



General Assembly

February Session, 2006

***Raised Bill No. 231***

LCO No. 788

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Referred to Committee on Banks

Introduced by:

(BA)

***AN ACT CONCERNING VIOLATION OF THE CONNECTICUT  
BUSINESS OPPORTUNITY INVESTMENT ACT.***

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

1 Section 1. Section 36b-72 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) Whenever it appears to the commissioner, after an investigation,  
4 that any person or persons have violated, are violating or are about to  
5 violate any of the provisions of sections 36b-60 to 36b-80, inclusive, or  
6 any regulation, rule or order adopted or issued under said sections or  
7 that a further sale or offer to sell would constitute a violation of said  
8 sections, or any such regulation, rule or order, [adopted or issued  
9 under said sections,] the commissioner may [in his discretion] order  
10 the person or persons to cease and desist from the violations of the  
11 provisions of said sections or [of the] any such regulations, rules or  
12 orders [adopted or issued under said sections] or from further sale or  
13 offering to sell business opportunities constituting or which would  
14 constitute a violation of the provisions of said sections or [of the] any  
15 such regulations, rules or orders. [adopted or issued under said  
16 sections.] After any such order is issued, the person or persons named

17 in such order may, within fourteen days after receipt of the order, file a  
18 written request for a hearing. Such hearing shall be held in accordance  
19 with the provisions of chapter 54.

20 (b) (1) Whenever [it appears to] the commissioner finds as the result  
21 of an investigation that any person or persons have violated any of the  
22 provisions of sections 36b-60 to 36b-80, inclusive, or any regulation,  
23 rule or order adopted or issued under said sections, the commissioner  
24 may send a notice to such person or persons by certified mail, return  
25 receipt requested, or by any express delivery carrier that provides a  
26 dated delivery receipt. Any such notice shall include: (A) A reference  
27 to the title, chapter, regulation, rule or order alleged to have been  
28 violated; (B) a short and plain statement of the matter asserted or  
29 charged; (C) the maximum fine that may be imposed for such  
30 violation; and (D) the time and place for the hearing. Such hearing  
31 shall be fixed for a date not earlier than fourteen days after the notice is  
32 mailed.

33 (2) The commissioner shall hold a hearing upon the charges made  
34 unless such person or persons fail to appear at the hearing. Such  
35 hearing shall be held in accordance with the provisions of chapter 54.  
36 After the hearing if the commissioner finds that the person or persons  
37 have violated any of the provisions of sections 36b-60 to 36b-80,  
38 inclusive, or any regulation, rule or order adopted or issued under said  
39 sections, the commissioner may, [in the commissioner's discretion and]  
40 in addition to any other remedy authorized by said sections, order that  
41 a fine not exceeding [ten] one hundred thousand dollars per violation  
42 be imposed upon such person or persons. If such person or persons fail  
43 to appear at the hearing, the commissioner may, as the facts require,  
44 order that a fine not exceeding [ten] one hundred thousand dollars per  
45 violation be imposed upon such person or persons. The commissioner  
46 shall send a copy of any order issued pursuant to this subsection by  
47 certified mail, return receipt requested, or by any express delivery  
48 carrier that provides a dated delivery receipt, to any person or persons  
49 named in such order.

50 (c) Whenever it appears to the commissioner that any person or  
51 persons have violated, are violating or are about to violate any of the  
52 provisions of sections 36b-60 to 36b-80, inclusive, or any regulation,  
53 rule or order adopted or issued under said sections, or that the further  
54 sale or offer to sell would constitute a violation of said sections, or any  
55 such regulation, rule or order, [adopted or issued under said sections,]  
56 the commissioner may [in his discretion and] in addition to any other  
57 remedy authorized by said sections: (1) [bring] Bring an action in the  
58 superior court for the judicial district of Hartford to enjoin the acts or  
59 practices constituting a violation and to enforce compliance with said  
60 sections or any such regulation, rule or order. [adopted or issued  
61 under said sections.] Upon a proper showing, a permanent or  
62 temporary injunction, restraining order or writ of mandamus shall be  
63 granted and a receiver or conservator may be appointed for the  
64 defendant or the defendant's assets. The court shall not require the  
65 commissioner to post a bond; (2) seek a court order imposing a fine not  
66 to exceed [ten] one hundred thousand dollars per violation against any  
67 person found to have violated any order issued by the commissioner;  
68 or (3) in addition to any other remedies provided by this section, apply  
69 to the superior court [hearing a matter under this section] for the  
70 judicial district of Hartford for an order of restitution whereby the  
71 defendants in such action shall be ordered to make restitution of those  
72 sums shown by the commissioner to have been obtained by them in  
73 violation of any of the provisions of said sections or any such  
74 regulation, rule or order, plus interest at the rate set forth in section 37-  
75 3a. Such restitution shall, at the option of the court, be payable to the  
76 receiver or conservator appointed pursuant to subdivision (1) of this  
77 subsection, or directly to the persons whose assets were obtained in  
78 violation of any provision of said sections or any such regulation, rule  
79 or order.

80 (d) Any time after the issuance of an order or notice provided for in  
81 subsection (a) or (b) of this section, the commissioner may accept an  
82 agreement by any [person charged with violating any provision of  
83 sections 36b-60 to 36b-80, inclusive,] respondent named in such order

84 or notice to enter into a written consent order in lieu of an adjudicative  
85 hearing. The acceptance of a consent order shall be within the  
86 complete discretion of the commissioner, [or such presiding officer as  
87 has been designated by the commissioner.] The consent order  
88 provided for in this subsection shall contain (1) an express waiver of  
89 the right to seek judicial review or otherwise challenge or contest the  
90 validity of such order or notice; (2) a provision that [the] such order or  
91 notice may be used in construing the terms of the consent order; (3) a  
92 statement that such consent order shall become final when issued; (4) a  
93 specific assurance that none of the violations alleged in such order or  
94 notice shall occur in the future; (5) such other terms and conditions as  
95 are necessary to further the purposes and policies of sections 36b-60 to  
96 36b-80, inclusive; (6) the signature of each of the individual  
97 respondents evidencing [his] such respondent's consent; and (7) the  
98 signature of the commissioner or of [his] the commissioner's  
99 authorized representative.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	36b-72

**Statement of Purpose:**

To specifically authorize the Banking Commissioner to order persons that have violated the Connecticut Business Opportunity Investment Act to cease and desist and to increase the maximum fine from ten thousand dollars to one hundred thousand dollars per violation.

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