof and, after such approval or  
1145 knowledge, has retained the benefit, proceeds, profit or advantage of  
1146 such act or omission or otherwise ratified it.

1147 (b) The commissioner in the commissioner's discretion may revoke  
1148 or suspend only the particular license with respect to which grounds  
1149 for revocation or suspension are of general application to all [places of  
1150 business] locations, or if to more than one [place of business] location,  
1151 operated by such licensee, the commissioner shall revoke or suspend  
1152 all of the licenses issued to such licensee or those licenses to which the  
1153 grounds for revocation or suspension apply, as the case may be.

1154 (c) No suspension, revocation or surrender of any license shall

1155 impair or affect the obligation of any installment contract, obligation or  
1156 credit agreement lawfully acquired previously thereto by the licensee.

1157 [(d) The commissioner shall establish rules as to the form of  
1158 hearings, findings and orders, which shall be reasonable and in the  
1159 public interest.]

1160 [(e)] (d) Whenever it appears to the commissioner that any person  
1161 has violated, is violating or is about to violate any provision of sections  
1162 36a-535 to 36a-546, inclusive, as amended by this act, or any regulation  
1163 adopted under said sections, the commissioner may take action against  
1164 such person in accordance with section 36a-50, as amended.

1165 Sec. 34. Section 36a-555 of the general statutes is repealed and the  
1166 following is substituted in lieu thereof (*Effective October 1, 2002*):

1167 No person shall engage in the business of making loans of money or  
1168 credit in the amount or to the value of fifteen thousand dollars or less  
1169 for loans made under section 36a-563 or section 36a-565, and charge,  
1170 contract for or receive a greater rate of interest, charge or consideration  
1171 than twelve per cent per annum therefor, except (1) a bank, (2) an out-  
1172 of-state bank, (3) a Connecticut credit union, (4) a federal credit union,  
1173 (5) an out-of-state credit union, (6) a savings and loan association  
1174 wholly owned subsidiary service corporation, (7) a person to the extent  
1175 that such person makes loans for agricultural, commercial, industrial  
1176 or governmental use or extends credit through an open-end credit  
1177 plan, as defined in subdivision (8) of section 36a-676, for the retail  
1178 purchase of consumer goods or services, (8) a [nondepository first]  
1179 mortgage lender licensed pursuant to sections 36a-485 to 36a-498,  
1180 inclusive, as amended by this act, (9) a [secondary] mortgage lender  
1181 licensed pursuant to sections 36a-510 to 36a-524, inclusive, as amended  
1182 by this act, or (10) a licensed pawnbroker, unless licensed to do so by  
1183 the commissioner as provided in sections 36a-555 to 36a-573, inclusive,  
1184 as amended by this act.

1185 Sec. 35. Section 36a-556 of the general statutes is repealed and the  
1186 following is substituted in lieu thereof (*Effective October 1, 2002*):

1187 [Before filing an application for a license under sections 36a-555 to  
1188 36a-573, inclusive, the applicant shall give public notice of the  
1189 applicant's intention to apply for a license by advertising daily, in a  
1190 newspaper published or having a circulation in the town where the  
1191 applicant's place of business is to be located, for two successive weeks,  
1192 in a manner approved by the commissioner, and satisfactory proof of  
1193 such advertising shall be filed with the commissioner.] Upon the filing  
1194 of the required application and license fee, the commissioner shall  
1195 investigate the facts and, if the commissioner finds that (1) the  
1196 experience, character and general fitness of the applicant, and of the  
1197 members thereof if the applicant is a partnership, limited liability  
1198 company or association, and of the officers and directors thereof if the  
1199 applicant is a corporation, are satisfactory, (2) a license to such  
1200 applicant will be for the convenience and advantage of the community  
1201 in which the applicant's business is to be conducted and (3) the  
1202 applicant has the capital investment required by this section, the  
1203 commissioner shall issue a license to the applicant to make loans in  
1204 accordance with sections 36a-555 to 36a-573, inclusive, as amended by  
1205 this act. If the commissioner fails to make such findings or finds that  
1206 the applicant made a material misstatement in the application, the  
1207 commissioner shall not issue a license and shall notify the applicant of  
1208 the denial and the reasons for such denial. Any denial of an  
1209 application by the commissioner shall, when applicable, be subject to  
1210 the provisions of section 46a-80. The capital investment shall be not  
1211 less than twenty-five thousand dollars for each licensed [place of  
1212 business] location in a city or town with a population of ten thousand  
1213 or more inhabitants and ten thousand dollars for each licensed [place  
1214 of business] location in a city or town with a smaller population.  
1215 Population shall be determined according to the last United States  
1216 census at the time a license is granted. [The required capital  
1217 investment shall be maintained permanently at the licensed place of  
1218 business. The requirement for a capital investment shall not apply to  
1219 any person who has been continuously licensed under sections 36a-555  
1220 to 36a-573, inclusive, on and after May 14, 1929.]

1221 Sec. 36. Section 36a-557 of the general statutes is repealed and the

1222 following is substituted in lieu thereof (*Effective October 1, 2002*):

1223 An application for such license shall be in writing, under oath and  
1224 in the form prescribed by the commissioner. [The application shall  
1225 contain the full name and the address, both of the residence and place  
1226 of business, of the applicant, and, if the applicant is a partnership, of  
1227 each member thereof, or, if a corporation, of each director and officer  
1228 thereof. The application shall also contain the county and municipality,  
1229 with street and number, if any, where the business is to be conducted  
1230 and such other pertinent information as the commissioner may  
1231 require.]

1232 Sec. 37. Subsection (a) of section 36a-558 of the general statutes is  
1233 repealed and the following is substituted in lieu thereof (*Effective*  
1234 *October 1, 2002*):

1235 (a) Each applicant for a small loan lender license, at the time of  
1236 making such application, shall pay to the commissioner a license fee of  
1237 eight hundred dollars, provided if such application is filed within one  
1238 year or less of the date such license will expire, the applicant shall pay  
1239 to the commissioner a license fee of four hundred dollars. Each such  
1240 license [issued pursuant to sections 36a-555 to 36a-573, inclusive,] shall  
1241 expire at the close of business on [June] September thirtieth of [each  
1242 year] the odd-numbered year following its issuance, unless such  
1243 license is renewed, provided any license that is renewed effective July  
1244 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or  
1245 before [June first of each year] September first of the year in which the  
1246 license expires, or in the case of a license that expires on June 30, 2003,  
1247 on or before June 1, 2003, file a renewal application and pay to the  
1248 commissioner a [four-hundred-dollar] license fee of eight hundred  
1249 dollars to renew the license, [for the succeeding year, commencing July  
1250 first] provided if such application is for renewal of a license that  
1251 expires on June 30, 2003, the applicant shall pay the commissioner a  
1252 license fee of nine hundred dollars. Any renewal application filed with  
1253 the commissioner after [June first] September first, or in the case of a  
1254 license that expires on June 30, 2003, after June 1, 2003, shall be

1255 accompanied by a one-hundred-dollar late fee. Whenever an  
1256 application for a license, other than a renewal application, is filed  
1257 under this section by any person who was a licensee [under sections  
1258 36a-555 to 36a-573, inclusive,] and whose license expired less than sixty  
1259 days prior to the date such application was filed, such application shall  
1260 be accompanied by a one-hundred-dollar processing fee in addition to  
1261 the application fee. Each applicant shall pay the expenses of any  
1262 examination or investigation made under sections 36a-555 to 36a-573,  
1263 inclusive, as amended by this act.

1264 Sec. 38. Section 36a-572 of the general statutes is repealed and the  
1265 following is substituted in lieu thereof (*Effective October 1, 2002*):

1266 The commissioner may, in accordance with section 36a-51, as  
1267 amended, revoke any license issued under the provisions of section  
1268 36a-556 if the commissioner finds that the licensee [has failed to pay  
1269 the annual license fee or] has violated any provision of sections 36a-555  
1270 to 36a-573, inclusive, as amended by this act, or any regulation or  
1271 order lawfully made pursuant to and within the authority of said  
1272 sections, or if the commissioner finds that any fact or condition exists  
1273 which, if it had existed at the time of the original application for the  
1274 license, clearly would have warranted [refusing to issue] a denial of  
1275 such license.

1276 Sec. 39. Subsection (a) of section 36a-602 of the general statutes, as  
1277 amended by section 9 of public act 01-56, is repealed and the following  
1278 is substituted in lieu thereof (*Effective October 1, 2002*):

1279 (a) As a condition for the issuance and retention of the license,  
1280 applicants for a license and licensees shall file with the commissioner a  
1281 corporate surety bond in a form satisfactory to the commissioner and  
1282 issued by a bonding company or insurance company authorized to do  
1283 business in this state. The bond shall be in favor of the commissioner,  
1284 shall remain in place for two years after such licensee ceases to engage  
1285 in business in this state, and shall be in the principal sum of (1) three  
1286 hundred thousand dollars for any applicant and any licensee that  
1287 engages in the business of issuing Connecticut payment instruments

1288 with an average daily balance of outstanding Connecticut payment  
1289 instruments during the two previous reporting quarters of three  
1290 hundred thousand dollars or less or any licensee that engages in the  
1291 business of money transmission with an average weekly amount of  
1292 money or equivalent thereof transmitted during the two previous  
1293 reporting quarters of one hundred fifty thousand dollars or less; (2)  
1294 five hundred thousand dollars for any licensee that engages in the  
1295 business of issuing Connecticut payment instruments with an average  
1296 daily balance of outstanding Connecticut payment instruments during  
1297 the two previous reporting quarters of greater than three hundred  
1298 thousand dollars but less than five hundred thousand dollars or any  
1299 licensee that engages in the business of money transmission with an  
1300 average weekly amount of money equivalent thereof transmitted  
1301 during the two previous reporting quarters of greater than one  
1302 hundred fifty thousand dollars but less than two hundred fifty  
1303 thousand dollars; and (3) one million dollars for any licensee that  
1304 engages in the business of issuing Connecticut payment instruments  
1305 with an average daily balance of outstanding Connecticut payment  
1306 instruments during the two previous reporting quarters equal to or  
1307 greater than five hundred thousand dollars or any licensee that  
1308 engages in the business of money transmission with an average weekly  
1309 amount of money or equivalent thereof transmitted during the two  
1310 previous reporting quarters of two hundred fifty thousand dollars or  
1311 greater. The proceeds of the bond, even if commingled with other  
1312 assets of the licensee, shall be deemed by operation of law to be held in  
1313 trust for the benefit of any claimants against the licensee to serve the  
1314 faithful performance of the obligations of the licensee with respect to  
1315 the receipt, handling, transmission or payment of money in connection  
1316 with the sale and issuance of payment instruments or transmission of  
1317 money in the event of the bankruptcy of the licensee, and shall be  
1318 immune from attachment by creditors or judgment creditors. The  
1319 commissioner may proceed on such bond against the principal or  
1320 surety thereon, or both, to collect any civil penalty imposed upon the  
1321 licensee pursuant to subsection (a) of section 36a-50, as amended.

1322 Sec. 40. Section 36a-655 of the general statutes is repealed and the

1323 following is substituted in lieu thereof (*Effective October 1, 2002*):

1324 As used in sections 36a-655 to 36a-665, inclusive, as amended by this  
1325 act, "bona fide nonprofit organization" means [an individual,  
1326 partnership, corporation, limited liability company, association,  
1327 organization or other person in the operation of which no shareholder,  
1328 member, director, officer, partner, employee, agent or other affiliated  
1329 person profits financially other than receiving reasonable salaries if  
1330 applicable, and which provides debt adjustment services for  
1331 individuals at no cost or at a cost not exceeding that required to defray  
1332 necessary, reasonable and bona fide expenses in order to provide such  
1333 services; and] any organization that is exempt from taxation under  
1334 Section 501(c)(3) of the Internal Revenue Code of 1986, or any  
1335 subsequent corresponding internal revenue code of the United States,  
1336 as from time to time amended; "debt adjustment" means receiving, as  
1337 agent of a debtor, money or evidences thereof for the purpose of  
1338 distributing such money or evidences thereof among creditors in full  
1339 or partial payment of obligations of the debtor; and "debtor" means  
1340 any individual who has incurred indebtedness or owes a debt for  
1341 personal, family or household purposes.

1342 Sec. 41. Section 36a-656 of the general statutes is repealed and the  
1343 following is substituted in lieu thereof (*Effective October 1, 2002*):

1344 (a) No person, other than a bona fide nonprofit organization, shall  
1345 engage in the business of debt adjustment in this state. No bona fide  
1346 nonprofit organization shall engage in the business of debt adjustment  
1347 in this state without a debt adjuster license. [issued in accordance with  
1348 the provisions of sections 36a-655 to 36a-665, inclusive.] Any bona fide  
1349 nonprofit organization desiring to obtain such a license shall file with  
1350 the commissioner an application [in writing,] under oath, setting forth  
1351 such information as the commissioner may require. Each applicant for  
1352 a license and each licensee shall notify the commissioner of any  
1353 [material changes] change in the applicant's business from that stated  
1354 in the application for [a] the license. [including, but not limited to, any  
1355 changes in location or additional locations of the business. Except as

1356 provided in section 36a-657, a license issued under sections 36a-655 to  
1357 36a-665, inclusive, shall be effective as long as the licensee remains in  
1358 the business of debt adjustment.]

1359 (b) If the commissioner finds, upon the filing of an application for a  
1360 debt adjuster license, that: (1) The financial responsibility, character,  
1361 reputation, integrity and general fitness of the applicant and of the  
1362 partners thereof if the applicant is a partnership, of the members if the  
1363 applicant is a limited liability company or association, and of the  
1364 officers, directors and principal employees if the applicant is a  
1365 corporation, are such as to warrant belief that the business will be  
1366 operated soundly and efficiently, in the public interest and consistent  
1367 with the purposes of sections 36a-655 to 36a-665, inclusive, as amended  
1368 by this act; and (2) the applicant is solvent and no proceeding in  
1369 bankruptcy, receivership or assignment for the benefit of creditors has  
1370 been commenced against the applicant, the commissioner may  
1371 thereupon issue the applicant a debt adjuster license. If the  
1372 commissioner fails to make such findings, the commissioner shall not  
1373 issue a license and shall notify the applicant of the reasons for such  
1374 denial. Any denial of an application by the commissioner shall, when  
1375 applicable, be subject to the provisions of section 46a-80.

1376 (c) Each applicant for an original debt adjuster license shall, at the  
1377 time of making such application, pay to the commissioner an  
1378 application fee of two hundred fifty dollars. Each such license shall  
1379 expire at the close of business on September thirtieth of the odd-  
1380 numbered year following its issuance unless such license is renewed.  
1381 Any license issued prior to the effective date of this act shall expire on  
1382 September 30, 2003, unless renewed. Each licensee shall, on or before  
1383 September first of the year in which the license expires, file such  
1384 renewal application as the commissioner may require.

1385 (d) No abatement of the license fee shall be made if the license is  
1386 surrendered, revoked or suspended prior to the expiration of the  
1387 period for which it was issued. The fee required by subsection (c) of  
1388 this section shall be nonrefundable.

1389 Sec. 42. Section 36a-657 of the general statutes is repealed and the  
1390 following is substituted in lieu thereof (*Effective October 1, 2002*):

1391 [The commissioner may deny any application for a license under  
1392 sections 36a-655 to 36a-665, inclusive. The commissioner may revoke  
1393 or suspend any license under said sections in accordance with section  
1394 36a-51 for the following causes: (1) Conviction of a crime involving  
1395 moral turpitude; (2) violation of any provision of sections 36a-655 to  
1396 36a-665, inclusive; (3) fraud or deceit or, if the licensee was not at the  
1397 time of application and still is not entitled to obtain a license under  
1398 said sections, material error in procuring the issuance of a license  
1399 under said sections; (4) the licensee no longer meets the requirements  
1400 necessary to obtain a license under said sections; (5) maintenance of a  
1401 continuous course of unfair conduct, or (6) insolvency, commencement  
1402 of any proceeding in bankruptcy, receivership, or assignment for the  
1403 benefit of creditors by any licensee or applicant for a license under said  
1404 sections.]

1405 The commissioner may suspend, revoke or refuse to renew any  
1406 license, in accordance with the provisions of section 36a-51, as  
1407 amended, for any reason which would be sufficient grounds for the  
1408 commissioner to deny an application for a license under sections 36a-  
1409 655 to 36a-665, inclusive, as amended by this act, or if the  
1410 commissioner finds that the licensee or any proprietor, director, officer,  
1411 member, partner, shareholder, trustee, employee or agent of such  
1412 licensee has done any of the following: (1) Made any material  
1413 misstatement in the application; (2) committed any fraud or  
1414 misappropriated funds; (3) violated any of the provisions of sections  
1415 36a-655 to 36a-665, inclusive, as amended by this act, or any other law  
1416 or regulation applicable to the conduct of its business; or (4) failed to  
1417 perform any agreement with a debtor.

1418 Sec. 43. Section 36a-658 of the general statutes is repealed and the  
1419 following is substituted in lieu thereof (*Effective October 1, 2002*):

1420 [Each license or a copy thereof shall be posted conspicuously in each  
1421 office of the licensee. No license shall be transferable or assignable. The

1422 licensee shall be limited solely to the business of debt adjustment and  
1423 any other business which does not conflict with the interests of persons  
1424 for whom the licensee is adjusting debts or with the business of debt  
1425 adjustment.]

1426 Each license shall state the location at which the business is to be  
1427 conducted and shall state fully the name of the licensee. If the licensee  
1428 desires to engage in the business of debt adjustment in more than one  
1429 location, the licensee shall procure a license for each location where the  
1430 business is to be conducted. Each license shall be maintained at the  
1431 location for which the license was issued and shall be available for  
1432 public inspection. Such license shall not be transferable or assignable,  
1433 provided any change of location of a licensee shall require only prior  
1434 written notice to the commissioner. No licensee shall use any name  
1435 other than the name stated on the license issued by the commissioner.

1436 Sec. 44. Section 36a-659 of the general statutes is repealed and the  
1437 following is substituted in lieu thereof (*Effective October 1, 2002*):

1438 Each licensee shall maintain a separate bank account for the benefit  
1439 of debtors in which all payments received from debtors who are  
1440 residents of Connecticut for the benefit of creditors shall be deposited.  
1441 [and in which all payments shall remain until a remittance is made to  
1442 either a debtor or a creditor.] Every licensee shall keep [,] and use in  
1443 [the licensee's] its business, books, accounts and records which will  
1444 enable the commissioner to determine whether such licensee is  
1445 complying with the provisions of sections 36a-655 to 36a-665, inclusive,  
1446 as amended by this act, and with the regulations [of the commissioner]  
1447 adopted pursuant thereto. Every licensee shall preserve such books,  
1448 accounts and records for at least seven years after making the final  
1449 entry on any transaction recorded therein.

1450 Sec. 45. Section 36a-664 of the general statutes is repealed and the  
1451 following is substituted in lieu thereof (*Effective October 1, 2002*):

1452 (a) No such license, and no renewal thereof, shall be granted unless  
1453 the applicant has filed a bond with the commissioner written by a

1454 surety authorized to write such bonds in this state, the form of which  
1455 shall be approved by the Attorney General, provided any applicant  
1456 that files applications for licenses for more than one location shall file a  
1457 single bond. For every applicant, the principal amount of the bond  
1458 shall be the greater of (1) forty thousand dollars, or (2) twice the  
1459 amount of the highest total payments received by the applicant from  
1460 Connecticut debtors in connection with the applicant's debt adjustment  
1461 activity in any month during the preceding twelve months ending July  
1462 thirty-first of each year. The licensee shall submit to the commissioner  
1463 such bond or renewal thereof by September first of each year. Such  
1464 bond shall be conditioned upon such licensee faithfully performing  
1465 any and all written agreements with debtors, truly and faithfully  
1466 accounting for all funds received by the licensee in the licensee's  
1467 capacity as a debt adjuster, and conducting such business consistent  
1468 with the provisions of sections 36a-655 to 36a-665, inclusive, as  
1469 amended by this act. Any debtor who may be damaged by failure to  
1470 perform any written agreements, or by the wrongful conversion of  
1471 funds paid to a licensee, may proceed on such bond against the  
1472 principal or surety thereon, or both, to recover damages. The  
1473 commissioner may proceed on such bond against the principal or  
1474 surety thereon, or both, to collect any civil penalty imposed upon the  
1475 licensee pursuant to subsection (a) of section 36a-50, as amended. The  
1476 proceeds of the bond, even if commingled with other assets of the  
1477 licensee, shall be deemed by operation of law to be held in trust for the  
1478 benefit of such claimants against the licensee in the event of  
1479 bankruptcy of the licensee and shall be immune from attachment by  
1480 creditors and judgment creditors. The bond shall be maintained during  
1481 the entire period of the license granted to the applicant, and the  
1482 aggregate liability under the bond shall not exceed the penal sum of  
1483 the bond.

1484 (b) No licensee shall use, attempt to use or make reference to, either  
1485 directly or indirectly, any word or phrase which states or implies that  
1486 the licensee is [bonded, approved,] endorsed, sponsored,  
1487 recommended or bonded by the state. [or approved by the state.]

1488 Sec. 46. Section 36a-801 of the general statutes, as amended by  
1489 section 4 of public act 01-207, is repealed and the following is  
1490 substituted in lieu thereof (*Effective October 1, 2002*):

1491 (a) No person shall act within this state as a consumer collection  
1492 agency [, unless such person holds a license then in force from the  
1493 commissioner authorizing such person so to act] without a consumer  
1494 collection agency license. A consumer collection agency is acting  
1495 within this state if it (1) has its place of business located within this  
1496 state; (2) has its place of business located outside this state and collects  
1497 from consumer debtors who reside within this state for creditors who  
1498 are located within this state; (3) has its place of business located  
1499 outside this state and regularly collects from consumer debtors who  
1500 reside within this state for creditors who are located outside this state;  
1501 or (4) has its place of business located outside this state and is engaged  
1502 in the business of collecting child support for creditors located within  
1503 this state from consumer debtors who are located outside this state.

1504 (b) (1) Any person desiring to act within this state as a consumer  
1505 collection agency shall make a written application to the commissioner  
1506 for such license in such form as the commissioner prescribes. Such  
1507 application shall be accompanied by (A) a financial statement prepared  
1508 by a certified public accountant or a public accountant, the accuracy of  
1509 which is sworn to under oath before a notary public by the proprietor,  
1510 a general partner or a corporate officer or a member duly authorized to  
1511 execute such documents, (B) a license fee of eight hundred dollars, or  
1512 in the case of an application that is filed prior to the date such license  
1513 will expire, a license fee of four hundred dollars, and (C) an  
1514 investigation fee of one hundred dollars. The commissioner shall cause  
1515 to be made such inquiry and examination as to the qualifications of  
1516 each such applicant as the commissioner deems necessary. Each  
1517 applicant shall furnish satisfactory evidence to the commissioner that  
1518 the applicant is a person of good moral character and is financially  
1519 responsible. If the commissioner is satisfied that such applicant is in all  
1520 respects properly qualified and trustworthy and that the granting of  
1521 such license is not against the public interest, the commissioner may

1522 issue to such applicant a license, in such form as the commissioner  
1523 may adopt, to act within this state as a consumer collection agency.  
1524 Any such license issued by the commissioner shall expire at the close  
1525 of business on [April] September thirtieth of [each year, but may be  
1526 renewed by the] the odd-numbered year following its issuance, unless  
1527 such license is renewed, provided any license that is renewed effective  
1528 May 1, 2003, shall expire on September 30, 2005. The commissioner  
1529 may renew such application, in the commissioner's discretion, and  
1530 upon filing of a proper renewal application accompanied by a license  
1531 fee of [four] eight hundred dollars, or in the case of an application for  
1532 renewal of a license that expires on April 30, 2003, a license fee of one  
1533 thousand dollars, and satisfactory proof that such applicant at that  
1534 time possesses the required qualifications for the license. Such renewal  
1535 application shall be filed with the commissioner [prior to April] on or  
1536 before September first of [each year] the year in which the license  
1537 expires, or in the case of a license that expires on April 30, 2003, on or  
1538 before April 1, 2003. Any renewal application filed with the  
1539 commissioner after [April first] September first, or in the case of a  
1540 license that expires on April 30, 2003, after April 1, 2003, shall be  
1541 accompanied by a one-hundred-dollar late fee. Whenever an  
1542 application for a license, other than a renewal application, is filed  
1543 under sections 36a-800 to 36a-810, inclusive, as amended by this act, by  
1544 any person who was a licensee under said sections 36a-800 to 36a-810,  
1545 inclusive, as amended by this act, and whose license expired less than  
1546 sixty days prior to the date such application was filed, such application  
1547 shall be accompanied by a one-hundred-dollar processing fee in  
1548 addition to the application fee. To further the enforcement of this  
1549 section and to determine the eligibility of any person holding a license,  
1550 the commissioner may, as often as the commissioner deems necessary,  
1551 examine the licensee's books and records, and may, at any time,  
1552 require the licensee to submit such a financial statement for the  
1553 examination of the commissioner, so that the commissioner may  
1554 determine whether the licensee is financially responsible to carry on a  
1555 consumer collection agency business within the intents and purposes  
1556 of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any

1557 financial statement submitted by a licensee shall be confidential and  
1558 shall not be a public record unless introduced in evidence at a hearing  
1559 conducted by the commissioner.

1560 (2) No abatement of the license fee shall be made if the license is  
1561 surrendered, revoked or suspended prior to the expiration of the  
1562 period for which it was issued. All fees required by this section shall be  
1563 nonrefundable.

1564 (c) No person, licensed to act within this state as a consumer  
1565 collection agency shall do so under any other name or at any other  
1566 place of business than that named in the license. Any change of  
1567 location of a place of business of a licensee shall require prior written  
1568 notice to the commissioner. Not more than one place of business shall  
1569 be maintained under the same license but the commissioner may issue  
1570 more than one license to the same licensee upon compliance with the  
1571 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this  
1572 act as to each new licensee. A license shall not be transferable or  
1573 assignable. Any licensee holding, applying for, or seeking renewal of  
1574 more than one license may, at its option, file the bond required under  
1575 section 36a-802, as amended by this act, separately for each place of  
1576 business licensed, or to be licensed, or a single bond, naming each  
1577 place of business, in an amount equal to five thousand dollars for each  
1578 place of business.

1579 Sec. 47. Section 36a-802 of the general statutes is repealed and the  
1580 following is substituted in lieu thereof (*Effective October 1, 2002*):

1581 No such license and no renewal thereof shall be granted unless the  
1582 applicant has filed with the commissioner a bond to the people of the  
1583 state in the penal sum of five thousand dollars, approved by the  
1584 Attorney General as to form and by the commissioner as to sufficiency  
1585 of the security thereof. Such bond shall be conditioned that such  
1586 licensee shall well and truly and faithfully account for all funds  
1587 entrusted to [him] the licensee and collected and received by [him in  
1588 his] the licensee in the licensee's capacity as a consumer collection  
1589 agency. Any person who may be damaged by the wrongful conversion

1590 of any [trust] creditor or consumer debtor funds held by such  
1591 consumer collection agency may proceed on such bond against the  
1592 principal or surety thereon, or both, to recover damages. The  
1593 commissioner may proceed on such bond against the principal or  
1594 surety thereon, or both, to collect any civil penalty imposed upon the  
1595 licensee pursuant to subsection (a) of section 36a-50, as amended. The  
1596 proceeds of the bond, even if commingled with other assets of the  
1597 licensee, shall be deemed by operation of law to be held in trust for the  
1598 benefit of such claimants against the licensee in the event of  
1599 bankruptcy of the licensee and shall be immune from attachment by  
1600 creditors and judgment creditors. The bond shall run concurrently  
1601 with the period of the license granted to the applicant, and the  
1602 aggregate liability under the bond shall not exceed the penal sum of  
1603 the bond.

1604 Sec. 48. Section 36a-804 of the general statutes is repealed and the  
1605 following is substituted in lieu thereof (*Effective October 1, 2002*):

1606 [The commissioner may suspend or revoke such license for cause  
1607 shown, in accordance with section 36a-51.]

1608 (a) The commissioner may suspend, revoke or refuse to renew any  
1609 license, in accordance with the provisions of section 36a-51, as  
1610 amended, for any reason which would be sufficient grounds for the  
1611 commissioner to deny an application for a license under sections 36a-  
1612 800 to 36a-810, inclusive, as amended by this act, or if the  
1613 commissioner finds that the licensee or any proprietor, director, officer,  
1614 member, partner, shareholder, trustee, employee or agent of such  
1615 licensee has done any of the following: (1) Made any material  
1616 misstatement in the application; (2) committed any fraud or  
1617 misrepresentation or misappropriated funds; or (3) violated any of the  
1618 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this  
1619 act, or of any regulations adopted pursuant thereto, or any other law  
1620 or regulation applicable to the conduct of its business.

1621 (b) Whenever it appears to the commissioner that any person has  
1622 violated, is violating or is about to violate any of the provisions of

1623 sections 36a-800 to 36a-810, inclusive, as amended by this act, or any  
 1624 regulation adopted pursuant thereto, the commissioner may take  
 1625 action against such person or licensee in accordance with section 36a-  
 1626 50, as amended.

1627       Sec. 49. (Effective October 1, 2002) Sections 36a-495, 36a-518, 36a-571  
 1628 and 36a-803 of the general statutes are repealed.

This act shall take effect as follows:	
Section 1	October 1, 2002
Sec. 2	October 1, 2002
Sec. 3	October 1, 2002
Sec. 4	October 1, 2002
Sec. 5	October 1, 2002
Sec. 6	October 1, 2002
Sec. 7	October 1, 2002
Sec. 8	October 1, 2002
Sec. 9	October 1, 2002
Sec. 10	October 1, 2002
Sec. 11	October 1, 2002
Sec. 12	October 1, 2002
Sec. 13	October 1, 2002
Sec. 14	October 1, 2002
Sec. 15	October 1, 2002
Sec. 16	October 1, 2002
Sec. 17	October 1, 2002
Sec. 18	October 1, 2002
Sec. 19	October 1, 2002
Sec. 20	October 1, 2002
Sec. 21	October 1, 2002
Sec. 22	October 1, 2002
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Sec. 24	October 1, 2002
Sec. 25	October 1, 2002
Sec. 26	October 1, 2002
Sec. 27	October 1, 2002
Sec. 28	October 1, 2002
Sec. 29	October 1, 2002
Sec. 30	October 1, 2002

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Sec. 31	<i>October 1, 2002</i>
Sec. 32	<i>October 1, 2002</i>
Sec. 33	<i>October 1, 2002</i>
Sec. 34	<i>October 1, 2002</i>
Sec. 35	<i>October 1, 2002</i>
Sec. 36	<i>October 1, 2002</i>
Sec. 37	<i>October 1, 2002</i>
Sec. 38	<i>October 1, 2002</i>
Sec. 39	<i>October 1, 2002</i>
Sec. 40	<i>October 1, 2002</i>
Sec. 41	<i>October 1, 2002</i>
Sec. 42	<i>October 1, 2002</i>
Sec. 43	<i>October 1, 2002</i>
Sec. 44	<i>October 1, 2002</i>
Sec. 45	<i>October 1, 2002</i>
Sec. 46	<i>October 1, 2002</i>
Sec. 47	<i>October 1, 2002</i>
Sec. 48	<i>October 1, 2002</i>
Sec. 49	<i>October 1, 2002</i>

**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:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
BF - Revenue Gain	Banking Dept.	0	5,250	5,250
BF - Revenue Gain	Banking Dept.	0	Indeterminate	Indeterminate

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill results in a revenue shift between fiscal years by changing license renewal periods for lenders from annual fees to biennial fees. An amount of \$230,600 previously collected in even numbered years will now be collected in the odd numbered fiscal years. An amount of \$1,019,100 previously collected in odd-numbered years will now be collected in even-numbered years. This change does not affect the overall amount of fees collected over a two-year period.

The bill also results in a revenue gain by establishing licensing fees for debt adjusters. An estimated \$5,250 in licensing fees from licensing 21 debt adjusters at a fee of \$250 would be collected.

In addition, it establishes fees for loan originators. Under the bill, the fee would be \$100, or \$50 if the application is filed within one year or less of license expiration. Since the number of loan originators is not known at this time, the extent of revenue gain cannot be estimated but is not anticipated to be significant.<sup>1</sup>

<sup>1</sup> OFA defines significant as exceeding \$100,000.

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**OLR Bill Analysis**

sSB 231

**AN ACT CONCERNING CONSUMER CREDIT AND MONEY TRANSMITTER LICENSEES****SUMMARY:**

The bill expands current mortgage lending license requirements to mortgage correspondent lenders and originators. It clarifies and increases the commissioner's authority with respect to mortgage lenders, correspondent lenders, and brokers; sales finance companies; small loan lenders; debt adjusters; and consumer collection agencies. It increases these parties' license fees and changes their application deadlines and frequency. The bill updates mortgage licensee net worth requirements and the bond requirements for first mortgage lenders, money transmitters, debt adjusters, and consumer collection agencies. It also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2002

**MORTGAGE LENDERS AND BROKERS**

The bill expands the definitions of first and secondary mortgage lenders to indicate that (1) these terms apply to correspondent mortgage lenders and (2) these lenders either make loans in their own names with their own money or fund loans through a "table funding agreement." The bill defines first and secondary mortgage correspondent lenders as people who make mortgage loans in their own names but (1) do not fund them; (2) hold them for less than 90 days; and (3) arrange for someone else to fund them through a warehouse, table funding, or similar agreement.

The bill characterizes a "table funding agreement" as an agreement where one person agrees to (1) pay for a loan made in another person's name and (2) purchase it. It calls a "warehouse agreement" an agreement to provide someone with credit so he has the money to make mortgage loans and hold them to sell to others. The bill also specifically authorizes first and secondary mortgage brokers to indirectly arrange mortgage loans.

## **Originators**

The bill defines an “originator,” as a person at a first or secondary mortgage lender or broker’s office who gets paid to set up first or secondary mortgage loans. It requires a mortgage lender or broker to register an originator before hiring or using him. A first mortgage lender or broker need not register an originator it has already registered under the secondary lender or broker laws, and vice versa. The bill prohibits originators from working without being registered or working for more than one licensee at a time. Originators’ registrations are valid only when they are actively working for a licensee. The bill requires originators and licensees immediately to inform the commissioner when they terminate their relationship.

**Registration Fees.** The bill requires first mortgage licensees to pay the commissioner a \$100 registration fee when applying to register an originator, but if they file within one year of their license expiration, the fee is \$50. It requires secondary mortgage licensees applying to register an originator to pay (1) \$50 if they apply before their own license expires or (2) \$100 if they apply after. The bill makes an originator’s registration expire at the same time as the licensee’s license, unless the licensee files a renewal application and pays two years of registration fees. It applies the same nonrefundability provisions to registrations as current law applies to licenses.

**Applications and Advance Fees.** The bill prohibits first mortgage lenders from accepting applications or applicant referrals from unregistered originators if the lender knows that the commissioner has not registered them. It also requires any advance fee given to an originator to be refundable. Current law already requires fees given to mortgage lenders and brokers to be refundable.

## **LICENSE REQUIREMENTS**

Current law authorizes the banking commissioner to issue mortgage lender and broker licenses. The bill creates a new category of mortgage licensees called correspondent lenders. As a condition of obtaining a license, the bill requires a net worth of at least (1) \$250,000 for a first mortgage lender, (2) \$100,000 for a secondary mortgage lender, and (3) \$25,000 for first and secondary mortgage lending correspondents and brokers. The bill requires all licensees to inform

the commissioner immediately if their net worth falls below the required amount. Licensees who renew their licenses after (1) October 1, 2002 for first mortgage licensees and (2) July 1, 2003 for secondary mortgage licensees must have a supervisor at their place of employment with experience in mortgage lending or brokerage, as applicable, for at least three of the last five years.

The bill allows a first mortgage lender to act also as a first mortgage correspondent lender, and both of them can act as first mortgage brokers. Similarly, it allows a secondary mortgage lender to act as a secondary mortgage correspondent lender, and both can act as secondary mortgage brokers. Current law requires mortgage license applications to include the name and address of each (1) applicant and (2) applicant member, officer, director, authorized agent, shareholder owning 10% or more of outstanding stock. The bill requires them to include (1) the type of license sought, (2) the location for which the license is sought, (3) the name and address of each partner, and (4) a financial statement not more than six months old showing the applicant's net worth. If the financial statement is unaudited, the proprietor, general partner, or other authorized member, officer, or trustee must swear to its accuracy under oath before a notary public. The bill requires first mortgage licensees, instead of just secondary mortgage licensees, to include on their license and renewal applications the names and addresses of the trustees, lead lenders and trust beneficiary or other participant lenders in outstanding participation loans.

The bill requires secondary mortgage licensees, instead of just first mortgage licensees, to include any additional information the commissioner requests on the applicant, its background, its activities, and its principal and employees' background. It also subjects secondary mortgage licensees to the same licensing standards first mortgage licensees must now meet. The bill requires all applicants to include evidence that their supervisors have the requisite experience, and an application to register their current and prospective originators. It expands license effectiveness guidelines to include provisions on (1) applications and referrals from unlicensed mortgage brokers and (2) refunds of first mortgage originators' advance fees.

The bill authorizes the commissioner to deny a license or registration to any applicant who makes a material misstatement in its application, as well as those who fail to meet his standards, as under current law. It

allows him to hold originators to the same standard that he uses to assess license applications from partnerships, associations, and other corporations. It requires the commissioner to register the applicant's originator unless he has reason to doubt the originator's character or fitness. The bill also requires the commissioner to notify both the originator and the applicant licensee if he denies an originator's registration application. The bill specifies that a first mortgage originator's registration remains in effect until it is surrendered, revoked, suspended, or expires.

### ***Activities Beyond Scope of License***

The bill specifies that a mortgage correspondent lender is not acting as a mortgage lender if he uses his own money to make a loan when someone else fails to follow through on a funding commitment. But it eliminates a provision stipulating that (1) a person is not considered to be acting as a secondary mortgage lender or broker if he negotiates a secondary mortgage loan in the course of his duties as a licensed real estate broker, accountant, or attorney and (2) the person's estate beneficiaries will not be deemed to be engaging in the secondary mortgage loan business either, unless they make new secondary loans.

### **DEBT ADJUSTORS**

The bill simplifies the statutory definition of "bona fide nonprofit organization" to mean any 501(c)(3) tax-exempt organization, and defines "debtor" for debt adjustment purposes as any individual who has incurred or owes a debt for personal, family, or household purposes. It allows the commissioner to grant the organization a debt adjuster license if he finds (1) the applicant, partners, members, officers, directors, and principal employees, as applicable, to be of sufficient character and integrity to properly conduct sales financing business and (2) the applicant is solvent and has not started a proceeding in bankruptcy or receivership or assignment for its creditors' benefit.

The bill requires original debt adjuster license applicants to pay the commissioner an application fee of \$250. These licenses expire on September 30 of the odd-numbered year after they were issued unless renewed. But, the bill specifies that any license issued before October 1, 2002 will expire September 30, 2003 if not renewed. Licensees must file their renewal applications by September 1 of the year the license

expires. The bill makes application fees nonrefundable, and license fees will not be reduced if the license is surrendered, revoked, or suspended before it expires.

The bill requires debt adjusters to keep a separate bank account for payments from Connecticut debtors. Current law requires them to keep an account for all debtors, where the money stays until it is paid to either a debtor or a creditor. The bill also removes provisions limiting debt adjuster licensees to adjusting debts and conducting business that does not conflict with the licensee's customers or industry. Instead, it requires a debt adjuster license to state the adjuster's name and the business location to which it applies, and prohibits the adjuster from using any other name except the one on the license the commissioner issued.

## **BOND REQUIREMENTS**

### ***First Mortgage Lender and Money Transmitter Bond Requirements***

The bill expands current license bond requirements for (1) first mortgage lenders' agreements with borrowers and prospective borrowers to also cover agreements entered into for the benefit of those parties and (2) money transmitters. It allows the commissioner to proceed on the bond against the principal or surety, or both, to collect any civil penalty against the licensee for violating banking laws. The first mortgage lender licensee's bond proceeds will be held in trust for successful claimants in case of the licensee's bankruptcy. The licensee's creditors and judgment holders cannot attach these funds.

### ***Debt Adjuster Bond Requirement***

The bill requires applicant debt adjusters to file with the commissioner a bond, written by an authorized surety in a form approved by the attorney general. But it allows any applicant filing license applications for multiple locations to file one bond to cover all of them. The bill specifies the bond's principal amount to be the greater of (1) \$40,000 or (2) twice the amount of the applicant's highest total debt adjustment payments from Connecticut debtors in any month of the previous year, ending July 31. It requires the licensee to submit a bond or bond renewal every September 1 conditioned on the licensee's faithfully (1) performing his written agreements with debtors, (2) accounting for all debt adjustment funds received, and (3) conducting his business in

accordance with the debt adjuster statutes.

If the licensee fails to perform written agreements or illegally converts a debtor's funds, the bill allows the debtor to recover damages from the bond principal, surety, or both. It also allows the commissioner to proceed on the bond against the principal, surety, or both to collect the applicable civil penalty for the licensee's violation of banking laws. The bill requires bond proceeds, even if commingled with the licensee's other assets, to be held in trust for successful claimants in case the licensee declares bankruptcy. The licensee's creditors and judgment holders cannot attach these funds. The bill requires the bond to be kept the entire time the applicant holds a license, but the licensee's total bond liability may not exceed the bond's penalty amount. The bill prohibits licensees from saying they are (1) endorsed, (2) sponsored, (3) recommended, or (4) bonded by the state. Current law prohibits them from implying or referring to their status as bonded, approved, or bonded or approved by the state.

### ***Consumer Collection Agency Bond Requirement***

Current law requires consumer collection agency licensees to maintain a \$5,000 bond. The bill allows anyone hurt by the licensee's illegal conversion of creditor or consumer debt funds to recover damages from the bond principal, surety, or both. It also allows the commissioner to proceed on the bond against the principal, surety, or both, and to collect any civil penalty for the licensee's violation of banking laws. The bill requires bond proceeds, even if commingled with the licensee's other assets, to be held in trust for successful claimants in case of the licensee's bankruptcy. The licensee's creditors and judgment holders cannot attach these funds. The bill specifies that the bond runs concurrently with the license, and that the licensee's total bond liability cannot exceed the bond's penalty amount.

### **LICENSE AND APPLICATION FEES**

The bill extends license effectiveness from one to two years, expiring on September 30 of (1) the even-numbered year after it is issued for mortgage licensees and (2) the odd-numbered year after its issuance for sales finance companies, small loan lenders, and consumer collection agencies. The bill requires licensees to pay the commissioner two years of license fees for renewal. Under current law, secondary mortgage, sales finance company, and small loan lender licenses expire

every June 30; consumer collection agency licenses every April 30; and first mortgage licenses every September 30.

Type of license	Current license fee	Proposed original license fee	Proposed fee if renewing before license expires	Proposed fee if renewing after license expires
First mortgage lender	\$400	\$800	\$400	\$800
First mortgage correspondent lender	N/A	\$800	\$400	\$800
First mortgage broker	\$200	\$400	\$200	\$400
Secondary mortgage lender	\$400	\$800	\$400	\$800
Secondary mortgage correspondent lender	N/A	\$800	\$400	\$800
Secondary mortgage broker	\$200	\$400	\$200	\$400
Originator registration	N/A	\$100	\$50*	\$100*
Sales finance company	\$400	\$800	\$400	\$800
Small loan lender	\$400	\$800	\$400*	\$800*
Debt adjuster	N/A	\$250	\$250	N/A
Consumer collection agency	\$400	\$800	\$400	\$400

\*To receive the reduced rate, the bill requires most licenses to be renewed before they expire, but it requires first mortgage licensees' originators and small loan lenders to renew within one year of their expiration for the reduction. It is unclear if it means within one year before or after the license expires.

The bill also requires mortgage, sales finance company, small loan

lender, and consumer collection agency licensees to file renewal applications by September 1 of the year their licenses expire, but by June 1, 2003 for licenses expiring June 30, 2003 and April 1, 2003 for licenses expiring April 30, 2003, to avoid a \$100 late fee. Current law requires them to file annually by June 1 or April 1, as applicable, and pay a fee to renew the license for the next year. The bill also increases sales finance company, small loan lender, and consumer collection agency renewal fees from \$400 to \$800. But it specifies that sales finance company and small loan lender licenses renewed effective July 1, 2003, will expire on September 30, 2005 and cost \$900, while consumer collection agency licenses renewed effective May 1, 2003, will expire on September 30, 2005 and cost \$1,000. And it requires consumer collection agency applicants whose licenses expired less than 60 days before they file a new license application to include a \$100 filing fee along with the application fee. The bill requires secondary mortgage and correspondent lenders renewing licenses that expire June 30, 2003 to pay the commissioner a \$500 license fee. It requires secondary mortgage brokers renewing licenses expiring June 30, 2003 to pay a \$250 license fee

The bill removes a requirement that secondary mortgage applicants or licensees pay any expenses from secondary mortgage lending examinations or investigations related to their license.

### **GRANT OR DENIAL OF SALES FINANCE COMPANY LICENSE**

The bill eliminates a provision allowing the commissioner to refuse to issue a sales finance company license if he finds that the applicant's spouse or the applicant company's owner, director, officer, member, partner, employee, or agent previously (1) had a sales finance company license revoked, (2) caused someone else's license to be revoked, or (3) violated any sales financing or retail installment sales financing law.

### **SMALL LOAN LENDER LICENSE APPLICANTS**

The bill eliminates a requirement for small loan lender license applicants to advertise their intent to seek a license before filing an application. It allows the commissioner to refuse a license to any unfit applicant or an applicant who made a material misstatement on his application. The bill removes a requirement that a small loan lender licensee keep its obligatory capital investment at its licensed business

place. It also eliminates a requirements that an application contain the applicant's name, home and business address, and the business's members or partners, if applicable.

### **RECORD RETENTION**

The bill adds the broker's name and address, when applicable, to the information licensees must keep in their loan transaction records. It extends the length of time first and secondary mortgage licensees must keep the records of loans they service from one year after the last payment to two years after the last payment or loan assignment, whichever happens first. The bill makes record retention provisions currently applicable to first and secondary mortgage brokers apply to licensees acting as mortgage lenders or brokers but not servicing the loan. It requires secondary mortgage licensees to keep loan transaction records at the business location named in their application or make them available within five business days of the commissioner's request.

### **LICENSE PLACEMENT, TRANSFER, ASSIGNMENT, AND AMENDMENT**

The bill eliminates a requirement that mortgage lenders, brokers, and debt adjusters working in several places prominently post their license in each location. The law still requires the licensee to get a license for each place where he wants to work, but the bill requires him to keep a license only at the location for which it was issued and make it available for public inspection. The bill requires first mortgage lender, broker, sales finance company, debt adjuster, and consumer collection agency licensees to give prior written notice before changing their business location. Current law requires them to get the commissioner's prior approval. The bill prohibits sales finance company and consumer collection agency licensees from transferring or assigning their licenses; current law already prohibits this for first and secondary mortgage licensees and debt adjusters.

The bill adds a prohibition against sales finance companies assigning or transferring their licenses, or using a name other than that on the license the commissioner issued. The bill eliminates a requirement for licensees to notify the commissioner immediately of any personnel or participation loan participant changes. Instead, it applies to secondary mortgage licensees the same provisions governing first mortgage licensees for (1) license placement and availability provisions; (2)

notification of changes to information contained in the application provisions; and (3) license surrender, revocation, suspension, and expiration.

**LICENSE SUSPENSION, REVOCATION, OR NON-RENEWAL**

The bill expands the grounds on which the commissioner may suspend, revoke, or refuse to renew a first or secondary mortgage license, and replaces those for debt adjusters, to include (1) failure to perform an agreement with a licensee or debtor; (2) violation of any banking law; and (3) a finding that the applicant committed fraud, misappropriated funds, or misrepresented any material fact about a first or secondary loan or debt adjustment transaction, as applicable. Current law allows him to suspend, revoke, or refuse to renew a mortgage loan license if a licensee violates any provisions regarding nondepository first mortgage lenders and brokers, creditors' collection practices, the Truth-in-Lending Act, or consumer credit reports. The bill also eliminates provisions (1) requiring a secondary mortgage licensee immediately to surrender his license if the commissioner suspends or revokes it; (2) requiring the commissioner to establish rules for sales finance company license revocation hearings, findings, and orders; and (3) allowing the commissioner to revoke a small loan lender license if the licensee did not pay the annual license fee.

The bill also replaces the commissioner's authority to suspend or revoke a consumer collection agency license for cause and instead allows him to suspend, revoke, or refuse to renew licenses for the same reasons he can deny them, as well as if he finds anyone associated with the company has (1) made any material misstatement in the application; (2) committed any fraud or misrepresentation or misappropriated funds; or (3) violated any relevant banking laws.

**COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute  
Yea 17    Nay 0