



House of Representatives

File No. 887

General Assembly

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House Bill No. 7116
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 29, 2007

AN ACT ALLOWING PARTICIPATION IN THE NATIONAL MORTGAGE LICENSING SYSTEM.

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

1 Section 1. (NEW) (*Effective September 30, 2008*) The Banking
2 Commissioner may participate in the national mortgage licensing
3 system and permit such system to process applications for first
4 mortgage lender, first mortgage correspondent lender, first mortgage
5 broker, secondary mortgage lender, secondary mortgage
6 correspondent lender, secondary mortgage broker and originator
7 licenses in this state and receive and maintain records related to such
8 licenses that are allowed or required to be maintained by the
9 commissioner.

10 Sec. 2. Section 36a-2 of the general statutes is repealed and the
11 following is substituted in lieu thereof (*Effective September 30, 2008*):

12 As used in this title, unless the context otherwise requires:

13 (1) "Affiliate" of a person means any person controlling, controlled

14 by, or under common control with, that person;

15 (2) "Applicant" with respect to any license or approval provision
16 pursuant to this title means a person who applies for that license or
17 approval;

18 (3) "Automated teller machine" means a stationary or mobile
19 unattended device, including a satellite device but excluding a point of
20 sale terminal, at which banking transactions, including, but not limited
21 to, deposits, withdrawals, advances, payments or transfers, may be
22 conducted;

23 (4) "Bank" means a Connecticut bank or a federal bank;

24 (5) "Bank and trust company" means an institution chartered or
25 organized under the laws of this state as a bank and trust company;

26 (6) "Bank holding company" has the meaning given to that term in
27 12 USC Section 1841(a), as from time to time amended, except that the
28 term "bank", as used in 12 USC Section 1841(a) includes a bank or out-
29 of-state bank that functions solely in a trust or fiduciary capacity;

30 (7) "Capital stock" when used in conjunction with any bank or out-
31 of-state bank means a bank or out-of-state bank that is authorized to
32 accumulate funds through the issuance of its capital stock;

33 (8) "Client" means a beneficiary of a trust for whom the Connecticut
34 bank acts as trustee, a person for whom the Connecticut bank acts as
35 agent, custodian or bailee, or other person to whom a Connecticut
36 bank owes a duty or obligation under a trust or other account
37 administered by such Connecticut bank, regardless of whether such
38 Connecticut bank owes a fiduciary duty to the person;

39 (9) "Club deposit" means deposits to be received at regular intervals,
40 the whole amount deposited to be withdrawn by the owner or repaid
41 by the bank in not more than fifteen months from the date of the first
42 deposit, and upon which no interest or dividends need to be paid;

43 (10) "Commissioner" means the Banking Commissioner and, with
44 respect to any function of the commissioner, includes any person
45 authorized or designated by the commissioner to carry out that
46 function;

47 (11) "Company" means any corporation, joint stock company, trust,
48 association, partnership, limited partnership, unincorporated
49 organization, limited liability company or similar organization, but
50 does not include (A) any corporation the majority of the shares of
51 which are owned by the United States or by any state, or (B) any trust
52 which by its terms shall terminate within twenty-five years or not later
53 than twenty-one years and ten months after the death of beneficiaries
54 living on the effective date of the trust;

55 (12) "Connecticut bank" means a bank and trust company, savings
56 bank or savings and loan association chartered or organized under the
57 laws of this state;

58 (13) "Connecticut credit union" means a cooperative, nonprofit
59 financial institution that (A) is organized under chapter 667 and the
60 membership of which is limited as provided in section 36a-438a, (B)
61 operates for the benefit and general welfare of its members with the
62 earnings, benefits or services offered being distributed to or retained
63 for its members, and (C) is governed by a volunteer board of directors
64 elected by and from its membership;

65 (14) "Connecticut credit union service organization" means a credit
66 union service organization that is incorporated under the laws of this
67 state, located in this state and established by at least one Connecticut
68 credit union;

69 (15) "Consolidation" means a combination of two or more
70 institutions into a new institution; all institutions party to the
71 consolidation, other than the new institution, are "constituent"
72 institutions; the new institution is the "resulting" institution;

73 (16) "Control" has the meaning given to that term in 12 USC Section

74 1841(a), as from time to time amended;

75 (17) "Credit union service organization" means an entity organized
76 under state or federal law to provide credit union service organization
77 services primarily to its members, to Connecticut credit unions, federal
78 credit unions and out-of-state credit unions other than its members,
79 and to members of any such other credit unions;

80 (18) "Customer" means any person using a service offered by a
81 financial institution;

82 (19) "Demand account" means an account into which demand
83 deposits may be made;

84 (20) "Demand deposit" means a deposit that is payable on demand,
85 a deposit issued with an original maturity or required notice period of
86 less than seven days or a deposit representing funds for which the
87 bank does not reserve the right to require at least seven days' written
88 notice of the intended withdrawal, but does not include any time
89 deposit;

90 (21) "Deposit" means funds deposited with a depository;

91 (22) "Deposit account" means an account into which deposits may
92 be made;

93 (23) "Depositor" includes a member of a mutual savings and loan
94 association;

95 (24) "Director" means a member of the governing board of a
96 financial institution;

97 (25) "Equity capital" means the excess of a Connecticut bank's total
98 assets over its total liabilities, as defined in the instructions of the
99 federal Financial Institutions Examination Council for consolidated
100 reports of condition and income;

101 (26) "Executive officer" means every officer of a Connecticut bank

102 who participates or has authority to participate, otherwise than in the
103 capacity of a director, in major policy-making functions of such bank,
104 regardless of whether such officer has an official title or whether that
105 title contains a designation of assistant and regardless of whether such
106 officer is serving without salary or other compensation. The president,
107 vice president, secretary and treasurer of such bank are deemed to be
108 executive officers, unless, by resolution of the governing board or by
109 such bank's bylaws, any such officer is excluded from participation in
110 major policy-making functions, otherwise than in the capacity of a
111 director of such bank, and such officer does not actually participate in
112 such policy-making functions;

113 (27) "Federal agency" has the meaning given to that term in 12 USC
114 Section 3101, as from time to time amended;

115 (28) "Federal bank" means a national banking association, federal
116 savings bank or federal savings and loan association having its
117 principal office in this state;

118 (29) "Federal branch" has the meaning given to that term in 12 USC
119 Section 3101, as from time to time amended;

120 (30) "Federal credit union" means any institution chartered or
121 organized as a federal credit union pursuant to the laws of the United
122 States having its principal office in this state;

123 (31) "Fiduciary" means a person undertaking to act alone or jointly
124 with others primarily for the benefit of another or others in all matters
125 connected with its undertaking and includes a person acting in the
126 capacity of trustee, executor, administrator, guardian, assignee,
127 receiver, conservator, agent, custodian under the Connecticut Uniform
128 Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting
129 in any other similar capacity;

130 (32) "Financial institution" means any Connecticut bank,
131 Connecticut credit union, or other person whose activities in this state
132 are subject to the supervision of the commissioner, but does not

133 include a person whose activities are subject to the supervision of the
134 commissioner solely pursuant to chapter 672a, 672b or 672c or any
135 combination thereof;

136 (33) "Foreign bank" has the meaning given to that term in 12 USC
137 Section 3101, as from time to time amended;

138 (34) "Foreign country" means any country other than the United
139 States and includes any colony, dependency or possession of any such
140 country;

141 (35) "Governing board" means the group of persons vested with the
142 management of the affairs of a financial institution irrespective of the
143 name by which such group is designated;

144 (36) "Holding company" means a bank holding company or a
145 savings and loan holding company, except, as used in sections 36a-180
146 to 36a-191, inclusive, "holding company" means a company that
147 controls a bank;

148 (37) "Insured depository institution" has the meaning given to that
149 term in 12 USC Section 1813, as from time to time amended;

150 (38) "Licensee" means any person who is licensed or required to be
151 licensed pursuant to the applicable provisions of this title;

152 (39) "Loan" includes any line of credit or other extension of credit;

153 (40) "Merger" means the combination of one or more institutions
154 with another which continues its corporate existence; all institutions
155 party to the merger are "constituent" institutions; the merging
156 institution which upon the merger continues its existence is the
157 "resulting" institution;

158 (41) "Mutual" when used in conjunction with any institution that is a
159 bank or out-of-state bank means any such institution without capital
160 stock;

161 (42) "Mutual holding company" means a mutual holding company
162 organized under sections 36a-192 to 36a-199, inclusive, and unless
163 otherwise indicated, a subsidiary holding company controlled by a
164 mutual holding company organized under sections 36a-192 to 36a-199,
165 inclusive;

166 (43) "National mortgage licensing system" means the national
167 mortgage licensing system to be implemented pursuant to a uniform
168 mortgage licensing project under the auspices of the Conference of
169 State Bank Supervisors and the American Association of Residential
170 Mortgage Regulators;

171 [(43)] (44) "Out-of-state" includes any state other than Connecticut
172 and any foreign country;

173 [(44)] (45) "Out-of-state bank" means any institution that engages in
174 the business of banking, but does not include a bank, Connecticut
175 credit union, federal credit union or out-of-state credit union;

176 [(45)] (46) "Out-of-state credit union" means any credit union other
177 than a Connecticut credit union or a federal credit union;

178 [(46)] (47) "Out-of-state trust company" means any company
179 chartered to act as a fiduciary but does not include a company
180 chartered under the laws of this state, a bank, an out-of-state bank, a
181 Connecticut credit union, a federal credit union or an out-of-state
182 credit union;

183 [(47)] (48) "Person" means an individual, company, including a
184 company described in subparagraphs (A) and (B) of subdivision (11) of
185 this section, or any other legal entity, including a federal, state or
186 municipal government or agency or any political subdivision thereof;

187 [(48)] (49) "Point of sale terminal" means a device located in a
188 commercial establishment at which sales transactions can be charged
189 directly to the buyer's deposit, loan or credit account, but at which
190 deposit transactions cannot be conducted;

191 [(49)] (50) "Reorganized savings bank" means any savings bank
192 incorporated and organized in accordance with sections 36a-192 and
193 36a-193;

194 [(50)] (51) "Reorganized savings and loan association" means any
195 savings and loan association incorporated and organized in
196 accordance with sections 36a-192 and 36a-193;

197 [(51)] (52) "Reorganized savings institution" means any reorganized
198 savings bank or reorganized savings and loan association;

199 [(52)] (53) "Representative office" has the meaning given to that term
200 in 12 USC Section 3101, as from time to time amended;

201 [(53)] (54) "Reserves for loan and lease losses" means the amounts
202 reserved by a Connecticut bank against possible loan and lease losses
203 as shown on the bank's consolidated reports of condition and income;

204 [(54)] (55) "Retail deposits" means any deposits made by individuals
205 who are not "accredited investors", as defined in 17 CFR Section
206 230.501(a);

207 [(55)] (56) "Satellite device" means an automated teller machine
208 which is not part of an office of the bank, Connecticut credit union or
209 federal credit union which has established such machine;

210 [(56)] (57) "Savings account" means a deposit account, other than an
211 escrow account established pursuant to section 49-2a, into which
212 savings deposits may be made and which account must be evidenced
213 by periodic statements delivered at least semiannually or by a
214 passbook;

215 [(57)] (58) "Savings and loan association" means an institution
216 chartered or organized under the laws of this state as a savings and
217 loan association;

218 [(58)] (59) "Savings bank" means an institution chartered or
219 organized under the laws of this state as a savings bank;

220 [(59)] (60) "Savings deposit" means any deposit other than a demand
221 deposit or time deposit on which interest or a dividend is paid
222 periodically;

223 [(60)] (61) "Savings and loan holding company" has the meaning
224 given to that term in 12 USC Section 1467a, as from time to time
225 amended;

226 [(61)] (62) "Share account holder" means a person who maintains a
227 share account in a Connecticut credit union, federal credit union or
228 out-of-state credit union that maintains in this state a branch, as
229 defined in section 36a-435b;

230 [(62)] (63) "State" means any state of the United States, the District of
231 Columbia, any territory of the United States, Puerto Rico, Guam,
232 American Samoa, the trust territory of the Pacific Islands, the Virgin
233 Islands and the Northern Mariana Islands;

234 [(63)] (64) "State agency" has the meaning given to that term in 12
235 USC Section 3101, as from time to time amended;

236 [(64)] (65) "State branch" has the meaning given to that term in 12
237 USC Section 3101, as from time to time amended;

238 [(65)] (66) "Subsidiary" has the meaning given to that term in 12
239 USC Section 1841(d), as from time to time amended;

240 [(66)] (67) "Subsidiary holding company" means a stock holding
241 company, controlled by a mutual holding company, that holds one
242 hundred per cent of the stock of a reorganized savings institution;

243 [(67)] (68) "Supervisory agency" means: (A) The commissioner; (B)
244 the Federal Deposit Insurance Corporation; (C) the Resolution Trust
245 Corporation; (D) the Office of Thrift Supervision; (E) the National
246 Credit Union Administration; (F) the Board of Governors of the
247 Federal Reserve System; (G) the United States Comptroller of the
248 Currency; and (H) any successor to any of the foregoing agencies or
249 individuals;

250 [(68)] (69) "Time account" means an account into which time
251 deposits may be made;

252 [(69)] (70) "Time deposit" means a deposit that the depositor or
253 share account holder does not have a right and is not permitted to
254 make withdrawals from within six days after the date of deposit,
255 unless the deposit is subject to an early withdrawal penalty of at least
256 seven days' simple interest on amounts withdrawn within the first six
257 days after deposit, subject to those exceptions permissible under 12
258 CFR Part 204, as from time to time amended;

259 [(70)] (71) "Trust bank" means a Connecticut bank organized to
260 function solely in a fiduciary capacity; and

261 [(71)] (72) "Uninsured bank" means a Connecticut bank that does
262 not accept retail deposits and for which insurance of deposits by the
263 Federal Deposit Insurance Corporation or its successor agency is not
264 required.

265 Sec. 3. Section 36a-21 of the general statutes is repealed and the
266 following is substituted in lieu thereof (*Effective September 30, 2008*):

267 (a) Notwithstanding any provision of state law and except as
268 provided in subsection (b) of this section, the following records of the
269 Department of Banking shall not be disclosed by the commissioner or
270 any employee of the Department of Banking, or be subject to public
271 inspection or discovery:

272 (1) Examination and investigation reports and information
273 contained in or derived from such reports, including examination
274 reports prepared by the commissioner or prepared on behalf of or for
275 the use of the commissioner;

276 (2) Confidential supervisory or investigative information obtained
277 from a state, federal or foreign regulatory or law enforcement agency;
278 and

279 (3) Information obtained, collected or prepared in connection with

280 examinations, inspections or investigations, and complaints from the
281 public received by the Department of Banking, if such records are
282 protected from disclosure under federal or state law or, in the opinion
283 of the commissioner, such records would disclose, or would
284 reasonably lead to the disclosure of: (A) Investigative information the
285 disclosure of which would be prejudicial to such investigation, until
286 such time as the investigation and all related administrative and legal
287 actions are concluded; (B) personal or financial information, including
288 account or loan information, without the written consent of the person
289 or persons to whom the information pertains; or (C) information that
290 would harm the reputation of any person or affect the safety and
291 soundness of any person whose activities in this state are subject to the
292 supervision of the commissioner, and the disclosure of such
293 information under this subparagraph would not be in the public
294 interest.

295 (b) The commissioner may, without waiving any privilege, disclose
296 the records described in subsection (a) of this section for any
297 appropriate supervisory, governmental, law enforcement or other
298 public purpose. Any such disclosure shall be made under safeguards
299 designed to prevent further dissemination of such records. In any
300 proceeding before a court, the court may issue a protective order in
301 appropriate circumstances to protect the confidentiality of any such
302 record and order that any such record on file with the court or filed in
303 connection with the court proceeding be sealed and that the public be
304 excluded from any portion of the proceeding at which any such record
305 is disclosed.

306 (c) No director, officer, employee or agent of any Connecticut bank
307 or Connecticut credit union shall disclose without the prior written
308 consent of the commissioner any information contained in an
309 examination report about such bank or credit union, which
310 information is not otherwise a matter of public record.

311 (d) The provisions of this section shall not apply to the disclosure of
312 (1) any record that is maintained by the commissioner with the

313 national mortgage licensing system to any supervisory, governmental
314 or law enforcement agency that is authorized to access such record on
315 the system, provided such record shall remain the property of the
316 Department of Banking and may not be further disclosed to any
317 person without the consent of the commissioner, or (2) any record of a
318 licensee that is maintained by the commissioner with such system to
319 such licensee. No person may obtain information from the national
320 mortgage licensing system that could not otherwise be obtained under
321 state law. No information obtained from the national mortgage
322 licensing system shall be admissible as evidence in, or used to initiate,
323 a civil proceeding in this state unless such information would
324 otherwise be admissible in such proceeding under state law.

325 Sec. 4. Section 36a-485 of the general statutes is repealed and the
326 following is substituted in lieu thereof (*Effective September 30, 2008*):

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

329 (1) "Advance fee" means any consideration paid or given, directly or
330 indirectly, to a mortgage lender, first mortgage broker or originator
331 required to be licensed [or registered] pursuant to sections 36a-485 to
332 36a-498a, inclusive, as amended by this act, prior to the closing of a
333 first mortgage loan to any person, including, but not limited to, loan
334 fees, points, broker's fees or commissions, transaction fees or similar
335 prepaid finance charges;

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

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

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

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

354 (6) "First mortgage loan" means a loan or an extension of credit,
355 including, but not limited to, an extension of credit pursuant to a
356 contract or an assigned contract for the sale of goods or services, made
357 to a natural person, the proceeds of which are to be used primarily for
358 personal, family or household purposes, and which is secured by a
359 first mortgage upon any interest in one-to-four-family residential
360 owner-occupied real property located in this state which is not subject
361 to any prior mortgages and includes the renewal or refinancing of an
362 existing first mortgage loan;

363 (7) "Mortgage lender" means a first mortgage lender, a first
364 mortgage correspondent lender, or both;

365 (8) "Originator" means an individual who is employed or retained
366 by a mortgage lender or first mortgage broker that is required to be
367 licensed under sections 36a-485 to 36a-498a, inclusive, as amended by
368 this act, for, or with the expectation of, a fee, commission or other
369 valuable consideration, to negotiate, solicit, arrange or find a first
370 mortgage loan. "Originator" does not include an officer, if the
371 mortgage lender or first mortgage broker licensee is a corporation; a
372 general partner, if the licensee is a partnership; a member, if the
373 licensee is a limited liability company; or a sole proprietor, if the
374 licensee is a sole proprietorship;

375 (9) "Residential property" means improved real property used or
376 occupied, or intended to be used or occupied, for residential purposes;

377 (10) "Simulated check" means a document that imitates or resembles
378 a check but is not a negotiable instrument;

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

382 (12) "Warehouse agreement" means an agreement to provide credit
383 to a person to enable the person to have funds to make mortgage loans
384 and hold such loans pending sale to other persons.

385 Sec. 5. Section 36a-486 of the general statutes is repealed and the
386 following is substituted in lieu thereof (*Effective September 30, 2008*):

387 (a) No person shall engage in the business of making first mortgage
388 loans or act as a first mortgage broker in this state unless such person
389 has first obtained the required license in accordance with the
390 provisions of sections 36a-485 to 36a-498a, inclusive, as amended by
391 this act. A first mortgage correspondent lender shall not be deemed to
392 be acting as a first mortgage lender if such first mortgage
393 correspondent lender makes a loan utilizing its own funds in a
394 situation where another person does not honor such person's
395 commitment to fund the loan.

396 (b) No [licensee] person licensed as a mortgage lender or first
397 mortgage broker shall employ or retain an originator [without first
398 registering] unless such originator is licensed under sections 36a-485 to
399 36a-498a, inclusive, as amended by this act, provided such
400 [registration] licensure shall not be required for any originator who is
401 [registered by such licensee] licensed under sections 36a-510 to 36a-
402 524, inclusive, as amended by this act. No individual may act as an
403 originator without being [registered] licensed, or act as an originator,
404 as defined in sections 36a-485 and 36a-510, as amended by this act, for
405 more than one person. The [registration] license of an originator is not
406 effective during any period when such originator is not associated
407 with a [licensee] licensed mortgage lender or first mortgage broker.
408 Both the originator and the [licensee] mortgage lender and first

409 mortgage broker shall promptly notify the commissioner, in writing, of
410 the termination of employment or services of an originator.

411 (c) Each first mortgage loan negotiated, solicited, placed, found or
412 made without a license [or registration] shall constitute a separate
413 violation for purposes of section 36a-50.

414 Sec. 6. Section 36a-488 of the general statutes is repealed and the
415 following is substituted in lieu thereof (*Effective September 30, 2008*):

416 (a) (1) The commissioner shall not issue a license as a first mortgage
417 lender, a first mortgage correspondent lender or a first mortgage
418 broker to any person unless such person meets the following tangible
419 net worth and experience requirements, as applicable: (A) The
420 minimum tangible net worth requirement for a first mortgage lender
421 shall be two hundred fifty thousand dollars and the minimum tangible
422 net worth requirement for a first mortgage correspondent lender and a
423 first mortgage broker shall be twenty-five thousand dollars, and (B) a
424 mortgage lender shall have, at the location for which the license is
425 sought, a person with supervisory authority over the lending activities
426 who has at least three years' experience in the mortgage lending
427 business within the five years immediately preceding the application
428 for the license and a first mortgage broker shall have, at the location
429 for which the license is sought, a person with supervisory authority
430 over the brokerage activities who has at least three years' experience in
431 the mortgage lending or mortgage brokerage business within the five
432 years immediately preceding the application for the license. [,
433 provided such experience requirements shall not apply to any person
434 whose license is renewed effective October 1, 2002.]

435 (2) Each licensee shall maintain the net worth required by this
436 subsection and shall promptly notify the commissioner if such
437 licensee's net worth falls below the net worth required by this
438 subsection.

439 (b) The commissioner may issue a first mortgage lender license, a
440 first mortgage correspondent lender license, or a first mortgage broker

441 license. Each first mortgage lender licensee may also act as a first
442 mortgage correspondent lender and a first mortgage broker, and each
443 first mortgage correspondent lender licensee may also act as a first
444 mortgage broker. An application for a license or renewal of such
445 license shall be made under oath and on a form provided by the
446 commissioner. The application shall include: (1) The type of license
447 sought; (2) the name and address of the applicant; (3) the location for
448 which the license is sought; (4) the name and address of each member,
449 partner, officer, director, authorized agent and shareholder owning ten
450 per cent or more of the outstanding stock, as applicable; (5) if the
451 applicant is a trust or the lead lender in one or more participation
452 loans, the name and address of each trustee or lead lender and each
453 beneficiary of the trust or other participant lenders in all outstanding
454 participation loans; (6) a financial statement as of a date not more than
455 six months prior to the filing of the application which reflects tangible
456 net worth, and if such financial statement is unaudited, the proprietor,
457 general partner, or duly authorized officer, trustee or member shall
458 swear to its accuracy under oath before a notary public; (7) evidence
459 that the person with supervisory authority over the lending or
460 brokerage activities at the location for which the license is sought
461 meets the experience required by subsection (a) of this section; and (8)
462 [an application for registration of each originator or prospective
463 originator of the applicant at such location; and (9)] such other
464 information pertaining to the applicant, the applicant's background,
465 the background of its principals and employees, and the applicant's
466 activities as the commissioner may require. The commissioner may
467 conduct a criminal history records check of the applicant, of each
468 member, partner, officer or director of the applicant and of the person
469 with supervisory authority at the location for which the license is
470 sought, and require the applicant to submit the fingerprints of such
471 persons as part of the application. The application shall be filed with
472 the national mortgage licensing system, which shall process the
473 fingerprints through the Federal Bureau of Investigation.

474 (c) An application for [registration of] an originator license or

475 renewal of such [registration] license shall be made on a form provided
476 by the commissioner. The commissioner may conduct a criminal
477 history records check of the applicant and require the applicant to
478 submit fingerprints as part of the application. The application shall be
479 filed with the national mortgage licensing system, which shall process
480 the fingerprints through the Federal Bureau of Investigation.

481 [(d) It shall be considered a violation of section 36a-53a if a licensee
482 files an application for registration of an originator with knowledge
483 that such application contains a material misstatement by an
484 originator.]

485 Sec. 7. Section 36a-489 of the general statutes is repealed and the
486 following is substituted in lieu thereof (*Effective September 30, 2008*):

487 (a) If the commissioner finds, upon the filing of an application for a
488 mortgage lender or first mortgage broker license, that the applicant
489 meets the requirements of subsection (a) of section 36a-488, as
490 amended by this act, and that the financial responsibility, character,
491 reputation, integrity and general fitness of the applicant and of the
492 partners thereof if the applicant is a partnership, of the members if the
493 applicant is a limited liability company or association, and of the
494 officers, directors and principal employees if the applicant is a
495 corporation, are such as to warrant belief that the business will be
496 operated soundly and efficiently, in the public interest and consistent
497 with the purposes of sections 36a-485 to 36a-498a, inclusive, as
498 amended by this act, the commissioner may thereupon issue the
499 applicant the license. If the commissioner fails to make such findings,
500 or if the commissioner finds that the applicant has made a material
501 misstatement in such application, [or in the application for registration
502 of an originator, or files an application for registration of an originator
503 with knowledge that such application contains a material
504 misstatement by an originator,] the commissioner shall not issue a
505 license, and shall notify the applicant of the denial and the reasons for
506 such denial. Any denial of an application by the commissioner shall,
507 when applicable, be subject to the provisions of section 46a-80.

508 (b) Upon the filing of an application for [registration] an originator
509 license, the commissioner shall [register] license the originator named
510 in the application unless the commissioner finds that such [originator
511 or the] applicant has made a material misstatement in the application
512 or that the financial responsibility, character, reputation, integrity and
513 general fitness of such originator are not such as to warrant belief that
514 granting such [registration] license would be in the public interest and
515 consistent with the purposes of sections 36a-485 to 36a-498a, inclusive,
516 as amended by this act. If the commissioner denies [registration] an
517 application for an originator license, the commissioner shall notify
518 such [originator and the] applicant [filing the application] of the denial
519 and the reasons for such denial. Any denial of an application by the
520 commissioner shall, when applicable, be subject to the provisions of
521 section 46a-80. A [registration] license shall remain in force and effect
522 until it has been surrendered, revoked, suspended or expires in
523 accordance with the provisions of sections 36a-485 to 36a-498a,
524 inclusive, as amended by this act.

525 Sec. 8. Section 36a-490 of the general statutes is repealed and the
526 following is substituted in lieu thereof (*Effective September 30, 2008*):

527 (a) Each mortgage lender and first mortgage broker license shall
528 state the location at which the business is to be conducted and shall
529 state fully the name of the licensee. If the licensee desires to make first
530 mortgage loans in more than one location or to act as a first mortgage
531 broker in more than one location, the licensee shall procure a license
532 for each location where the business is to be conducted. Each license
533 shall be maintained at the location for which the license was issued
534 and shall be available for public inspection. Such license shall not be
535 transferable or assignable. Any change of location of a licensee shall
536 require only prior written notice to the commissioner. No licensee shall
537 use any name other than the name stated on the license issued by the
538 commissioner.

539 (b) The licensee shall promptly notify the commissioner, in writing,
540 of any change in the information provided in the application for

541 license or most recent renewal of such license.

542 (c) Each license shall remain in force and effect until it has been
543 surrendered, revoked, suspended or expires in accordance with the
544 provisions of sections 36a-485 to 36a-498a, inclusive, as amended by
545 this act.

546 Sec. 9. Section 36a-491 of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective September 30, 2008*):

548 (a) (1) Each applicant for a first mortgage lender license, [or] a first
549 mortgage correspondent lender license or a first mortgage broker
550 license shall, at the time of making such application, pay to the
551 [commissioner a license fee of eight hundred dollars, provided if such
552 application is filed not earlier than one year before the date such
553 license will expire, the applicant shall pay to the commissioner a
554 license fee of four hundred dollars. Each applicant for a first mortgage
555 broker license shall, at the time of making such application, pay to the
556 commissioner a license fee of four hundred dollars, provided if such
557 application is filed not earlier than one year before the date such
558 license will expire, the applicant shall pay to the commissioner a
559 license fee of two hundred dollars] national mortgage licensing system
560 the required license fee and processing fee for an initial or renewal
561 application. Each license issued pursuant to section 36a-489, as
562 amended by this act, shall expire at the close of business on [September
563 thirtieth of the even-numbered] December thirty-first of the year
564 following its issuance unless such license is renewed. [Such licensee
565 shall, on or before September first of the year in which the license
566 expires, pay to the commissioner the appropriate license fee as
567 provided in this section for the succeeding two years, commencing
568 October first, together with such renewal application as the
569 commissioner may require. Any renewal application filed with the
570 commissioner after September first shall be accompanied by a one-
571 hundred-dollar late fee and any such filing shall be deemed to be
572 timely and sufficient for purposes of subsection (b) of section 4-182.
573 Whenever an application for a license, other than a renewal

574 application, is filed under sections 36a-485 to 36a-498a, inclusive, by
575 any person who was a licensee under said sections and whose license
576 expired less than sixty days prior to the date such application was
577 filed, such application shall be accompanied by a one-hundred-dollar
578 processing fee in addition to the application fee.]

579 (2) [A licensee filing an application for registration of] Each
580 applicant for an originator license shall, at the time of making such
581 application, pay to the [commissioner a registration fee of one hundred
582 dollars for each such originator] national mortgage licensing system
583 the required license fee and processing fee for an initial or renewal
584 application. Each [registration] such license shall expire at [such time
585 as the licensee's license expires] the close of business on December
586 thirty-first of the year following its issuance unless such [registration]
587 license is renewed. [Such licensee shall file an application for renewal
588 of the registration and pay to the commissioner the appropriate
589 registration fee as provided in this subsection for the succeeding two
590 years, commencing October first.]

591 [(3) (A) If the commissioner determines that a check filed with the
592 commissioner to pay a license fee under subdivision (1) of this
593 subsection has been dishonored, the commissioner shall automatically
594 suspend the license or a renewal license that has been issued but is not
595 yet effective. The commissioner shall give the licensee notice of the
596 automatic suspension pending proceedings for revocation or refusal to
597 renew and an opportunity for a hearing on such actions in accordance
598 with section 36a-51.

599 (B) If the commissioner determines that a check filed with the
600 commissioner to pay a registration fee has been dishonored, the
601 commissioner shall automatically suspend the registration or a
602 registration that has been issued but is not yet effective. The
603 commissioner shall give the originator notice of the automatic
604 suspension and the licensee notice of the automatic suspension
605 pending proceedings for revocation or refusal to renew and an
606 opportunity for a hearing on such actions in accordance with section

607 36a-51.]

608 (b) No abatement of the license [or registration] fee shall be made if
609 the license [or registration] is surrendered, revoked or suspended prior
610 to the expiration of the period for which it was issued. All fees
611 required by this section shall be nonrefundable.

612 Sec. 10. Subsection (a) of section 36a-492 of the general statutes is
613 repealed and the following is substituted in lieu thereof (*Effective*
614 *September 30, 2008*):

615 (a) No [such] mortgage lender or first mortgage broker license, and
616 no renewal thereof, shall be granted unless the applicant has filed a
617 bond with the commissioner written by a surety authorized to write
618 such bonds in this state, in the sum of forty thousand dollars, the form
619 of which shall be approved by the Attorney General. Such bond shall
620 be conditioned upon such licensee faithfully performing any and all
621 written agreements or commitments with or for the benefit of
622 borrowers and prospective borrowers, truly and faithfully accounting
623 for all funds received from a borrower or prospective borrower by the
624 licensee in the licensee's capacity as a mortgage lender or a first
625 mortgage broker, and conducting such mortgage business consistent
626 with the provisions of sections 36a-485 to 36a-498a, inclusive, as
627 amended by this act. Any borrower or prospective borrower who may
628 be damaged by failure to perform any written agreements or
629 commitments, or by the wrongful conversion of funds paid by a
630 borrower or prospective borrower to a licensee, may proceed on such
631 bond against the principal or surety thereon, or both, to recover
632 damages. The commissioner may proceed on such bond against the
633 principal or surety thereon, or both, to collect any civil penalty
634 imposed upon the licensee pursuant to subsection (a) of section 36a-50.
635 The proceeds of the bond, even if commingled with other assets of the
636 licensee, shall be deemed by operation of law to be held in trust for the
637 benefit of such claimants against the licensee in the event of
638 bankruptcy of the licensee and shall be immune from attachment by
639 creditors and judgment creditors. The bond shall run concurrently

640 with the period of the license granted to the applicant, and the
641 aggregate liability under the bond shall not exceed the penal sum of
642 the bond.

643 Sec. 11. Subsection (a) of section 36a-493 of the general statutes is
644 repealed and the following is substituted in lieu thereof (*Effective*
645 *September 30, 2008*):

646 (a) Each mortgage lender and first mortgage broker licensee shall
647 maintain adequate records of each loan transaction at the location
648 named in the license, or shall make such records available at such
649 location not later than five business days after requested by the
650 commissioner to do so. Such records shall provide the following
651 information: (1) A copy of any disclosures required under part III of
652 chapter 669; (2) whether the licensee acted as a mortgage lender, a first
653 mortgage broker or both; (3) if the licensee is acting as a mortgage
654 lender, and retains the first mortgage loan or receives payments
655 thereon, an adequate loan history for those loans retained or upon
656 which payments are received, itemizing the amount and date of each
657 payment and the unpaid balance at all times; (4) the purpose for which
658 the loan was made; (5) the original or an exact copy of the note and
659 mortgage deed; (6) a statement signed by the borrowers
660 acknowledging the receipt of such statement which discloses the full
661 amount of any fee, commission or consideration paid to the first
662 mortgage broker for all services in connection with the mortgage loan;
663 and (7) the name and address of the broker, if any, involved in the loan
664 transaction.

665 Sec. 12. Section 36a-494 of the general statutes is repealed and the
666 following is substituted in lieu thereof (*Effective September 30, 2008*):

667 (a) (1) The commissioner may suspend, revoke or refuse to renew
668 any mortgage lender or first mortgage broker license, in accordance
669 with the provisions of section 36a-51, for any reason which would be
670 sufficient grounds for the commissioner to deny an application for [a]
671 such license under sections 36a-485 to 36a-498a, inclusive, as amended

672 by this act, or if the commissioner finds that the licensee or any
673 proprietor, director, officer, member, partner, shareholder, trustee,
674 employee or agent of such licensee has done any of the following: (A)
675 Made any material misstatement in the application; (B) committed any
676 fraud, misappropriated funds or misrepresented, concealed,
677 suppressed, intentionally omitted or otherwise intentionally failed to
678 disclose any of the material particulars of any first mortgage loan
679 transaction, including disclosures required by subdivision (6) of
680 subsection (a) of section 36a-493, as amended by this act, or part III of
681 chapter 669 or regulations adopted pursuant thereto, to anyone
682 entitled to such information; (C) violated any of the provisions of this
683 title or of any regulations adopted pursuant thereto, or any other law
684 or regulation applicable to the conduct of its business; or (D) failed to
685 perform any agreement with a licensee or a borrower.

686 (2) The commissioner may suspend, revoke or refuse to renew any
687 [registration of an] originator license, in accordance with the
688 provisions of section 36a-51, for any reason which would be sufficient
689 grounds for the commissioner to deny an application for [a
690 registration] such license under sections 36a-485 to 36a-498a, inclusive,
691 as amended by this act, or if the commissioner finds that the
692 [registrant] licensee has committed any fraud, misappropriated funds,
693 misrepresented any of the material particulars of any first mortgage
694 loan transaction or has violated any of the provisions of this title or of
695 any regulations adopted pursuant to such title or any other law or
696 regulation applicable to the conduct of such [registrant's] licensee's
697 business.

698 (b) Whenever it appears to the commissioner that any person has
699 violated, is violating or is about to violate any of the provisions of
700 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any
701 regulation adopted pursuant thereto, or any licensee [or registrant] has
702 failed to perform any agreement with a borrower, committed any
703 fraud, misappropriated funds or misrepresented, concealed,
704 suppressed, intentionally omitted or otherwise intentionally failed to
705 disclose any of the material particulars of any mortgage loan

706 transaction, including disclosures required by subdivision (6) of
707 subsection (a) of section 36a-493, as amended by this act, or part III of
708 chapter 669 or regulations adopted pursuant thereto, to anyone
709 entitled to such information, the commissioner may take action against
710 such person [,] or licensee [or registrant] in accordance with sections
711 36a-50 and 36a-52.

712 Sec. 13. Section 36a-496 of the general statutes is repealed and the
713 following is substituted in lieu thereof (*Effective September 30, 2008*):

714 No person engaged in the business of making first mortgage loans
715 in this state, whether licensed in accordance with the provisions of
716 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or
717 exempt from licensing, shall accept applications or referral of
718 applicants from, or pay a fee to, any first mortgage broker or originator
719 who is required to be licensed [or registered] under said sections but is
720 not licensed [or registered] to act as such by the commissioner, if the
721 mortgage lender has actual knowledge that the first mortgage broker
722 or originator is not licensed [or registered] by the commissioner.

723 Sec. 14. Section 36a-498 of the general statutes is repealed and the
724 following is substituted in lieu thereof (*Effective September 30, 2008*):

725 (a) Except as provided in subsection (c) of this section, every
726 advance fee paid or given, directly or indirectly, to a mortgage lender
727 or first mortgage broker required to be licensed pursuant to sections
728 36a-485 to 36a-498a, inclusive, as amended by this act, shall be
729 refundable.

730 (b) No originator required to be [registered] licensed pursuant to
731 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall
732 accept payment of any advance fee except an advance fee on behalf of
733 a mortgage lender or first mortgage broker licensee. Nothing in this
734 subsection shall be construed as prohibiting the mortgage lender or
735 first mortgage broker licensee from paying an originator all or part of
736 an advance fee, provided such advance fee paid is not refundable
737 under this section.

738 (c) Subsection (a) of this section shall not apply if: (1) The person
739 providing the advance fee and the mortgage lender or first mortgage
740 broker agree in writing that the advance fee shall not be refundable, in
741 whole or in part; and (2) the written agreement complies in all respects
742 with the provisions of subsection (d) of this section.

743 (d) An agreement under subsection (c) of this section shall meet all
744 of the following requirements to be valid and enforceable: (1) The
745 agreement shall be dated, signed by both parties, and be executed
746 prior to the payment of any advance fee; (2) the agreement shall
747 expressly state the total advance fee required to be paid and any
748 amount of the advance fee that shall not be refundable; (3) the
749 agreement shall clearly and conspicuously state any conditions under
750 which the advance fee will be retained by the licensee; (4) the term
751 "nonrefundable" shall be used to describe each advance fee or portion
752 thereof to which the term is applicable, and shall appear in boldface
753 type in the agreement each time it is used; and (5) the form of the
754 agreement shall (A) be separate from any other forms, contracts, or
755 applications utilized by the licensee, (B) contain a heading in a size
756 equal to at least ten-point boldface type that shall title the form
757 "AGREEMENT CONCERNING NONREFUNDABILITY OF
758 ADVANCE FEE", (C) provide for a duplicate copy which shall be
759 given to the person paying the advance fee at the time of payment of
760 the advance fee, and (D) include such other specifications as the
761 commissioner may by regulation prescribe.

762 (e) An agreement under subsection (c) of this section that does not
763 meet the requirements of subsection (d) of this section shall be
764 voidable at the election of the person paying the advance fee.

765 (f) (1) No mortgage lender or first mortgage broker required to be
766 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as
767 amended by this act, shall enter into an agreement with or otherwise
768 require any person to pay the mortgage lender or first mortgage broker
769 for any fee, commission or other valuable consideration lost as a result
770 of such person failing to consummate a first mortgage loan, provided

771 the mortgage lender or first mortgage broker may collect such fee,
772 commission or consideration as an advance fee subject to the
773 requirements of this section.

774 (2) No first mortgage broker required to be licensed pursuant to
775 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall
776 enter into an agreement with or otherwise require any person to pay
777 the first mortgage broker any fee, commission or other valuable
778 consideration for the prepayment of the principal of a first mortgage
779 loan by such person before the date on which the principal is due.

780 Sec. 15. Section 36a-498a of the general statutes is repealed and the
781 following is substituted in lieu thereof (*Effective September 30, 2008*):

782 No mortgage lender or first mortgage broker licensee under section
783 36a-489, as amended by this act, and no person exempt from licensure
784 under subdivisions (1), (2), (5) and (6) of section 36a-487 making a first
785 mortgage loan shall charge, impose or cause to be paid, directly or
786 indirectly, prepaid finance charges that exceed in the aggregate, the
787 greater of five per cent of the principal amount of the loan or two
788 thousand dollars. If the proceeds of the loan are used to refinance an
789 existing loan, the aggregate of the prepaid finance charges for the
790 current refinancing and any previous financings by such licensee or
791 exempt person or affiliate of such licensee or exempt person within
792 two years of the current refinancing shall not exceed the greater of five
793 per cent of the principal amount of the initial loan or two thousand
794 dollars. The provisions of this section shall not prohibit such licensee
795 or exempt person from charging, imposing or causing to be paid,
796 directly or indirectly, prepaid finance charges in addition to those
797 permitted by this section in connection with any additional proceeds
798 received by the borrower in the refinancing, provided such prepaid
799 finance charges on the additional proceeds shall not exceed five per
800 cent of the additional proceeds. For purposes of this section,
801 "additional proceeds" has the meaning given to that term in
802 subdivision (3) of section 36a-746e and "prepaid finance charge" has
803 the meaning given to that term in subdivision (7) of section 36a-746a.

804 Sec. 16. Section 36a-510 of the general statutes is repealed and the
805 following is substituted in lieu thereof (*Effective September 30, 2008*):

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

808 (1) "Advance fee" means any consideration paid or given, directly or
809 indirectly, to a mortgage lender, secondary mortgage broker or
810 originator required to be licensed [or registered] pursuant to sections
811 36a-510 to 36a-524, inclusive, as amended by this act, prior to the
812 closing of a secondary mortgage loan to any person, including, but not
813 limited to, loan fees, points, broker's fees or commissions, transaction
814 fees, or similar prepaid finance charges;

815 (2) "Advertise" or "advertisement" means the use of media, mail,
816 computer, telephone, personal contact or any other means to offer the
817 opportunity for a secondary mortgage loan;

818 (3) "Licensee" means any person who is required to be licensed
819 pursuant to section 36a-511, as amended by this act;

820 (4) "Mortgage lender" means a secondary mortgage lender or a
821 secondary mortgage correspondent lender, or both;

822 (5) "Originator" means an individual who is employed or retained
823 by a mortgage lender or secondary mortgage broker that is required to
824 be licensed under sections 36a-510 to 36a-524, inclusive, as amended
825 by this act, for, or with the expectation of, a fee, commission or other
826 valuable consideration, to negotiate, solicit, arrange or find a
827 secondary mortgage loan. "Originator" does not include an officer, if
828 the mortgage lender or secondary mortgage broker licensee is a
829 corporation; a general partner, if the licensee is a partnership; a
830 member, if the licensee is a limited liability company; or a sole
831 proprietor, if the licensee is a sole proprietorship;

832 (6) "Principal amount of the loan" means the gross loan amount the
833 borrower is obligated to repay including any prepaid finance charge

834 and other charges which are financed. The provisions of this
835 subdivision apply to all loans negotiated before, on and after June 14,
836 1993;

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

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

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

852 (10) "Secondary mortgage loan" means (A) a loan or an extension of
853 credit, including, but not limited to, an extension of credit pursuant to
854 a contract or an assigned contract for the sale of goods or services,
855 made to a person, the proceeds of which are to be used primarily for
856 personal, family or household purposes, and which is secured in
857 whole or in part by a mortgage upon any interest in one-to-four-family
858 residential owner-occupied real property located in this state,
859 provided such real property is subject to one or more prior mortgages,
860 and (B) the renewal or refinancing of any existing loan or extension of
861 credit described in subparagraph (A) of this subdivision;

862 (11) "Simulated check" means a document that imitates or resembles
863 a check but is not a negotiable instrument;

864 (12) "Table funding agreement" has the meaning given to that term

865 in subdivision (11) of section 36a-485; and

866 (13) "Warehouse agreement" has the meaning given to that term in
867 subdivision (12) of section 36a-485.

868 Sec. 17. Section 36a-511 of the general statutes is repealed and the
869 following is substituted in lieu thereof (*Effective September 30, 2008*):

870 (a) No person shall engage in the business of making secondary
871 mortgage loans or act as a secondary mortgage broker unless such
872 person has first obtained the required license under sections 36a-510 to
873 36a-524, inclusive, as amended by this act. A person shall be deemed to
874 be engaged in the business of making secondary mortgage loans if
875 such person advertises, causes to be advertised, solicits, offers to make
876 or makes secondary mortgage loans, either directly or indirectly. A
877 secondary mortgage correspondent lender shall not be deemed to be
878 acting as a secondary mortgage lender if such secondary mortgage
879 correspondent lender makes a loan utilizing its own funds in a
880 situation where another person does not honor such person's
881 commitment to fund the loan.

882 (b) No [licensee] person licensed as a mortgage lender or secondary
883 mortgage broker shall employ or retain an originator [without first
884 registering] unless such originator is licensed under sections 36a-510 to
885 36a-524, inclusive, as amended by this act, provided such [registration]
886 license shall not be required for any originator who is [registered by
887 such licensee] licensed under sections 36a-485 to 36a-498a, inclusive, as
888 amended by this act. No individual may act as an originator without
889 being [registered] licensed, or act as an originator, as defined in
890 sections 36a-485 and 36a-510, as amended by this act, for more than
891 one person. The [registration] license of an originator is not effective
892 during any period when such originator is not associated with a
893 [licensee] licensed mortgage lender or secondary mortgage broker.
894 Both the originator and the [licensee] mortgage lender and secondary
895 mortgage broker shall promptly notify the commissioner, in writing, of
896 the termination of employment or services of an originator.

897 (c) Each secondary mortgage loan negotiated, solicited, placed,
898 found or made without a license shall constitute a separate violation
899 for purposes of section 36a-50.

900 Sec. 18. Section 36a-513 of the general statutes is repealed and the
901 following is substituted in lieu thereof (*Effective September 30, 2008*):

902 (a) (1) The commissioner shall not issue a license as a secondary
903 mortgage lender, a secondary mortgage correspondent lender or a
904 secondary mortgage broker to any person unless such person meets
905 the following tangible net worth and experience requirements, as
906 applicable: (A) The minimum tangible net worth requirement for a
907 secondary mortgage lender shall be one hundred thousand dollars and
908 the minimum tangible net worth requirement for a secondary
909 mortgage correspondent lender and a secondary mortgage broker shall
910 be twenty-five thousand dollars, and (B) a mortgage lender shall have
911 at the location for which the license is sought, a person with
912 supervisory authority over the lending activities who has had at least
913 three years' experience in the mortgage lending business within the
914 five years immediately preceding the application for the license, and a
915 secondary mortgage broker shall have, at the location for which the
916 license is sought, a person with supervisory authority over the
917 brokerage activities who has at least three years' experience in the
918 mortgage lending or mortgage brokerage business within the five
919 years immediately preceding the application for the license. [,
920 provided such experience requirements shall not apply to any person
921 whose license is renewed effective July 1, 2003.]

922 (2) Each licensee shall maintain the net worth required by this
923 subsection and shall promptly notify the commissioner if such
924 licensee's net worth falls below the net worth required by this
925 subsection.

926 (b) The commissioner may issue a secondary mortgage lender
927 license, a secondary mortgage correspondent lender license or a
928 secondary mortgage broker license. Each secondary mortgage lender

929 licensee may also act as a secondary mortgage correspondent lender
930 and a secondary mortgage broker, and each secondary mortgage
931 correspondent lender licensee may also act as a secondary mortgage
932 broker. Any application for a license or renewal of such license shall be
933 under oath and on a form provided by the commissioner. The
934 application shall include: (1) The type of license sought; (2) the name
935 and address of the applicant; (3) the location for which the license is
936 sought; (4) the name and address of each member, partner, officer,
937 director, authorized agent and shareholder owning ten per cent or
938 more of the outstanding stock, as applicable; (5) if the applicant is a
939 trust or the lead lender in one or more participation loans, the name
940 and address of each trustee or lead lender and each beneficiary of the
941 trust or other participant lenders in all outstanding participation loans;
942 (6) a financial statement as of a date not more than six months prior to
943 the filing of the application which reflects tangible net worth, and if
944 such financial statement is unaudited, the proprietor, general partner,
945 or duly authorized officer, trustee or member shall swear to its
946 accuracy under oath before a notary public; (7) evidence that the
947 person with supervisory authority over the lending or brokerage
948 activities at the location for which the license is sought meets the
949 experience required by subsection (a) of this section; and (8) [an
950 application for registration of each originator or prospective originator
951 of the applicant at such location; and (9)] such other information
952 pertaining to the applicant, the applicant's background, the
953 background of its principals and employees and the applicant's
954 activities as the commissioner may require. The commissioner may
955 conduct a criminal history records check of the applicant, of each
956 member, partner, officer or director of the applicant and of the person
957 with supervisory authority at the location for which the license is
958 sought, and require the applicant to submit the fingerprints of such
959 persons as part of the application. The application shall be filed with
960 the national mortgage licensing system, which shall process the
961 fingerprints through the Federal Bureau of Investigation.

962 (c) If the commissioner finds, upon the filing of an application for a

963 mortgage lender or secondary mortgage broker license, that the
964 applicant meets the requirements of subsection (a) of this section, and
965 that the financial responsibility, character, reputation, integrity and
966 general fitness of the applicant and of the partners thereof if the
967 applicant is a partnership, of the members if the applicant is a limited
968 liability company or association, and of the officers, directors and
969 principal employees if the applicant is a corporation, are such as to
970 warrant belief that the business will be operated soundly and
971 efficiently, in the public interest and consistent with the purposes of
972 sections 36a-510 to 36a-524, inclusive, as amended by this act, the
973 commissioner may thereupon issue the applicant the license. If the
974 commissioner fails to make such findings, or if the commissioner finds
975 that the applicant made any material misstatement in such application,
976 [or in the application for registration of an originator, or files an
977 application for registration of an originator with knowledge that such
978 application contains a material misstatement by an originator,] the
979 commissioner shall not issue a license, and shall notify the applicant of
980 the denial and the reasons for such denial. Any denial of an
981 application by the commissioner shall, when applicable, be subject to
982 the provisions of section 46a-80.

983 (d) An application for [registration] an originator license or renewal
984 of such [registration] license shall be made on a form provided by the
985 commissioner. The commissioner may conduct a criminal history
986 records check of the applicant and require the applicant to submit
987 fingerprints as part of the application. The application shall be filed
988 with the national mortgage licensing system, which shall process the
989 fingerprints through the Federal Bureau of Investigation.

990 (e) Upon the filing of an application for [registration] an originator
991 license, the commissioner shall [register] license the originator named
992 in the application unless the commissioner finds that such [originator
993 or the] applicant has made any material misstatement in the
994 application or that the financial responsibility, character, reputation,
995 integrity and general fitness of such originator, are not such as to
996 warrant belief that granting such [registration] license would be in the

997 public interest and consistent with the purposes of sections 36a-510 to
998 36a-524, inclusive, as amended by this act. If the commissioner denies
999 [registration] an application for an originator license, the commissioner
1000 shall notify such [originator and the] applicant [filing the application]
1001 of the denial and the reasons for such denial. Any denial of an
1002 application by the commissioner shall, when applicable, be subject to
1003 the provisions of section 46a-80. Each license shall remain in force and
1004 effect until it has been surrendered, revoked or suspended or expires
1005 in accordance with the provisions of sections 36a-510 to 36a-524,
1006 inclusive, as amended by this act.

1007 [(f) It shall be considered a violation of section 36a-53a if a licensee
1008 files an application for registration of an originator with knowledge
1009 that such application contains a material misstatement by an
1010 originator.]

1011 Sec. 19. Section 36a-514 of the general statutes is repealed and the
1012 following is substituted in lieu thereof (*Effective September 30, 2008*):

1013 (a) (1) Each applicant for a secondary mortgage lender license, [or] a
1014 secondary mortgage correspondent lender license or a secondary
1015 mortgage broker license, at the time of making such application, shall
1016 pay to the [commissioner a license fee of eight hundred dollars,
1017 provided if such application is filed not earlier than one year before the
1018 date such license will expire, the applicant shall pay to the
1019 commissioner a license fee of four hundred dollars, and if such
1020 application is for renewal of a license that expires on June 30, 2003, the
1021 applicant shall pay to the commissioner a license fee of five hundred
1022 dollars. Each applicant for a secondary mortgage broker license, at the
1023 time of making such application, shall pay to the commissioner a
1024 license fee of four hundred dollars, provided if such application is filed
1025 not earlier than one year before the date such license will expire, the
1026 applicant shall pay to the commissioner a license fee of two hundred
1027 dollars, and if such application is for renewal of a license that expires
1028 on June 30, 2003, the applicant shall pay to the commissioner a license
1029 fee of two hundred fifty dollars] national mortgage licensing system

1030 the required license fee and processing fee for an initial or renewal
1031 application. Each license issued pursuant to this section shall expire at
1032 the close of business on [September thirtieth of the even-numbered]
1033 December thirty-first of the year following its issuance unless such
1034 license is renewed. [Each licensee shall, on or before September first of
1035 the year in which the license expires, or in the case of a license that
1036 expires on June 30, 2003, on or before June 1, 2003, file a renewal
1037 application and pay to the commissioner the appropriate license fee as
1038 provided in this section to renew the license. Any renewal application
1039 filed with the commissioner after September first, or in the case of a
1040 license that expires on June 30, 2003, after June 1, 2003, shall be
1041 accompanied by a one-hundred-dollar late fee and any such filing shall
1042 be deemed to be timely and sufficient for purposes of subsection (b) of
1043 section 4-182. (2) Whenever an application for a license, other than a
1044 renewal application, is filed under this section by any person who was
1045 a licensee and whose license expired less than sixty days prior to the
1046 date such application was filed, such application shall be accompanied
1047 by a one-hundred-dollar processing fee in addition to the application
1048 fee.]

1049 (b) [A licensee filing an application for registration of] Each
1050 applicant for an originator license shall, at the time of making such
1051 application, pay to the [commissioner a registration fee of one hundred
1052 dollars for each such originator] national mortgage licensing system
1053 the required license fee and processing fee for an initial or renewal
1054 application. Each [registration] such license shall expire at [such time
1055 as the licensee's license expires] the close of business on December
1056 thirty-first of the year following its issuance unless such [registration]
1057 license is renewed. [Such licensee shall file an application for renewal
1058 of the registration and pay to the commissioner the appropriate
1059 registration fee as provided in this subsection for the succeeding two
1060 years, commencing October first.]

1061 [(c) (1) If the commissioner determines that a check filed with the
1062 commissioner to pay a fee under subsection (a) of this section has been
1063 dishonored, the commissioner shall automatically suspend the license

1064 or a renewal license that has been issued but is not yet effective. The
1065 commissioner shall give the licensee notice of the automatic
1066 suspension pending proceedings for revocation or refusal to renew
1067 and an opportunity for a hearing on such actions in accordance with
1068 section 36a-51.

1069 (2) If the commissioner determines that a check filed with the
1070 commissioner to pay a registration fee has been dishonored, the
1071 commissioner shall automatically suspend the registration or a
1072 registration that has been issued but is not yet effective. The
1073 commissioner shall give the originator notice of the automatic
1074 suspension and the licensee notice of the automatic suspension
1075 pending proceedings for revocation or refusal to renew and an
1076 opportunity for a hearing on such actions in accordance with section
1077 36a-51.]

1078 [(d)] (c) No abatement of the license [or registration] fee shall be
1079 made if the license [or registration] is surrendered, revoked or
1080 suspended prior to the expiration of the period for which it was issued.
1081 All fees required by this section shall be nonrefundable.

1082 Sec. 20. Section 36a-515 of the general statutes is repealed and the
1083 following is substituted in lieu thereof (*Effective September 30, 2008*):

1084 (a) Each mortgage lender and secondary mortgage broker license
1085 shall state the location at which the business is to be conducted and
1086 shall state fully the name of the licensee. If the licensee desires to make
1087 secondary mortgage loans in more than one location or to act as a
1088 mortgage broker in more than one location, the licensee shall procure a
1089 license for each location where the business is to be conducted. Each
1090 license shall be maintained at the location for which the license was
1091 issued and shall be available for public inspection. Such license shall
1092 not be transferable or assignable. Any change of location of a licensee
1093 shall require only prior written notice to the commissioner. No licensee
1094 shall use any name other than the name stated on the license issued by
1095 the commissioner.

1096 (b) The licensee shall promptly notify the commissioner, in writing,
1097 of any change in the information provided in the application for
1098 license or most recent renewal of such license.

1099 (c) Each license [and registration] shall remain in force and effect
1100 until it has been surrendered, revoked, suspended or expires in
1101 accordance with the provisions of sections 36a-510 to 36a-524,
1102 inclusive, as amended by this act.

1103 Sec. 21. Subsection (a) of section 36a-516 of the general statutes is
1104 repealed and the following is substituted in lieu thereof (*Effective*
1105 *September 30, 2008*):

1106 (a) Each mortgage lender and secondary mortgage broker licensee
1107 shall maintain adequate records of each loan transaction at the place of
1108 business named in the license or shall make such records available at
1109 such place of business not later than five business days after requested
1110 by the commissioner to do so. Such records shall provide the following
1111 information: (1) A copy of any disclosures required under part III of
1112 chapter 669; (2) whether the licensee acted as mortgage lender,
1113 secondary mortgage broker, or both; (3) in the case of a licensee acting
1114 as a mortgage lender, an adequate loan history, itemizing the amount
1115 and date of each payment and the unpaid balance at all times; (4) the
1116 purpose for which the loan was made; (5) the original or an exact copy
1117 of the note, contract or other evidence of indebtedness and the
1118 mortgage deed; and (6) the name and address of the mortgage broker,
1119 if any, involved in the loan transaction.

1120 Sec. 22. Section 36a-517 of the general statutes is repealed and the
1121 following is substituted in lieu thereof (*Effective September 30, 2008*):

1122 (a) (1) The commissioner may suspend, revoke or refuse to renew
1123 any mortgage lender or secondary mortgage broker license, in
1124 accordance with section 36a-51, for any reason which would be
1125 sufficient grounds for the commissioner to deny an application for [a]
1126 such license under sections 36a-510 to 36a-524, inclusive, as amended
1127 by this act, or if the commissioner finds that the licensee or any

1128 proprietor, director, officer, member, partner, shareholder, trustee,
1129 employee or agent of such licensee has done any of the following: (A)
1130 Made any material misstatement in the application; (B) committed any
1131 fraud, misappropriated funds or misrepresented, concealed,
1132 suppressed, intentionally omitted or otherwise intentionally failed to
1133 disclose any of the material particulars of any secondary mortgage
1134 loan transaction, including disclosures required by part III of chapter
1135 669 or regulations adopted pursuant thereto, to anyone entitled to such
1136 information; (C) violated any of the provisions of this title, or of any
1137 regulations adopted pursuant thereto or any other law or regulation
1138 applicable to the conduct of its business; or (D) failed to perform any
1139 agreement with a licensee or a borrower.

1140 (2) The commissioner may suspend, revoke or refuse to renew any
1141 [registration of an] originator license, in accordance with the
1142 provisions of section 36a-51, for any reason which would be sufficient
1143 grounds for the commissioner to deny an application for [a
1144 registration] such license under sections 36a-510 to 36a-524, inclusive,
1145 as amended by this act, or if the commissioner finds that the
1146 [registrant] licensee has committed any fraud, misappropriated funds,
1147 misrepresented any of the material particulars of any secondary
1148 mortgage loan transaction or has violated any of the provisions of this
1149 title or of any regulations adopted pursuant to such title or any other
1150 law or regulation applicable to the conduct of such [registrant's]
1151 licensee's business.

1152 (b) Whenever it appears to the commissioner that any person has
1153 violated, is violating or is about to violate any of the provisions of
1154 sections 36a-510 to 36a-524, inclusive, as amended by this act, or any
1155 licensee [or registrant] has failed to perform any agreement with a
1156 borrower, committed any fraud, misappropriated funds or
1157 misrepresented, concealed, suppressed, intentionally omitted or
1158 otherwise intentionally failed to disclose any of the material particulars
1159 of any mortgage loan transaction, including disclosures required by
1160 part III of chapter 669 or regulations adopted pursuant thereto, to
1161 anyone entitled to such information, the commissioner may take action

1162 against such person [] or licensee [or registrant] in accordance with
1163 sections 36a-50 and 36a-52.

1164 Sec. 23. Subsection (d) of section 36a-521 of the general statutes is
1165 repealed and the following is substituted in lieu thereof (*Effective*
1166 *September 30, 2008*):

1167 (d) No originator required to be [registered] licensed pursuant to
1168 sections 36a-510 to 36a-524, inclusive, as amended by this act, shall
1169 accept payment of any advance fee except an advance fee on behalf of
1170 a mortgage lender or secondary mortgage broker licensee. Nothing in
1171 this subsection shall be construed as prohibiting the mortgage lender
1172 or secondary mortgage broker licensee from paying an originator all or
1173 part of an advance fee, provided such advance fee paid is not
1174 refundable under this section.

1175 Sec. 24. Section 36a-523 of the general statutes is repealed and the
1176 following is substituted in lieu thereof (*Effective September 30, 2008*):

1177 No person engaged in the business of making secondary mortgage
1178 loans in this state, whether licensed in accordance with the provisions
1179 of sections 36a-510 to 36a-524, inclusive, as amended by this act, or
1180 exempt from licensing, shall accept applications or referral of
1181 applicants from, or pay a fee to, any secondary mortgage broker or
1182 originator who is required to be licensed under said sections but is not
1183 licensed to act as such by the commissioner, if the mortgage lender has
1184 actual knowledge that the secondary mortgage broker or originator is
1185 not licensed by the commissioner.

1186 Sec. 25. (*Effective September 30, 2008*) The Banking Commissioner
1187 shall submit to the joint standing committee of the General Assembly
1188 having cognizance of matters relating to banks three annual reports
1189 that shall include financial statements of the State Regulatory Registry,
1190 LLC, concerning the national mortgage licensing system described in
1191 section 1 of this act. Each such financial statement shall cover a twelve-
1192 month period. The commissioner shall submit such reports for three
1193 consecutive years not later than ten days after receipt of such financial

1194 statements by the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>September 30, 2008</i>	New section
Sec. 2	<i>September 30, 2008</i>	36a-2
Sec. 3	<i>September 30, 2008</i>	36a-21
Sec. 4	<i>September 30, 2008</i>	36a-485
Sec. 5	<i>September 30, 2008</i>	36a-486
Sec. 6	<i>September 30, 2008</i>	36a-488
Sec. 7	<i>September 30, 2008</i>	36a-489
Sec. 8	<i>September 30, 2008</i>	36a-490
Sec. 9	<i>September 30, 2008</i>	36a-491
Sec. 10	<i>September 30, 2008</i>	36a-492(a)
Sec. 11	<i>September 30, 2008</i>	36a-493(a)
Sec. 12	<i>September 30, 2008</i>	36a-494
Sec. 13	<i>September 30, 2008</i>	36a-496
Sec. 14	<i>September 30, 2008</i>	36a-498
Sec. 15	<i>September 30, 2008</i>	36a-498a
Sec. 16	<i>September 30, 2008</i>	36a-510
Sec. 17	<i>September 30, 2008</i>	36a-511
Sec. 18	<i>September 30, 2008</i>	36a-513
Sec. 19	<i>September 30, 2008</i>	36a-514
Sec. 20	<i>September 30, 2008</i>	36a-515
Sec. 21	<i>September 30, 2008</i>	36a-516(a)
Sec. 22	<i>September 30, 2008</i>	36a-517
Sec. 23	<i>September 30, 2008</i>	36a-521(d)
Sec. 24	<i>September 30, 2008</i>	36a-523
Sec. 25	<i>September 30, 2008</i>	New section

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Banking Dept.	BF - Revenue Loss	None	Potential Minimal
Banking Dept.	BF - Savings	None	Potential

Note: BF=Banking Fund

Municipal Impact: None

Explanation

This bill could result in a minimal revenue loss, related to potentially decreased fees from mortgage lenders, brokers and originator licenses filing with the national system versus the state’s Banking Department. Fees for these licenses were approximately \$676,000 in FY 06.

There could also be a potential savings, as the national licensing system may result in a more efficient and accurate product, requiring the Banking Department to hire less temporary staff resources to handle the workload.

House “A” alters the disclosure of records maintained by the Banking Commissioner and has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of licenses filed with the national system rather than with the state, which is unknown at this time.

OLR Bill Analysis**HB 7116 (as amended by House "A")******AN ACT ALLOWING PARTICIPATION IN THE NATIONAL MORTGAGE LICENSING SYSTEM.*****SUMMARY:**

This bill allows the banking commissioner to participate in the national mortgage licensing system. It (1) requires mortgage originators to be licensed rather than registered; (2) allows the system to process mortgage lender, broker, and originator licenses in Connecticut and receive and maintain related records; and (3) makes a number of conforming changes regarding confidentiality, criminal history record checks, and license fees. The bill defines the national mortgage licensing system as the system that the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators will implement under a uniform mortgage licensing project. The system is expected to be fully operational by 2008.

The bill requires the banking commissioner to submit to the Banks Committee, three consecutive annual reports, including financial statements of the State Regulatory Registry, LLC, on the licensing system. Each financial statement must cover a 12-month period. The reports must be submitted within 10 days after the commissioner receives the financial statements.

*House Amendment "A" specifies the people who might be authorized to access records from the system, limits how that information may be used and shared, and adds the reporting provisions.

EFFECTIVE DATE: September 30, 2008

DISCLOSURE OF CONFIDENTIAL RECORDS

The bill exempts from the laws concerning the confidentiality of Department of Banking (DOB) records, the disclosure of (1) records maintained on the national mortgage licensing system to any supervisory, government, or law enforcement agency authorized to access those records or (2) a licensee's record to that licensee. Records disclosed to an agency remain DOB property and cannot be further disclosed without the commissioner's consent.

The bill prohibits anyone from obtaining information from the system that could not otherwise be obtained under state law. It specifies that information obtained from the system is inadmissible in, and cannot be used to initiate, a civil proceeding in Connecticut unless it would otherwise be admissible in the proceeding under state law.

Under current law, the following records must not be disclosed by the commissioner or any DOB employee, or be subject to public inspection or discovery:

1. examination and investigation reports and information contained therein or derived from them;
2. confidential supervisory or investigative information obtained from a state, federal, or foreign regulatory law enforcement agency; and
3. information obtained, collected, or prepared in connection with examinations, inspections or investigations, and public complaints received by the DOB, if the records are protected from disclosure under federal or state law, or would reasonably lead to the disclosure of certain investigative information, financial information, or information that would harm a person.

The law allows the commissioner to disclose these records for any appropriate supervisory, government, law enforcement, or other public purpose. The law also prohibits individuals associated with Connecticut banks or credit unions from disclosing information

contained in any examination report that is not a public record without the commissioner's consent.

CRIMINAL BACKGROUND CHECKS

The bill allows the commissioner to conduct criminal history record checks before issuing specific licenses. The law allows the commissioner to issue first and second mortgage loan licenses. It requires that license and license renewal applications for these licenses be made on a form provided by the commissioner and specifies the things that must be included in the application, as well as any other information the commissioner may require on the applicant and the applicant's background, and the background of his or her principals and employees.

The bill allows the commissioner to conduct a criminal history record check of each first and second mortgage lender, correspondent lender, and broker applicant; each member, partner, officer, or director of the applicant; and the person with supervisory authority at the license location. It allows the commissioner to require the applicant to submit fingerprints of these individuals as part of the application. The application must be filed with the national mortgage licensing system, which must process the fingerprints through the FBI. The bill imposes the same requirements for originator license or license renewal applicants.

The bill specifically provides that each secondary mortgage originator license must remain in force and effect until it has been surrendered, revoked, suspended, or expires. This language already exists for first mortgage originator registrations. The bill makes the conforming change to first mortgage originator licenses.

FEES AND LICENSING PERIODS

The bill eliminates the current licensing and registration fees for first and second mortgage lenders, correspondent lenders and brokers, and originators. It requires the payment of fees to the national mortgage licensing system, rather than to the commissioner and on an annual,

rather than a biennial basis.

Under current law, first and second mortgage lenders and correspondent lenders generally pay the commissioner an \$800 license fee, brokers pay a fee of \$400, and the originator registration fee is \$100. The bill eliminates these fees and requires the licensees to pay an unspecified amount in licensing and processing fees to the national mortgage licensing system for initial and renewal applications.

Currently, unless the licenses are renewed, they expire at the close of business on September 30 of the even-numbered year following issuance and the originators' registrations expire when the associated license expires. Under the bill, all of the licenses, including the originator license, expire on December 31 of the year following issuance unless they are renewed. The bill eliminates existing language on the timing of renewal applications and payment of fees with a dishonored check.

The bill specifically provides that each secondary mortgage originator license remains in force and effect until it has been surrendered, revoked, suspended, or expires. This language already exists for first mortgage originator registrations. The bill makes the conforming change to first mortgage originator licenses.

BACKGROUND

National Mortgage Licensing System

The Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators are developing a national Residential Mortgage Licensing System that will provide uniform licensing applications for residential mortgage lenders and mortgage brokers, as well as a central repository of information about licensing and publicly adjudicated enforcement actions. The National Association of Securities Dealers has been selected to design and operate the system.

The system's basic features will be a central licensing system and

repository containing licensing information, enforcement actions, and background data for every participating state-licensed mortgage lender, broker, and branch and loan originator.

The system will be accessible over the Internet, allowing prospective and current licensees to apply for or renew licenses for one or more jurisdictions through a secure website. The system will also collect licensing fees at the time of application or renewal and disburse these to the respective state agencies. The system will only process license applications or renewals. Each state agency will retain its regulatory authority to approve, deny, suspend, or revoke a license.

COMMITTEE ACTION

Banks Committee

Joint Favorable

Yea 18 Nay 0 (03/06/2007)

Insurance and Real Estate Committee

Joint Favorable

Yea 16 Nay 1 (04/11/2007)

Government Administration and Elections Committee

Joint Favorable

Yea 10 Nay 0 (04/25/2007)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 53 Nay 0 (05/01/2007)

Judiciary Committee

Joint Favorable

Yea 27 Nay 0 (05/04/2007)