



Senate

General Assembly

File No. 86

January Session, 2005

Senate Bill No. 1219

Senate, March 30, 2005

The Committee on Banks reported through SEN. FINCH of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CONSUMER CREDIT, CHECK CASHING AND MONEY TRANSMISSION.

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

1 Section 1. Section 36a-53b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 No licensee or registrant shall, in connection with the activity for
4 which such person is licensed or registered: (1) Employ any device,
5 scheme or artifice to defraud; (2) make any untrue statement of a
6 material fact or omit to state a material fact necessary in order to make
7 the statements made, in the light of the circumstances under which
8 they are made, not misleading; or (3) engage in any act, practice, or
9 course of business which operates or would operate as a fraud or
10 deceit upon any person.

11 Sec. 2. Subdivision (1) of subsection (a) of section 36a-491 of the
12 general statutes is repealed and the following is substituted in lieu

13 thereof (*Effective from passage*):

14 (a) (1) Each applicant for a first mortgage lender license or a first
15 mortgage correspondent lender license shall, at the time of making
16 such application, pay to the commissioner a license fee of eight
17 hundred dollars, provided if such application is filed not earlier than
18 one year before the date such license will expire, the applicant shall
19 pay to the commissioner a license fee of four hundred dollars. Each
20 applicant for a first mortgage broker license shall, at the time of
21 making such application, pay to the commissioner a license fee of four
22 hundred dollars, provided if such application is filed not earlier than
23 one year before the date such license will expire, the applicant shall
24 pay to the commissioner a license fee of two hundred dollars. Each
25 license issued pursuant to section 36a-489 shall expire at the close of
26 business on September thirtieth of the even-numbered year following
27 its issuance unless such license is renewed. Such licensee shall, on or
28 before September first of the year in which the license expires, pay to
29 the commissioner the appropriate license fee as provided in this
30 section for the succeeding two years, commencing October first,
31 together with such renewal application as the commissioner may
32 require. Any renewal application filed with the commissioner after
33 September first shall be accompanied by a one-hundred-dollar late fee
34 and any such filing shall be deemed to be timely and sufficient for
35 purposes of subsection (b) of section 4-182. Whenever an application
36 for a license, other than a renewal application, is filed under sections
37 36a-485 to 36a-498a, inclusive, as amended by this act, by any person
38 who was a licensee under said sections and whose license expired less
39 than sixty days prior to the date such application was filed, such
40 application shall be accompanied by a one-hundred-dollar processing
41 fee in addition to the application fee.

42 Sec. 3. Subsection (b) of section 36a-494 of the general statutes is
43 repealed and the following is substituted in lieu thereof (*Effective from*
44 *passage*):

45 (b) Whenever it appears to the commissioner that any person has

46 violated, is violating or is about to violate any of the provisions of
47 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any
48 regulation adopted pursuant thereto, or any licensee or registrant has
49 failed to perform any agreement with a borrower, committed any
50 fraud, misappropriated funds or misrepresented, concealed,
51 suppressed, intentionally omitted or otherwise intentionally failed to
52 disclose any of the material particulars of any mortgage loan
53 transaction, including disclosures required by subdivision (6) of
54 subsection (a) of section 36a-493, or part III of chapter 669 or
55 regulations adopted pursuant thereto, to anyone entitled to such
56 information, the commissioner may take action against such person,
57 [or] licensee or registrant in accordance with sections 36a-50 and 36a-
58 52.

59 Sec. 4. Subdivision (1) of subsection (a) of section 36a-514 of the
60 general statutes is repealed and the following is substituted in lieu
61 thereof (*Effective from passage*):

62 (a) (1) Each applicant for a secondary mortgage lender license or a
63 secondary mortgage correspondent lender license, at the time of
64 making such application, shall pay to the commissioner a license fee of
65 eight hundred dollars, provided if such application is filed not earlier
66 than one year before the date such license will expire, the applicant
67 shall pay to the commissioner a license fee of four hundred dollars,
68 and if such application is for renewal of a license that expires on June
69 30, 2003, the applicant shall pay to the commissioner a license fee of
70 five hundred dollars. Each applicant for a secondary mortgage broker
71 license, at the time of making such application, shall pay to the
72 commissioner a license fee of four hundred dollars, provided if such
73 application is filed not earlier than one year before the date such
74 license will expire, the applicant shall pay to the commissioner a
75 license fee of two hundred dollars, and if such application is for
76 renewal of a license that expires on June 30, 2003, the applicant shall
77 pay to the commissioner a license fee of two hundred fifty dollars.
78 Each license issued pursuant to this section shall expire at the close of
79 business on September thirtieth of the even-numbered year following

80 its issuance unless such license is renewed. Each licensee shall, on or
81 before September first of the year in which the license expires, or in the
82 case of a license that expires on June 30, 2003, on or before June 1, 2003,
83 file a renewal application and pay to the commissioner the appropriate
84 license fee as provided in this section to renew the license. Any
85 renewal application filed with the commissioner after September first,
86 or in the case of a license that expires on June 30, 2003, after June 1,
87 2003, shall be accompanied by a one-hundred-dollar late fee and any
88 such filing shall be deemed to be timely and sufficient for purposes of
89 subsection (b) of section 4-182.

90 Sec. 5. Subsection (b) of section 36a-517 of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective from*
92 *passage*):

93 (b) Whenever it appears to the commissioner that any person has
94 violated, is violating or is about to violate any of the provisions of
95 sections 36a-510 to 36a-524, inclusive, as amended by this act, or any
96 licensee or registrant has failed to perform any agreement with a
97 borrower, committed any fraud, misappropriated funds or
98 misrepresented, concealed, suppressed, intentionally omitted or
99 otherwise intentionally failed to disclose any of the material particulars
100 of any mortgage loan transaction, including disclosures required by
101 part III of chapter 669 or regulations adopted pursuant thereto, to
102 anyone entitled to such information, the commissioner may take action
103 against such person, [or] licensee or registrant in accordance with
104 sections 36a-50 and 36a-52.

105 Sec. 6. Subsection (a) of section 36a-542 of the general statutes is
106 repealed and the following is substituted in lieu thereof (*Effective from*
107 *passage*):

108 (a) Each person licensed as a sales finance company may renew
109 such license by filing with the commissioner on or before September
110 first of the year in which the license expires or, in the case of a license
111 that expires on June 30, 2003, on or before June 1, 2003, a renewal
112 application on a form prescribed by the commissioner under oath,

113 together with such exhibits and other pertinent information as the
114 commissioner may require. The license fee shall be eight hundred
115 dollars, provided the license fee for renewal of a license that expires on
116 June 30, 2003, shall be nine hundred dollars. Any renewal application
117 filed with the commissioner under this section after September first, or
118 in the case of a license that expires on June 30, 2003, after June 1, 2003,
119 shall be accompanied by a one-hundred-dollar late fee and any such
120 filing shall be deemed to be timely and sufficient for purposes of
121 subsection (b) of section 4-182.

122 Sec. 7. Subsection (a) of section 36a-558 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective from*
124 *passage*):

125 (a) Each applicant for a small loan lender license, at the time of
126 making such application, shall pay to the commissioner a license fee of
127 eight hundred dollars, provided if such application is filed not earlier
128 than one year before the date such license will expire, the applicant
129 shall pay to the commissioner a license fee of four hundred dollars.
130 Each such license shall expire at the close of business on September
131 thirtieth of the odd-numbered year following its issuance, unless such
132 license is renewed, provided any license that is renewed effective July
133 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or
134 before September first of the year in which the license expires, or in the
135 case of a license that expires on June 30, 2003, on or before June 1, 2003,
136 file a renewal application and pay to the commissioner a license fee of
137 eight hundred dollars to renew the license, provided if such
138 application is for renewal of a license that expires on June 30, 2003, the
139 applicant shall pay the commissioner a license fee of nine hundred
140 dollars. Any renewal application filed with the commissioner after
141 September first, or in the case of a license that expires on June 30, 2003,
142 after June 1, 2003, shall be accompanied by a one-hundred-dollar late
143 fee and any such filing shall be deemed to be timely and sufficient for
144 purposes of subsection (b) of section 4-182. Whenever an application
145 for a license, other than a renewal application, is filed under this
146 section by any person who was a licensee and whose license expired

147 less than sixty days prior to the date such application was filed, such
148 application shall be accompanied by a one-hundred-dollar processing
149 fee in addition to the application fee. Each applicant shall pay the
150 expenses of any examination or investigation made under sections 36a-
151 555 to 36a-573, inclusive.

152 Sec. 8. Subsection (d) of section 36a-581 of the general statutes is
153 repealed and the following is substituted in lieu thereof (*Effective from*
154 *passage*):

155 (d) A licensee shall not change the name or the location specified on
156 its license unless, prior to such change in name or location, the licensee
157 files an application with the commissioner [for change in location]
158 accompanied by the applicable name change fee or location transfer fee
159 specified in section 36a-582, as amended by this act, and receives the
160 approval of the commissioner. A licensee of a limited facility shall not
161 change its approved days and hours of operation unless, prior to any
162 such change, the licensee files an application with and receives the
163 approval of the commissioner.

164 Sec. 9. Section 36a-582 of the general statutes is repealed and the
165 following is substituted in lieu thereof (*Effective from passage*):

166 (a) Each applicant for a check cashing license shall pay to the
167 commissioner a nonrefundable initial application fee of one thousand
168 dollars and a nonrefundable license fee of one hundred dollars for
169 each location. Each licensee shall pay to the commissioner a
170 nonrefundable (1) name change fee of one hundred dollars for each
171 application to change a name, and (2) location transfer fee of one
172 hundred dollars for each application to transfer a location. Each license
173 issued pursuant to section 36a-581, as amended by this act, shall expire
174 at the close of business on June thirtieth of each year unless such
175 license is renewed. Each licensee shall, on or before June twentieth of
176 each year, pay to the commissioner a renewal application fee of seven
177 hundred fifty dollars and a renewal license fee for each location of fifty
178 dollars for the succeeding year, commencing July first.

179 (b) If the commissioner determines that a check filed with the
180 commissioner to pay an application or license fee has been dishonored,
181 the commissioner shall automatically suspend the license or approval
182 or a renewal license that has been issued but is not yet effective. The
183 commissioner shall give the licensee notice of the automatic
184 suspension pending proceedings for revocation or refusal to renew
185 such license and an opportunity for a hearing on such actions in
186 accordance with section 36a-51. [If the commissioner determines that a
187 check filed with the commissioner to pay a location transfer fee has
188 been dishonored, the commissioner shall automatically suspend the
189 location transfer approval pending revocation of such approval by the
190 commissioner and an opportunity for a hearing on such actions in
191 accordance with section 36a-51.]

192 (c) Each applicant or licensee shall pay the expenses of any
193 examination or other investigation under sections 36a-580 to 36a-589,
194 inclusive, as amended by this act.

195 (d) No abatement of the application [,] or license [or location
196 transfer] fee shall be made if the license is surrendered, cancelled,
197 revoked or suspended prior to the expiration of the period for which it
198 was issued.

199 Sec. 10. Subsection (b) of section 36a-587 of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective from*
201 *passage*):

202 (b) Whenever it appears to the commissioner that any person has
203 violated, is violating or is about to violate the provisions of sections
204 36a-580 to 36a-589, inclusive, as amended by this act, or any licensee or
205 any owner, director, officer, member, partner, shareholder, trustee,
206 employee or agent of such licensee has committed any fraud, engaged
207 in dishonest activities or made any misrepresentation, the
208 commissioner may take action against such person or licensee in
209 accordance with [section] sections 36a-50 and 36a-52.

210 Sec. 11. Section 36a-598 of the general statutes is repealed and the

211 following is substituted in lieu thereof (*Effective from passage*):

212 (a) Each application for an original or renewal license required
213 under sections 36a-595 to 36a-610, inclusive, as amended by this act,
214 shall be made in writing and under oath to the commissioner in such
215 form as the commissioner may prescribe. The application shall include:

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

218 (2) The complete address of the principal office from which the
219 business is to be conducted, and of the office where the books and
220 records of the applicant are maintained and to be maintained,
221 including the street and number, if any, and the municipality and
222 county of such offices;

223 (3) The complete name and address of each of the applicant's
224 branches, subsidiaries, affiliates and agents and subagents, if any,
225 engaging in this state in the business of selling or issuing Connecticut
226 payment instruments, or engaging in the business of money
227 transmission;

228 (4) The name, title, address and telephone number of the person to
229 whom notice of the commissioner's approval or disapproval of the
230 application shall be sent and to whom any inquiries by the
231 commissioner concerning the application shall be directed;

232 (5) The name and residence address of (A) the individual, if the
233 applicant is an individual; (B) the partners, if the applicant is a
234 partnership; (C) the directors, trustees, principal officers, and any
235 shareholder owning ten per cent or more of each class of its securities,
236 if the applicant is a corporation or association; or (D) the managers, if
237 the applicant is a limited liability company, and sufficient information
238 pertaining to the name and address, in a form acceptable to the
239 commissioner, on such partners, directors, trustees, principal officers,
240 managers, and any shareholder owning ten per cent or more of each
241 class of its securities, as the commissioner deems necessary to make the

242 findings under section 36a-600;

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

247 (7) A list of the applicant's permissible investments, the book and
248 market values of such investments, and the dollar amount of the
249 applicant's aggregate outstanding payment instruments (A) as of the
250 date of the financial statement filed in accordance with subdivision (6)
251 of this subsection; and (B) as of a date no earlier than thirty business
252 days prior to the filing of the application;

253 (8) The history of material litigation and criminal convictions for the
254 five-year period prior to the date of the application of (A) the
255 individual, if the applicant is an individual; (B) the partners, if the
256 applicant is a partnership; (C) the directors, trustees, principal officers
257 and any shareholder owning ten per cent or more of each class of its
258 securities, if the applicant is a corporation or association; or (D) the
259 managers, if the applicant is a limited liability company, and sufficient
260 information pertaining to the history of material litigation and criminal
261 convictions, in a form acceptable to the commissioner, on such
262 partners, directors, trustees, principal officers and any shareholder
263 owning ten per cent or more of each class of its securities;

264 (9) (A) The surety bond required by subsection (a) of section 36a-
265 602, if applicable;

266 (B) A list of the investments maintained in accordance with
267 subsection (c) of section 36a-602, if applicable, and the book and
268 market values of any such investments (i) as of the date of the financial
269 statement filed in accordance with subdivision (6) of this subsection;
270 and (ii) as of a date no earlier than thirty business days prior to the
271 filing of the application;

272 (C) The commissioner may defer compliance with the provisions of

273 this subdivision until after the commissioner rules on the application,
274 but the commissioner shall not issue a license until an applicant
275 complies with the provisions of this subdivision;

276 (10) A statement of whether the applicant will engage in the
277 business of issuing money orders, travelers checks or electronic
278 payment instruments or engage in the business of money transmission
279 in this state;

280 (11) Any other information the commissioner may require.

281 (b) An applicant or licensee shall promptly notify the commissioner,
282 in writing, of any change in the information provided in the
283 application for license or most recent renewal of such license.

284 (c) A licensee shall not change the name specified on its license
285 unless, prior to such change in name, the licensee files an application
286 with the commissioner accompanied by the name change fee specified
287 in subsection (a) of section 36a-599, as amended by this act, and
288 receives the approval of the commissioner.

289 Sec. 12. Subsection (a) of section 36a-599 of the general statutes is
290 repealed and the following is substituted in lieu thereof (*Effective from*
291 *passage*):

292 (a) Each application for an original license shall be accompanied by
293 a nonrefundable investigation fee of five hundred dollars and a license
294 fee of one thousand dollars. Each application for a renewal license
295 shall be accompanied by a license fee of one thousand dollars. The
296 license fee shall be refunded if the application for an original license is
297 denied, the commissioner refuses to issue a renewal license or an
298 application for a license or renewal license is withdrawn prior to
299 issuance of a license or renewal license by the commissioner. Each
300 licensee shall pay to the commissioner a nonrefundable name change
301 fee of one hundred dollars for each application to change a name.

302 Sec. 13. Section 36a-657 of the general statutes is repealed and the
303 following is substituted in lieu thereof (*Effective from passage*):

304 (a) The commissioner may suspend, revoke or refuse to renew any
305 license, in accordance with the provisions of section 36a-51, for any
306 reason which would be sufficient grounds for the commissioner to
307 deny an application for a license under sections 36a-655 to 36a-665,
308 inclusive, or if the commissioner finds that the licensee or any
309 proprietor, director, officer, member, partner, shareholder, trustee,
310 employee or agent of such licensee has done any of the following: (1)
311 Made any material misstatement in the application; (2) committed any
312 fraud or misappropriated funds; (3) violated any of the provisions of
313 sections 36a-655 to 36a-665, inclusive, or any other law or regulation
314 applicable to the conduct of its business; or (4) failed to perform any
315 agreement with a debtor.

316 (b) Whenever it appears to the commissioner that any person has
317 violated, is violating or is about to violate the provisions of sections
318 36a-655 to 36a-665, inclusive, or any licensee or any proprietor,
319 director, officer, member, partner, shareholder, trustee, employee or
320 agent of such licensee has committed any fraud, misappropriated
321 funds or failed to perform any agreement with a debtor, the
322 commissioner may take action against such person or licensee in
323 accordance with sections 36a-50 and 36a-52.

324 Sec. 14. Section 36a-737 of the general statutes is repealed and the
325 following is substituted in lieu thereof (*Effective from passage*):

326 (a) No financial institution and no federal bank or federal credit
327 union shall discriminate, on a basis that is arbitrary or unsupported by
328 a reasonable analysis of the lending risks associated with the applicant
329 for a given loan or the condition of the property to secure it, in the
330 granting, withholding, extending, modifying, renewing or in the fixing
331 of the rates, terms, conditions or provisions of any home purchase
332 loan, home improvement loan or other mortgage loan on one-to-four-
333 family owner-occupied residential real property, solely because such
334 property is located in a low-income or moderate-income neighborhood
335 or geographical area, provided it shall not be a violation of this section
336 if the home purchase loan, home improvement loan or other mortgage

337 loan is made pursuant to a specific public or private program, the
338 purpose of which is to increase the availability of home purchase
339 loans, home improvement loans or other mortgage loans within a low-
340 income or moderate-income neighborhood or geographical area in
341 which such investment capital has generally been denied.

342 (b) If a member of any reserve component of the armed forces of the
343 United States, as defined in section 27-103, or a member of the
344 National Guard, is called into active duty after submitting an
345 application to a financial institution, [or] federal bank or federal credit
346 union for a home purchase loan, home improvement loan or other
347 mortgage loan on one-to-four-family owner-occupied residential real
348 property and before the financial institution, [or] federal bank or
349 federal credit union makes a determination on the application, such
350 financial institution, [or] federal bank or federal credit union shall
351 maintain the application on file for two years and two months after
352 such member is called into active duty, if the member submits, not
353 later than thirty days after being called into active duty, a written
354 statement to the financial institution, [or] federal bank or federal credit
355 union indicating that the member (1) has been called into active duty,
356 and (2) requests that the application be maintained on file. If the
357 applicant returns from active duty not later than two years after
358 submitting an application under this section and submits a written
359 statement to the financial institution, [or] federal bank or federal credit
360 union not later than sixty days after being discharged from active duty
361 verifying that there has been no material change in the applicant's
362 income, assets, debts and employment, the financial institution, [or]
363 federal bank or federal credit union shall finalize processing of the
364 application in accordance with the same terms and conditions that it
365 made available to the applicant at the time of application, provided the
366 financial institution, [or] federal bank or federal credit union shall offer
367 to the applicant any different terms and conditions that the financial
368 institution, [or] federal bank or federal credit union is offering to the
369 public at the time of the applicant's return from active duty.

370 Sec. 15. Subdivision (1) of subsection (b) of section 36a-801 of the

371 general statutes is repealed and the following is substituted in lieu
372 thereof (*Effective from passage*):

373 (b) (1) Any person desiring to act within this state as a consumer
374 collection agency shall make a written application to the commissioner
375 for such license in such form as the commissioner prescribes. Such
376 application shall be accompanied by (A) a financial statement prepared
377 by a certified public accountant or a public accountant, the accuracy of
378 which is sworn to under oath before a notary public by the proprietor,
379 a general partner or a corporate officer or a member duly authorized to
380 execute such documents, (B) a license fee of eight hundred dollars, or
381 in the case of an initial application that is filed not earlier than one year
382 before the date such license will expire, a license fee of four hundred
383 dollars, and (C) an investigation fee of one hundred dollars. The
384 commissioner shall cause to be made such inquiry and examination as
385 to the qualifications of each such applicant as the commissioner deems
386 necessary. Each applicant shall furnish satisfactory evidence to the
387 commissioner that the applicant is a person of good moral character
388 and is financially responsible. If the commissioner is satisfied that such
389 applicant is in all respects properly qualified and trustworthy and that
390 the granting of such license is not against the public interest, the
391 commissioner may issue to such applicant a license, in such form as
392 the commissioner may adopt, to act within this state as a consumer
393 collection agency. Any such license issued by the commissioner shall
394 expire at the close of business on September thirtieth of the odd-
395 numbered year following its issuance, unless such license is renewed,
396 provided any license that is renewed effective May 1, 2003, shall expire
397 on September 30, 2005. The commissioner may renew such application,
398 in the commissioner's discretion, [and] upon filing of a proper renewal
399 application accompanied by a license fee of eight hundred dollars, or
400 in the case of an application for renewal of a license that expires on
401 April 30, 2003, a license fee of one thousand dollars, and satisfactory
402 proof that such applicant at that time possesses the required
403 qualifications for the license. Such renewal application shall be filed
404 with the commissioner on or before September first of the year in
405 which the license expires, or in the case of a license that expires on

406 April 30, 2003, on or before April 1, 2003. Any renewal application
407 filed with the commissioner after September first, or in the case of a
408 license that expires on April 30, 2003, after April 1, 2003, shall be
409 accompanied by a one-hundred-dollar late fee and any such filing shall
410 be deemed to be timely and sufficient for purposes of subsection (b) of
411 section 4-182. Whenever an application for a license, other than a
412 renewal application, is filed under sections 36a-800 to 36a-810,
413 inclusive, as amended by this act, by any person who was a licensee
414 under said sections 36a-800 to 36a-810, inclusive, as amended by this
415 act, and whose license expired less than sixty days prior to the date
416 such application was filed, such application shall be accompanied by a
417 one-hundred-dollar processing fee in addition to the application fee.
418 To further the enforcement of this section and to determine the
419 eligibility of any person holding a license, the commissioner may, as
420 often as the commissioner deems necessary, examine the licensee's
421 books and records, and may, at any time, require the licensee to submit
422 such a financial statement for the examination of the commissioner, so
423 that the commissioner may determine whether the licensee is
424 financially responsible to carry on a consumer collection agency
425 business within the intents and purposes of sections 36a-800 to 36a-
426 810, inclusive, as amended by this act. Any financial statement
427 submitted by a licensee shall be confidential and shall not be a public
428 record unless introduced in evidence at a hearing conducted by the
429 commissioner.

430 Sec. 16. Subsection (b) of section 36a-804 of the general statutes is
431 repealed and the following is substituted in lieu thereof (*Effective from*
432 *passage*):

433 (b) Whenever it appears to the commissioner that any person has
434 violated, is violating or is about to violate any of the provisions of
435 sections 36a-800 to 36a-810, inclusive, as amended by this act, or any
436 regulation adopted pursuant thereto, or the licensee or any proprietor,
437 director, officer, member, partner, shareholder, trustee, employee or
438 agent of such licensee has committed any fraud, made any
439 misrepresentation or misappropriated funds, the commissioner may

440 take action against such person or licensee in accordance with [section]
 441 sections 36a-50 and 36a-52.

442 Sec. 17. Section 49-2b of the general statutes is repealed and the
 443 following is substituted in lieu thereof (*Effective from passage*):

444 The Banking Commissioner shall adopt such regulations, in
 445 accordance with chapter 54, as are necessary to carry out the
 446 provisions of section 49-2a and shall [furnish forms to mortgagees for
 447 the purpose of reporting] specify the form mortgagees may use to
 448 report to mortgagors the interest due under the provisions of section
 449 49-2a.

450 Sec. 18. Section 49-31j of the general statutes is repealed and the
 451 following is substituted in lieu thereof (*Effective from passage*):

452 The Banking Commissioner shall adopt such regulations, in
 453 accordance with chapter 54, as the commissioner deems necessary
 454 specifying (1) the manner in which a composite interest rate shall be
 455 computed for the new mortgage debt pursuant to subsection (c) of
 456 section 49-31i, [and] (2) the method or standard by which prevailing
 457 market rates of interest are to be determined, and (3) a form a lender
 458 may use to give notice pursuant to section 49-31e to a homeowner of
 459 the availability of the provisions of sections 49-31d to 49-31i, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-53b
Sec. 2	<i>from passage</i>	36a-491(a)(1)
Sec. 3	<i>from passage</i>	36a-494(b)
Sec. 4	<i>from passage</i>	36a-514(a)(1)
Sec. 5	<i>from passage</i>	36a-517(b)
Sec. 6	<i>from passage</i>	36a-542(a)
Sec. 7	<i>from passage</i>	36a-558(a)
Sec. 8	<i>from passage</i>	36a-581(d)
Sec. 9	<i>from passage</i>	36a-582
Sec. 10	<i>from passage</i>	36a-587(b)
Sec. 11	<i>from passage</i>	36a-598

Sec. 12	<i>from passage</i>	36a-599(a)
Sec. 13	<i>from passage</i>	36a-657
Sec. 14	<i>from passage</i>	36a-737
Sec. 15	<i>from passage</i>	36a-801(b)(1)
Sec. 16	<i>from passage</i>	36a-804(b)
Sec. 17	<i>from passage</i>	49-2b
Sec. 18	<i>from passage</i>	49-31j

BA *Joint Favorable*

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:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Banking Dept.	BF - Revenue Gain	Potential Minimal	Potential Minimal

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill allows the Commissioner of the Banking Department to impose a civil penalty or issue a cease and desist order against fraudulent conduct as described in the bill. In FY 04, the Banking Department collected \$455,100 in penalties as a result of various violations. To the extent that the bill would result in additional future violations, this could result in a revenue gain.

The bill requires check cashing, payment instrument, or money transmission licensees to obtain the Commissioner’s approval and pay a name change fee of \$100 in order to change their name. The new name change fee could result in a minimal revenue gain.

The bill makes other various changes, none of which have a fiscal impact.

OLR Bill Analysis

SB 1219

**AN ACT CONCERNING CONSUMER CREDIT, CHECK CASHING
AND MONEY TRANSMISSION****SUMMARY:**

This bill:

1. prohibits fraudulent conduct and authorizes the banking commissioner to issue cease and desist orders in relation to fraudulent conduct by certain individuals or entities;
2. provides that certain license renewal applications received after the deadline but accompanied by a fee are timely and sufficient under the law;
3. imposes fee and approval requirements for name changes for check cashing, payment instrument, or money transmission licensees and changes the rules governing location transfer fees;
4. requires the banking commissioner to specify the mortgage-related forms that may be used in some instances; and
5. prohibits federal credit unions from discriminating in making certain types of loans and subjects them to existing provisions regarding pending loan applications submitted by a United States armed forces reservist or National Guard member who is called to active duty before the lender makes a decision about the application.

EFFECTIVE DATE: Upon passage

FRAUDULENT CONDUCT***General Prohibition (§1)***

The bill prohibits individuals registered with the banking

commissioner from (1) using methods to defraud, (2) making an untrue statement or omitting a material fact, or (3) engaging in any fraudulent activity, in connection with activities for which they are registered. Such provisions already exist for licensees.

First and Secondary Mortgage Licensees and Registrants (§§ 3,5)

The bill allows the banking commissioner to impose a civil penalty or issue a cease and desist order against first and secondary mortgage licensees and registrants who commit fraud, misappropriate funds, or in any way intentionally fail to disclose any of the material facts related to a mortgage loan transaction. The bill also allows the commissioner to take such action when a registrant fails to perform an agreement with a borrower. Currently, he may only take such action against licensees for failure to perform an agreement.

Other Licensees (§§10, 13, 16)

The bill also allows the commissioner to impose a civil penalty or issue cease and desist orders against any check cashing licensee, debt adjuster licensee, or consumer collection agency licensee or any owner, director, officer, member, partner, shareholder, trustee, employee, or agent of the licensee that has committed fraud, engaged in dishonest activities, or made misrepresentations. The law already allows the commissioner to take action against any person who violates any of the laws governing check cashing services.

LICENSE RENEWALS (§§2, 4, 6, 7, 15)

The bill provides that a renewal application for a first mortgage, secondary mortgage, sales finance company, small loan lender, or consumer collection agency license, filed after the filing deadline but accompanied by a late fee, is considered timely and sufficient. In accordance with statute, when a licensee has made a timely and sufficient application to renew its license, it does not expire until the banking commissioner makes a final determination on the application.

These renewal applications must generally be filed with the banking commissioner by September 1 of the year the license expires and must include a \$100 fee if the applications are received after that date.

NAME AND LOCATION CHANGES (§§8, 9, 11, 12)

The bill provides that a check cashing, payment instrument, or money transmission licensee cannot change the name on its license without paying a fee and obtaining the banking commissioners approval and establishes a fee of \$100 name change fee for both licenses.

The bill deletes, for check cashing licensees, an existing requirement for an automatic suspension of location transfer approval if the check used to pay the fee is dishonored and eliminates the prohibition on abating this fee if the license is surrendered, cancelled, revoked, or suspended before it expires. The prohibition on abatement still applies to application and license fees.

FEDERAL CREDIT UNION LOANS (§14)

Discrimination

The bill adds federal credit unions to the list of entities that, under current law, cannot discriminate in granting; withholding; extending; modifying; renewing; or fixing the rates, terms, conditions, or provisions of any mortgage loan on one-to-four family owner-occupied residential real property only because the property is located in a low- or moderate-income neighborhood or area. However, current law distinguishes a mortgage loan made under a specific public or private program created to increase the availability of mortgage loans in low- or moderate-income neighborhoods or areas where such loans have generally been denied. The law already applies to Connecticut banks or credit unions that make such loans, certain other for-profit mortgage lending institutions, and federal banks.

Pending Applications from Certain Members of the Armed Forces

The bill also adds federal credit unions to the list of entities that must keep on file the home mortgage loan application of United States armed forces reservist or National Guard member who is called to active duty. It must keep the application for two years and two months if the member submits, within 30 days of being called to active duty, a written statement indicating that he or she has been called up and would like their application maintained.

If the individual returns from active duty no later than two years after submitting the application and submits, no later than 60 days after being discharged, a written statement to the federal credit union verifying that there have been no material changes in the applicant's

income, assets, debts, and employment, the federal credit union must finalize the loan with the same terms and conditions it offered at the time of application. However, the federal credit union must offer the applicant any new terms or conditions that are being offered to the public during the time when the loan is finalized.

All of these provisions already apply to Connecticut banks and credit unions that make such loans, certain other for-profit mortgage lending institutions, and federal banks.

MORTGAGE FORM (§§17, 18)

The bill requires the banking commissioner to specify, rather than furnish, the forms that mortgagees may use to report the interest due on escrow accounts. It also requires him to adopt regulations specifying the form a lender can use notify a homeowner of the available protections from foreclosure.

COMMITTEE ACTION

Banks Committee

Joint Favorable Report

Yea 18 Nay 0