



General Assembly

Amendment

January Session, 2003

LCO No. 6558

SB0103506558SD0

Offered by:

SEN. FINCH, 22nd Dist.

SEN. SMITH, 14th Dist.

To: Subst. Senate Bill No. 1035

File No. 632

Cal. No. 412

**"AN ACT CONCERNING WHITE COLLAR CRIME ENFORCEMENT,
THE CONNECTICUT UNIFORM SECURITIES ACT AND
CORPORATE FRAUD ACCOUNTABILITY."**

1 Strike lines 623 to 625, inclusive, in their entirety and substitute the
2 following in lieu thereof:

3 "sections 36a-260 to 36a-266, inclusive. The governing board of each
4 Connecticut bank shall develop and implement internal controls that
5 are reasonably designed to ensure compliance with such loan policy.
6 The loan policy shall require"

7 In line 631, strike "procedures" and insert "policies" in lieu thereof

8 Strike lines 636 to 643, inclusive, in their entirety and substitute the
9 following in lieu thereof:

10 (c) The governing board of each Connecticut bank shall adopt a loan
11 review policy that is designed to ensure that all material loans made by
12 the Connecticut bank pursuant to sections 36a-260 to 36a-266,

13 inclusive, are reviewed. The policy shall establish appropriate
14 standards, consistent with prudent risk management principles, for the
15 review to address the bank's compliance with the loan policy adopted
16 pursuant to subsection (b) of this section and the need for plans to
17 implement special collection, workout, divestiture or other means of
18 bringing such loans into compliance with the loan policy. The loan
19 review policy shall be appropriate to the size of the Connecticut bank,
20 its financial condition and the nature and scope of its activities. The
21 governing board shall also adopt, as part of the loan review policy,
22 standards for determining which loans are material for purposes of
23 this subsection. When adopting the materiality standards, the
24 governing board shall consider, where appropriate, the inclusion of
25 standards based on the size of the loan in relation to the Connecticut
26 bank's total capital and reserves for loan and lease losses, and such
27 other factors that may present material risks to the institution. The loan
28 review policy and any loan reviewed pursuant to such policy shall be
29 subject to the examination of the commissioner concerning safe and
30 sound banking practices. At least semiannually, the governing board
31 of each Connecticut bank or a committee designated by such board
32 shall conduct an assessment of the loan reviews. The minutes of the
33 meeting of such governing board or committee shall recite the results
34 of the assessment of the loan reviews."

35 Strike section 37 in its entirety and substitute the following in lieu
36 thereof:

37 "Sec. 37. (NEW) (*Effective October 1, 2003*) No accountant who
38 conducts an audit of a publicly held corporation shall alter, destroy or
39 conceal any documents sent, received or created in connection with
40 such audit and containing conclusions, opinions, analyses, or financial
41 data related to such audit for a period extending from the end of the
42 fiscal period in which the audit was concluded until seven years after
43 the conclusion of the audit."

44 Strike section 38 in its entirety and substitute the following in lieu
45 thereof:

46 "Sec. 38. (NEW) (*Effective October 1, 2003*) (a) Each officer of a
47 corporation organized under the laws of this state or authorized to
48 transact business in this state who is subject to the requirements of 18
49 USC 1350 shall certify, in the manner set forth in said section and the
50 rules and regulations adopted under said section by the United States
51 Securities and Exchange Commission, and as from time to time
52 amended, that the financial statements of the corporation fairly
53 present, in all material respects, the financial condition and results of
54 operations of the corporation.

55 (b) (1) Any chief executive officer or chief financial officer under
56 subsection (a) of this section who certifies a financial statement of the
57 corporation knowing that the statement does not fairly represent, in all
58 material respects, the financial condition and results of operations of
59 the corporation shall be fined not more than one million dollars or
60 imprisoned not more than ten years, or both.

61 (2) Any chief executive officer or chief financial officer under
62 subsection (a) of this section who wilfully certifies a financial statement
63 of the corporation knowing that the statement does not fairly
64 represent, in all material respects, the financial condition and results of
65 operations of the corporation shall be fined not more than five million
66 dollars or imprisoned not more than twenty years, or both."

67 Strike section 40 in its entirety and substitute the following in lieu
68 thereof:

69 "Sec. 40. (NEW) (*Effective October 1, 2003*) (a) A violation of section
70 35 or sections 37 to 39, inclusive, of this act shall be deemed an unfair
71 or deceptive trade practice under subsection (a) of section 42-110b of
72 the general statutes, provided the provisions of section 42-110g of the
73 general statutes shall not apply to such violation."

74 Strike section 45 in its entirety and substitute the following in lieu
75 thereof:

76 "Sec. 45. Subsection (a) of section 20-281a of the general statutes is

77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2003*):

79 (a) After notice and hearing pursuant to section 20-280c, the board
80 may revoke any certificate, license or permit issued under section 20-
81 281c, 20-281d or 20-281e; suspend any such certificate, registration,
82 license or permit or refuse to renew any such certificate, license or
83 permit; reprimand, censure, or limit the scope of practice of any
84 licensee; impose a civil penalty not exceeding [one] fifty thousand
85 dollars upon licensees or others violating provisions of section 20-281g
86 or place any licensee on probation, all with or without terms,
87 conditions and limitations, for any one or more of the following
88 reasons, provided any such discipline imposed by the board solely for
89 reasons listed in subdivision (4) of this subsection shall not exceed in
90 severity the sanctions under said subdivision (4):

91 (1) Fraud or deceit in obtaining a certificate, registration, license or
92 permit;

93 (2) Cancellation, revocation, suspension or refusal to renew
94 authority to engage in the practice of public accountancy in any other
95 state for any cause;

96 (3) Failure, on the part of a holder of a license or permit under
97 section 20-281d or 20-281e, to maintain compliance with the
98 requirements for issuance or renewal of such license or permit or to
99 report changes to the board under subsection (g) of section 20-281d or
100 subsection (f) of section 20-281e;

101 (4) [Revocation] Discipline by, or revocation or suspension of the
102 right to practice before, any state or federal agency that regulates the
103 practice of public accountancy, or discipline by, or revocation or
104 suspension of such right to practice by, the Public Company
105 Accounting Oversight Board under the Sarbanes-Oxley Act of 2002;

106 (5) Dishonesty, fraud or negligence in the practice of public
107 accountancy or in the filing or failure to file his own income tax

108 returns;

109 (6) Violation of any provision of sections 20-279b to 20-281m,
110 inclusive, or regulation adopted by the board under said sections;

111 (7) Violation of any rule of professional conduct adopted by the
112 board under subdivision (4) of subsection (g) of section 20-280;

113 (8) Conviction of a felony, or of any crime an element of which is
114 dishonesty or fraud, under the laws of the United States, of this state,
115 or of any other state if the acts involved would have constituted a
116 crime under the laws of this state, subject to the provisions of section
117 46a-80;

118 (9) Performance of any fraudulent act while holding a registration,
119 certificate, license or permit issued under sections 20-279b to 20-281m,
120 inclusive, or prior law;

121 (10) Any conduct reflecting adversely upon the licensee's fitness to
122 engage in the practice of public accountancy; and

123 (11) Violation by anyone of any provision of section 20-281g."

124 In line 1676, strike "seven years" and insert the following in lieu
125 thereof: "the period described in section 37 of this act"