



Senate

General Assembly

File No. 97

January Session, 2007

Substitute Senate Bill No. 1143

Senate, March 21, 2007

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MORTGAGE, SMALL LOAN AND MONEY TRANSMITTER LICENSEES, MORTGAGE LOANS AND EMERGENCY ORDERS OF THE BANKING COMMISSIONER.

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

1 Section 1. Section 36a-485 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

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

5 (1) "Advance fee" means any consideration paid or given, directly or
6 indirectly, to a mortgage lender, first mortgage broker or originator
7 required to be licensed or registered pursuant to sections 36a-485 to
8 36a-498a, inclusive, as amended by this act, prior to the closing of a
9 first mortgage loan to any person, including, but not limited to, loan
10 fees, points, broker's fees or commissions, transaction fees or similar
11 prepaid finance charges;

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

13 computer, telephone, personal contact or any other means to offer the
14 opportunity for a first mortgage loan;

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

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

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

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

39 (7) "Mortgage lender" means a first mortgage lender, a first
40 mortgage correspondent lender, or both;

41 (8) "Originator" means an individual who is employed or retained
42 by, or otherwise acts on behalf of, a mortgage lender or first mortgage
43 broker that is licensed or required to be licensed under sections 36a-

44 485 to 36a-498a, inclusive, as amended by this act, for, or with the
45 expectation of, a fee, commission or other valuable consideration, to
46 take an application for or negotiate, solicit, arrange or find a first
47 mortgage loan. "Originator" does not include an [officer, if the licensee
48 is a corporation; a general partner, if the licensee is a partnership; a
49 member, if the licensee is a limited liability company; or a sole
50 proprietor, if the licensee is a sole proprietorship] individual whose
51 responsibilities are limited to clerical and administrative tasks and
52 who does not solicit borrowers, take applications or negotiate the
53 terms of loans;

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

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

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

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

64 Sec. 2. Subsection (d) of section 36a-488 of the general statutes is
65 repealed and the following is substituted in lieu thereof (*Effective*
66 *October 1, 2007*):

67 (d) It shall be considered a violation of section 36a-53a if a licensee
68 files an application for registration of an originator or for renewal of
69 such registration with knowledge that such application contains a
70 material misstatement by an originator.

71 Sec. 3. Section 36a-490 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective October 1, 2007*):

73 (a) Each license shall state the location at which the business is to be

74 conducted and shall state fully the name of the licensee. If the licensee
75 desires to make first mortgage loans in more than one location or to act
76 as a first mortgage broker in more than one location, the licensee shall
77 procure a license for each location where the business is to be
78 conducted. Each license shall be maintained at the location for which
79 the license was issued and shall be available for public inspection.
80 Such license shall not be transferable or assignable. [Any change of
81 location of a licensee shall require only prior written notice to the
82 commissioner.] No licensee shall use any name other than the name
83 stated on the license issued by the commissioner.

84 (b) A licensee may change the name or location specified on its
85 license or the person with supervisory authority over the lending or
86 brokerage activities at its licensed location if (1) at least twenty-one
87 calendar days prior to such change, the licensee notifies the
88 commissioner, in writing, on a form satisfactory to the commissioner,
89 and, in the case of a change of name or location, provides a bond rider
90 or endorsement to the surety bond on file with the commissioner that
91 reflects the new name or location, and (2) the commissioner does not
92 disapprove such change, in writing, or request further information
93 within such twenty-one-day period. The licensee shall promptly notify
94 the commissioner, in writing, of any other change in the information
95 provided in the application for license or most recent renewal of such
96 license.

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

101 Sec. 4. Section 36a-510 of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2007*):

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

105 (1) "Advance fee" means any consideration paid or given, directly or

106 indirectly, to a mortgage lender, secondary mortgage broker or
107 originator required to be licensed or registered pursuant to sections
108 36a-510 to 36a-524, inclusive, as amended by this act, prior to the
109 closing of a secondary mortgage loan to any person, including, but not
110 limited to, loan fees, points, broker's fees or commissions, transaction
111 fees, or similar prepaid finance charges;

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

115 (3) "Licensee" means any person who is required to be licensed
116 pursuant to section 36a-511;

117 (4) "Mortgage lender" means a secondary mortgage lender or a
118 secondary mortgage correspondent lender, or both;

119 (5) "Originator" means an individual who is employed or retained
120 by, or otherwise acts on behalf of, a mortgage lender or secondary
121 mortgage broker that is licensed or required to be licensed under
122 sections 36a-510 to 36a-524, inclusive, as amended by this act, for, or
123 with the expectation of, a fee, commission or other valuable
124 consideration, to take an application for or negotiate, solicit, arrange or
125 find a secondary mortgage loan. "Originator" does not include an
126 [officer, if the licensee is a corporation; a general partner, if the licensee
127 is a partnership; a member, if the licensee is a limited liability
128 company; or a sole proprietor, if the licensee is a sole proprietorship]
129 individual whose responsibilities are limited to clerical and
130 administrative tasks and who does not solicit borrowers, take
131 applications or negotiate the terms of loans;

132 (6) "Principal amount of the loan" means the gross loan amount the
133 borrower is obligated to repay including any prepaid finance charge
134 and other charges which are financed. The provisions of this
135 subdivision apply to all loans negotiated before, on and after June 14,
136 1993;

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

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

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

152 (10) "Secondary mortgage loan" means (A) a loan or an extension of
153 credit, including, but not limited to, an extension of credit pursuant to
154 a contract or an assigned contract for the sale of goods or services,
155 made to a person, the proceeds of which are to be used primarily for
156 personal, family or household purposes, and which is secured in
157 whole or in part by a mortgage upon any interest in one-to-four-family
158 residential owner-occupied real property located in this state,
159 provided such real property is subject to one or more prior mortgages,
160 and (B) the renewal or refinancing of any existing loan or extension of
161 credit described in subparagraph (A) of this subdivision;

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

164 (12) "Table funding agreement" has the meaning given to that term
165 in subdivision (11) of section 36a-485; and

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

168 Sec. 5. Subsection (f) of section 36a-513 of the general statutes is
169 repealed and the following is substituted in lieu thereof (*Effective*
170 *October 1, 2007*):

171 (f) It shall be considered a violation of section 36a-53a if a licensee
172 files an application for registration of an originator or for renewal of
173 such registration with knowledge that such application contains a
174 material misstatement by an originator.

175 Sec. 6. Section 36a-515 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2007*):

177 (a) Each license shall state the location at which the business is to be
178 conducted and shall state fully the name of the licensee. If the licensee
179 desires to make secondary mortgage loans in more than one location
180 or to act as a mortgage broker in more than one location, the licensee
181 shall procure a license for each location where the business is to be
182 conducted. Each license shall be maintained at the location for which
183 the license was issued and shall be available for public inspection.
184 Such license shall not be transferable or assignable. [Any change of
185 location of a licensee shall require only prior written notice to the
186 commissioner.] No licensee shall use any name other than the name
187 stated on the license issued by the commissioner.

188 (b) A licensee may change the name or location specified on its
189 license or the person with supervisory authority over the lending or
190 brokerage activities at its licensed location if (1) at least twenty-one
191 calendar days prior to such change, the licensee notifies the
192 commissioner, in writing, on a form satisfactory to the commissioner,
193 and (2) the commissioner does not disapprove such change, in writing,
194 or request further information within such twenty-one-day period. The
195 licensee shall promptly notify the commissioner, in writing, of any
196 other change in the information provided in the application for license
197 or most recent renewal of such license.

198 (c) Each license and registration shall remain in force and effect until
199 it has been surrendered, revoked, suspended or expires in accordance

200 with the provisions of sections 36a-510 to 36a-524, inclusive, as
201 amended by this act.

202 Sec. 7. Section 36a-570 of the general statutes is repealed and the
203 following is substituted in lieu thereof (*Effective from passage*):

204 The commissioner may adopt such regulations, in accordance with
205 chapter 54, and make such findings as may be necessary for the
206 conduct of the small loan business and its association with other
207 businesses, the conduct of the associated businesses and the
208 enforcement of the provisions of sections 36a-555 to 36a-573, inclusive.

209 Sec. 8. Section 36a-596 of the general statutes is repealed and the
210 following is substituted in lieu thereof (*Effective October 1, 2007*):

211 As used in sections 36a-595 to 36a-610, inclusive, as amended by this
212 act:

213 (1) "Electronic payment instrument" means a card or other tangible
214 object for the transmission of money or monetary value or payment of
215 money which contains a microprocessor chip, magnetic stripe, or other
216 means for the storage of information, that is prefunded and for which
217 the value is decremented upon each use, but does not include a card or
218 other tangible object that is redeemable by the issuer in the issuer's
219 goods or services.

220 (2) "Holder" means a person, other than a purchaser, who is either in
221 possession of a Connecticut payment instrument and is the named
222 payee thereon or in possession of a Connecticut payment instrument
223 issued or endorsed to such person or bearer or in blank. "Holder" does
224 not include any person who is in possession of a lost, stolen or forged
225 Connecticut payment instrument.

226 (3) "Licensee" means any person licensed pursuant to sections 36a-
227 595 to 36a-610, inclusive, as amended by this act.

228 (4) "Material litigation" means any litigation that, according to
229 generally accepted accounting principles, is deemed significant to a

230 person's financial health and would be required to be referenced in a
231 person's annual audited financial statements, report to shareholders or
232 similar documents.

233 (5) "Monetary value" means a medium of exchange, whether or not
234 redeemable in money.

235 (6) "Money order" means any check, draft, money order or other
236 payment instrument. "Money order" does not include a travelers check
237 or electronic payment instrument.

238 (7) "Money transmission" means engaging in the business of
239 receiving money or monetary value for current or future transmission
240 or the business of transmitting money or monetary value within the
241 United States or to locations outside the United States by any and all
242 means including, but not limited to, payment instrument, wire,
243 facsimile or electronic transfer or issuing stored value.

244 (8) "Net worth" means the excess of assets over liabilities as
245 determined by generally accepted accounting principles.

246 (9) "Outstanding" means, in the case of a money order, travelers
247 check, electronic payment instrument or stored value, that: (A) It is
248 sold or issued in the United States; (B) a report of it has been received
249 by a licensee from its agents or subagents; and (C) it has not yet been
250 paid by the issuer.

251 (10) "Payment instrument" means a money order, travelers check or
252 electronic payment instrument that evidences either an obligation for
253 the transmission of money or monetary value or payment of money, or
254 the purchase or the deposit of funds for the purchase of such money
255 order, travelers check or electronic payment instrument. A payment
256 instrument is a "Connecticut payment instrument" if it is sold in this
257 state.

258 (11) "Permissible investment" means: (A) Cash in United States
259 currency; (B) time deposits, as defined in section 36a-2, or other debt
260 instruments of a bank; (C) bills of exchange or bankers acceptances

261 which are eligible for purchase by member banks of the Federal
262 Reserve System; (D) commercial paper of prime quality; (E) interest-
263 bearing bills, notes, bonds, debentures or other obligations issued or
264 guaranteed by: (i) The United States or any of its agencies or
265 instrumentalities, or (ii) any state, or any agency, instrumentality,
266 political subdivision, school district or legally constituted authority of
267 any state if such investment is of prime quality; (F) interest-bearing
268 bills or notes, or bonds, debentures or preferred stocks, traded on any
269 national securities exchange or on a national over-the-counter market,
270 if such debt or equity investments are of prime quality; (G) receivables
271 due from selling agents consisting of the proceeds of the sale of
272 payment instruments which are not past due or doubtful of collection;
273 (H) gold; and (I) any other investments approved by the
274 commissioner. Notwithstanding the provisions of this subdivision, if
275 the commissioner at any time finds that an investment of a licensee is
276 unsatisfactory for investment purposes, the investment shall not
277 qualify as a permissible investment.

278 (12) "Prime quality" of an investment means that it is within the top
279 four rating categories in any rating service recognized by the
280 commissioner unless the commissioner determines for any licensee
281 that only those investments in the top three rating categories qualify as
282 "prime quality".

283 (13) "Purchaser" means a person who buys or has bought a
284 Connecticut payment instrument.

285 (14) "Stored value" means monetary value that is evidenced by an
286 electronic record. For the purposes of this subdivision, "electronic
287 record" means information that is stored in an electronic medium and
288 is retrievable in perceivable form.

289 (15) "Travelers check" means a payment instrument for the payment
290 of money that contains a provision for a specimen signature of the
291 purchaser to be completed at the time of a purchase of the instrument
292 and a provision for a countersignature of the purchaser to be
293 completed at the time of negotiation.

294 Sec. 9. Section 36a-602 of the general statutes is repealed and the
295 following is substituted in lieu thereof (*Effective October 1, 2007*):

296 (a) As a condition for the issuance and retention of the license,
297 applicants for a license and licensees shall file with the commissioner a
298 surety bond, the form of which shall be approved by the Attorney
299 General, issued by a bonding company or insurance company
300 authorized to do business in this state. The bond shall be in favor of
301 the commissioner, cover claims that arise during the period the license
302 remains in full force and effect and the succeeding two years after such
303 license has been surrendered, revoked or suspended or has expired, in
304 accordance with the provisions of sections 36a-595 to 36a-610,
305 inclusive, as amended by this act, and be in the principal sum of (1)
306 three hundred thousand dollars for any applicant and any licensee that
307 engages in the business of issuing Connecticut payment instruments
308 with an average daily balance of outstanding Connecticut payment
309 instruments during the two previous reporting quarters of three
310 hundred thousand dollars or less or any licensee that engages in the
311 business of money transmission with an average weekly amount of
312 money or monetary value received or transmitted, whichever amount
313 is greater, during the two previous reporting quarters of one hundred
314 fifty thousand dollars or less; (2) five hundred thousand dollars for any
315 licensee that engages in the business of issuing Connecticut payment
316 instruments with an average daily balance of outstanding Connecticut
317 payment instruments during the two previous reporting quarters of
318 greater than three hundred thousand dollars but less than five
319 hundred thousand dollars or any licensee that engages in the business
320 of money transmission with an average weekly amount of money or
321 monetary value received or transmitted, whichever amount is greater,
322 during the two previous reporting quarters of greater than one
323 hundred fifty thousand dollars but less than two hundred fifty
324 thousand dollars; and (3) one million dollars for any licensee that
325 engages in the business of issuing Connecticut payment instruments
326 with an average daily balance of outstanding Connecticut payment
327 instruments during the two previous reporting quarters equal to or
328 greater than five hundred thousand dollars or any licensee that

329 engages in the business of money transmission with an average weekly
330 amount of money or monetary value received or transmitted,
331 whichever amount is greater, during the two previous reporting
332 quarters of two hundred fifty thousand dollars or greater. The
333 proceeds of the bond, even if commingled with other assets of the
334 licensee, shall be deemed by operation of law to be held in trust for the
335 benefit of any claimants against the licensee to serve the faithful
336 performance of the obligations of the licensee with respect to the
337 receipt, handling, transmission or payment of money or monetary
338 value in connection with the sale and issuance of Connecticut payment
339 instruments or transmission of money or monetary value in the event
340 of the bankruptcy of the licensee, and shall be immune from
341 attachment by creditors or judgment creditors. The commissioner may
342 proceed on such bond against the principal or surety thereon, or both,
343 to collect any civil penalty imposed upon the licensee pursuant to
344 subsection (a) of section 36a-50. In the event a license has been
345 surrendered, revoked or suspended or has expired, in accordance with
346 the provisions of sections 36a-595 to 36a-610, inclusive, as amended by
347 this act, the commissioner, in the commissioner's discretion, may lower
348 the required principal sum of the bond based on the licensee's level of
349 business and outstanding Connecticut payment instruments.

350 (b) The surety company may cancel the bond at any time by a
351 written notice to the licensee, stating the date cancellation shall take
352 effect. Such notice shall be sent by certified mail to the licensee at least
353 thirty days prior to the date of cancellation. A surety bond shall not be
354 cancelled unless the surety company notifies the commissioner in
355 writing not less than thirty days prior to the effective date of
356 cancellation. The commissioner shall automatically suspend the license
357 on the date the cancellation takes effect, unless the surety bond has
358 been replaced or renewed, all of the principal sum of such surety bond
359 has been invested as provided in subsection (c) of this section, or the
360 surety bond has been replaced in part and the remaining part of the
361 principal sum of such surety bond has been invested as provided in
362 subsection (c) of this section or unless the licensee has ceased business
363 and has voluntarily surrendered the license. The commissioner shall

364 give the licensee notice of the automatic suspension pending
365 proceedings for revocation or refusal to renew such license and an
366 opportunity for a hearing on such actions in accordance with section
367 36a-51.

368 (c) In lieu of all or part of the principal sum of such surety bonds,
369 applicants for a license and licensees may invest such sum as provided
370 in this subsection. The book or market value, whichever is lower, of
371 such investments shall be equal to the amount of the bond required by
372 subsection (a) of this section less the amount of the bond filed with the
373 commissioner by the applicant or licensee. Such applicants and
374 licensees shall keep such investments with such banks, Connecticut
375 credit unions or federal credit unions as such applicants or licensees
376 may designate and the commissioner may approve, and subject to
377 such conditions as the commissioner deems necessary for the
378 protection of consumers and in the public interest. As used in this
379 subsection, "investments" means: (1) Dollar deposits; and (2) interest-
380 bearing bills, notes, bonds, debentures or other obligations issued or
381 guaranteed by (A) the United States or any of its agencies or
382 instrumentalities, or (B) any state, or any agency, instrumentality,
383 political subdivision, school district or legally constituted authority of
384 any state if such investment is of prime quality. The investments shall
385 secure the same obligation as would a surety bond filed under this
386 section. The investments shall be held at such banks or credit unions to
387 cover claims during the period the license remains in full force and
388 effect and the succeeding two years after such license has been
389 surrendered, revoked or suspended or has expired in accordance with
390 the provisions of sections 36a-595 to 36a-610, inclusive, as amended by
391 this act. The licensee shall be permitted to collect interest on such
392 investments and at any time to exchange, examine [,] and compare
393 such investments. The investments made pursuant to this section, even
394 if commingled with other assets of the licensee, shall be deemed by
395 operation of law to be held in trust for the benefit of any claimants
396 against the licensee to serve the faithful performance of the obligations
397 of the licensee with respect to the receipt, handling, transmission or
398 payment of money or monetary value in connection with the sale and

399 issuance of Connecticut payment instruments or transmission of
400 money or monetary value in the event of the bankruptcy of the
401 licensee, and shall be immune from attachment by creditors or
402 judgment creditors.

403 Sec. 10. Section 36a-603 of the general statutes is repealed and the
404 following is substituted in lieu thereof (*Effective October 1, 2007*):

405 (a) Each licensee shall at all times maintain permissible investments
406 having a value, computed in accordance with generally accepted
407 accounting principles, at least equal to the aggregate amount of its
408 outstanding Connecticut payment instruments and stored value.

409 (b) As used in subsection (a) of this section, "value" means the lower
410 of book or market value, except that with regard to debt obligations
411 which the licensee as a matter of policy retains until maturity, "value"
412 means the greater of book or market value unless the commissioner
413 orders that for some or all investments of a particular licensee, "value"
414 means the lower of book or market value.

415 (c) Permissible investments, even if commingled with other assets of
416 the licensee, shall be deemed by operation of law to be held in trust for
417 the benefit of any claimants against the licensee to serve the faithful
418 performance of the obligations of the licensee with respect to the
419 receipt, handling, transmission or payment of money or monetary
420 value in connection with the sale and issuance of Connecticut payment
421 instruments or transmission of money or monetary value in the event
422 of the bankruptcy of the licensee, and shall be immune from
423 attachment by creditors or judgment creditors.

424 Sec. 11. Subdivision (4) of subsection (a) of section 36a-607 of the
425 general statutes is repealed and the following is substituted in lieu
426 thereof (*Effective October 1, 2007*):

427 (4) A licensee shall be liable for the loss caused to any purchaser or
428 holder of the licensee's Connecticut payment instruments by the failure
429 of an agent or subagent of the licensee to forward to the licensee the

430 amount due from the proceeds of a sale or delivery of the licensee's
431 Connecticut payment instruments, or money or monetary value
432 received for transmission.

433 Sec. 12. Section 36a-758 of the general statutes is repealed and the
434 following is substituted in lieu thereof (*Effective October 1, 2007*):

435 Any [financial institution, as defined in subdivision (1) of section
436 36a-41, or any other] person who makes any first mortgage loan, [(1)
437 for the purchase of real property to be secured by a first mortgage on
438 real property located in this state or (2) to refinance an existing
439 indebtedness secured by a mortgage, which loan is to be secured by a
440 first mortgage on real property located in this state shall, at the time of
441 the execution] as defined in section 36a-485, as amended by this act, or
442 any secondary mortgage loan, as defined in section 36a-510, as
443 amended by this act, shall, at the closing of such loan or at the
444 termination of any right to rescind the loan transaction under 12 CFR
445 226, as from time to time amended, whichever is later, pay the loan
446 proceeds to the mortgagor, to the mortgagor's attorney, [or] to the
447 mortgagee's attorney or to any other person specified in any settlement
448 statement, any written agreement between the mortgagor and the
449 mortgagee or any written instruction of the mortgagor, by a certified,
450 bank treasurer's or cashier's check or by means of wire transfer.

451 Sec. 13. Section 20-325c of the general statutes is repealed and the
452 following is substituted in lieu thereof (*Effective October 1, 2007*):

453 (a) As used in this section "residential real property" means one to
454 four-family residential real estate located in this state.

455 (b) (1) Each real estate broker or real estate salesperson licensed or
456 required to be licensed under section 20-312 or each person affiliated
457 with such broker or salesperson who for a fee, commission or other
458 valuable consideration, directly or indirectly, negotiates, solicits,
459 arranges, places or finds a mortgage loan that is to be made by a
460 mortgage lender, whether or not the mortgage lender is licensed or
461 required to be licensed under sections 36a-485 to 36a-534a, inclusive, as

462 amended by this act, shall comply with the licensing requirement of
463 subsection (a) of section 36a-486 and subsection (a) of section 36a-511,
464 if applicable. Each real estate broker or real estate salesperson licensed
465 or required to be licensed under section 20-312 or each person
466 affiliated with such broker or salesperson who is employed or retained
467 by, or otherwise acts on behalf of, a mortgage lender or mortgage
468 broker that is licensed or required to be licensed under sections 36a-
469 485 to 36a-534a, inclusive, as amended by this act, for, or with the
470 expectation of, a fee, commission or other valuable consideration, to
471 take an application for or negotiate, solicit, arrange or find a mortgage
472 loan shall comply with the registration requirement of subsection (b) of
473 section 36a-486 or subsection (b) of section 36a-511, if applicable.

474 [(b)] (2) Notwithstanding any provision of the general statutes to the
475 contrary, no real estate broker or real estate salesperson, and no person
476 affiliated with such broker or salesperson, who receives a fee,
477 commission or other valuable consideration for the sale of residential
478 real property, may receive a fee, commission or other valuable
479 consideration for negotiating, soliciting, arranging, placing or finding a
480 first mortgage loan for the buyer in connection with the same sale
481 unless disclosure is made in accordance with the provisions of
482 subsection (c) of this section. Any fee, commission or other valuable
483 consideration received by such broker or salesperson for negotiating,
484 soliciting, arranging, placing or finding a first mortgage loan shall [(1)]
485 (A) be related to the services actually performed, as determined by the
486 Banking Commissioner by regulations adopted pursuant to chapter 54,
487 [(2)] (B) not be imposed for the referral of the buyer to the mortgage
488 lender by such broker or salesperson, and [(3)] (C) be paid directly to
489 the broker or salesperson by the buyer rather than from the mortgage
490 loan proceeds at the time of closing.

491 (c) Any disclosure made pursuant to subsection (b) of this section
492 shall be made to and acknowledged by the buyer prior to the time the
493 buyer signs a contract with the real estate broker or salesperson for
494 mortgage brokering services. Such disclosure shall include the
495 following notice printed in at least ten-point boldface capital letters:

496 I UNDERSTAND THAT THE REAL ESTATE BROKER OR
497 SALESPERSON IN THIS TRANSACTION HAS OFFERED TO ASSIST
498 ME IN FINDING A MORTGAGE LOAN. ADDITIONALLY, I
499 UNDERSTAND THAT THIS REAL ESTATE BROKER OR
500 SALESPERSON DOES NOT REPRESENT ANY PARTICULAR
501 MORTGAGE LENDER AND WILL ATTEMPT TO OBTAIN THE
502 BEST TERMS AVAILABLE WITHIN THE MORTGAGE LOAN
503 MARKET FOR MY SPECIFIC HOME FINANCING NEEDS. IF THE
504 REAL ESTATE BROKER OR SALESPERSON DOES NOT FULFILL
505 HIS FIDUCIARY OBLIGATION I MAY FILE A COMPLAINT WITH
506 THE DEPARTMENT OF BANKING. I ALSO UNDERSTAND THAT I
507 MAY ATTEMPT TO FIND A MORTGAGE LOAN TO FINANCE THE
508 PURCHASE OF MY HOME WITHOUT THE ASSISTANCE OF THE
509 REAL ESTATE BROKER OR SALESPERSON IN WHICH CASE I
510 WILL NOT BE OBLIGATED TO PAY A FEE TO THE REAL ESTATE
511 BROKER OR SALESPERSON.

512 (d) No mortgage lender may refuse to close a mortgage loan secured
513 by residential real property because the buyer has not paid a fee,
514 commission or other valuable consideration to a real estate broker or
515 salesperson for negotiating, soliciting, arranging, placing or finding the
516 first mortgage loan.

517 Sec. 14. Section 20-329 of the general statutes is repealed and the
518 following is substituted in lieu thereof (*Effective October 1, 2007*):

519 The provisions of this chapter concerning the licensure of real estate
520 brokers and real estate salespersons shall not apply to: (1) Any person
521 who as owner or lessor performs any of the acts enumerated in section
522 20-311, with reference to property owned, leased or sought to be
523 acquired or leased by the person, or to the person's regular employees
524 who are employed as on-site residential superintendents or custodians,
525 with respect to the property so owned or leased or sought to be
526 acquired or leased when such acts are performed in the regular course
527 of, or incident to, the management of such property and the
528 investment therein; (2) any person acting as attorney-in-fact under a

529 duly executed power of attorney from the owner authorizing the final
530 consummation by performance of any contract for the sale, leasing or
531 exchange of real estate, or to service rendered by any attorney-at-law
532 in the performance of the attorney-at-law's duties as such attorney-at-
533 law; (3) a receiver, trustee in bankruptcy, administrator, executor or
534 other fiduciary, while acting as such, or any person selling real estate
535 under order of any court, or to a trustee acting under a trust
536 agreement, deed of trust or will, or the regular salaried employees
537 thereof; (4) witnesses in court as to the values of real estate; (5) persons
538 in the employ of the federal or state government or any political
539 subdivision thereof while acting in the course of such employment; (6)
540 any employee of any nonprofit housing corporation that (A) has been
541 certified as a tax-exempt organization under Section 501(c)(3) of the
542 Internal Revenue Code of 1986, or any subsequent corresponding
543 internal revenue code of the United States, as from time to time
544 amended, and manages a housing project, or (B) manages a housing
545 project assisted in whole or in part by the federal government
546 pursuant to Section 8 of The United States Housing Act of 1937, as
547 from time to time amended, while such employee is performing duties
548 in the regular course of, or incidental to, the management of such
549 housing project; (7) any person licensed as a broker in accordance with
550 sections 36a-510 to 36a-524, inclusive, as amended by this act, who
551 engages solely in the activities described in [subsection (6)] subdivision
552 (7) of section 36a-510, as amended by this act; (8) any person licensed
553 to maintain or operate a mobile manufactured home park under
554 chapter 412 who performs any of the acts enumerated in section 20-
555 311, with reference to lots or mobile manufactured homes within the
556 park or to the person's employees with respect to lots or mobile
557 manufactured homes within such park when such acts are performed
558 in the regular course of, or incidental to, the management of such
559 property and the investment therein; (9) persons licensed as sellers of
560 mobile manufactured homes under section 21-67; or (10) any person or
561 such person's regular employee who, as owner, lessor, licensor,
562 manager, representative or agent manages, leases, or licenses space on
563 or in a tower, building or other structure for (A) "personal wireless

564 services facilities" or facilities for "private mobile service" as those
565 terms are defined in 47 USC 332, which facilities shall be unattended,
566 and the installation and maintenance of related devices authorized by
567 the Federal Communications Commission, and ancillary equipment
568 used to operate such devices and equipment shelters therefor, in an
569 area not to exceed three hundred sixty square feet for any one service
570 established by the Federal Communications Commission in 47 CFR, as
571 amended from time to time, by a provider of any such service, and (B)
572 any right appropriate to access such facilities and connect or use
573 utilities in connection with such facilities.

574 Sec. 15. Subsection (a) of section 36a-51 of the general statutes is
575 repealed and the following is substituted in lieu thereof (*Effective from*
576 *passage*):

577 (a) The commissioner may suspend, revoke or refuse to renew any
578 license issued by the commissioner under any provision of the general
579 statutes by sending a notice to the licensee by registered or certified
580 mail, return receipt requested, or by any express delivery carrier that
581 provides a dated delivery receipt. The notice shall be deemed received
582 by the licensee on the earlier of the date of actual receipt or seven days
583 after mailing or sending. Any such notice shall include: (1) A statement
584 of the time, place, and nature of the hearing; (2) a statement of the legal
585 authority and jurisdiction under which the hearing is to be held; (3) a
586 reference to the particular sections of the general statutes, regulations,
587 rules or orders involved; (4) a short and plain statement of the matters
588 asserted; and (5) a statement indicating that the licensee may file a
589 written request for a hearing on the matters asserted within fourteen
590 days of receipt of the notice. If the commissioner finds that public
591 health, safety or welfare imperatively requires emergency action, and
592 incorporates a finding to that effect in the notice, the commissioner
593 may order summary suspension of a license in accordance with
594 subsection (c) of section 4-182 and require the licensee to take or refrain
595 from taking such action as in the opinion of the commissioner will
596 effectuate the purposes of this section, pending proceedings for
597 suspension, revocation or refusal to renew.

598 Sec. 16. Subsection (b) of section 36a-52 of the general statutes is
599 repealed and the following is substituted in lieu thereof (*Effective from*
600 *passage*):

601 (b) If the commissioner finds that the public welfare requires
602 immediate action, the commissioner may incorporate a finding to that
603 effect in the notice sent in accordance with subsection (a) of this section
604 and issue a temporary order requiring the person to cease and desist
605 from the activity which constitutes such alleged violation and to take
606 or refrain from taking such action as in the opinion of the
607 commissioner will effectuate the purposes of this section. Such
608 temporary order shall become effective on receipt and, unless set aside
609 or modified by a court, shall remain in effect until the effective date of
610 a permanent order or dismissal of the matters asserted in the notice.

611 Sec. 17. Subdivision (1) of subsection (b) of section 36a-53 of the
612 general statutes is repealed and the following is substituted in lieu
613 thereof (*Effective from passage*):

614 (b) (1) Whenever the commissioner finds as the result of an
615 investigation that any related person of any Connecticut bank,
616 Connecticut holding company, Connecticut credit union or
617 Connecticut credit union service organization (A) has violated or is
618 violating any provision of the general statutes within the jurisdiction of
619 the commissioner, or any regulation, rule or order adopted or issued
620 thereunder, or any condition imposed in writing by the commissioner,
621 (B) has breached or is breaching any written agreement with the
622 commissioner, (C) has engaged or participated in or is engaging or
623 participating in any unsafe or unsound practice in connection with any
624 bank, Connecticut holding company, Connecticut credit union, federal
625 credit union or credit union service organization, (D) has been or is
626 charged in any information, indictment or complaint with the
627 commission of or participation in a crime which is punishable by
628 imprisonment for a term exceeding one year under state or federal law,
629 and continued service or participation by such related person may
630 pose a threat to the interests of depositors or members, or threatens to

631 impair public confidence in any bank, Connecticut holding company,
632 Connecticut credit union, federal credit union or Connecticut credit
633 union service organization, (E) has used or is using such related
634 person's position in a manner contrary to the interest of any bank,
635 Connecticut holding company, Connecticut credit union, federal credit
636 union or credit union service organization, or its depositors or
637 members, or (F) has been or is negligent in the performance of such
638 related person's duties, after having been warned in writing by the
639 commissioner to discontinue any such continuing delinquency, the
640 commissioner may send notice to such related person by registered or
641 certified mail, return receipt requested, or by any express delivery
642 carrier that provides a dated delivery receipt. The notice shall be
643 deemed received by the related person on the earlier of the date of
644 actual receipt or seven days after mailing or sending. Any such notice
645 shall include: (i) A statement of the time, place and nature of the
646 hearing; (ii) a statement of the legal authority and jurisdiction under
647 which the hearing is to be held; (iii) a reference to the particular
648 sections of the general statutes, regulations, rules or orders alleged to
649 have been violated; (iv) a short and plain statement of the matters
650 asserted; and (v) a statement indicating that such related person may
651 file a written request for a hearing on the matters asserted within
652 fourteen days of receipt of the notice. If a hearing is requested within
653 the time specified in the notice, the commissioner shall hold a hearing
654 upon the matters asserted in the notice unless such related person fails
655 to appear at the hearing. After the hearing, if the commissioner finds
656 that any of the grounds set forth in subparagraphs (A) to (F), inclusive,
657 of this subdivision exist with respect to such related person, the
658 commissioner shall order the removal of such related person from
659 office and from any participation in the management of the
660 Connecticut bank, Connecticut holding company, Connecticut credit
661 union or Connecticut credit union service organization. If such related
662 person fails to appear at the hearing, the commissioner shall order the
663 removal of such related person from office and from any participation
664 in the management of the Connecticut bank, Connecticut holding
665 company, Connecticut credit union or Connecticut credit union service

666 organization. If the commissioner finds that the protection of the
667 Connecticut bank, Connecticut holding company or its subsidiary that
668 is a Connecticut bank, Connecticut credit union or Connecticut credit
669 union service organization, or the interest of its depositors, depositors
670 of its subsidiary that is a Connecticut bank or members requires
671 immediate action, the commissioner may suspend any such related
672 person from office and from further participation in the management
673 of the Connecticut bank, Connecticut holding company, Connecticut
674 credit union or Connecticut credit union service organization and
675 require such related person to take or refrain from taking such action
676 as in the opinion of the commissioner will effectuate the purposes of
677 this subsection, by incorporating a finding to that effect in such notice.
678 The suspension or prohibition shall become effective upon receipt of
679 such notice and, unless stayed by a court, shall remain in effect until
680 the entry of a permanent order or the dismissal of the matters asserted.

681 Sec. 18. Subsection (c) of section 36a-53 of the general statutes is
682 repealed and the following is substituted in lieu thereof (*Effective from*
683 *passage*):

684 (c) Whenever it appears to the commissioner that any Connecticut
685 bank, Connecticut holding company, Connecticut credit union,
686 Connecticut credit union service organization or any related person of
687 any such entity (1) is violating, has violated or is about to violate any
688 provision of the general statutes within the jurisdiction of the
689 commissioner, or any regulation, rule or order adopted or issued
690 thereunder, or any condition imposed in writing by the commissioner,
691 (2) is breaching, has breached or is about to breach any written
692 agreement with the commissioner, (3) is engaging, has engaged or is
693 about to engage, in an unsafe or unsound practice, or (4) is using, has
694 used or is about to use such related person's position in a manner
695 contrary to the interest of any bank, Connecticut holding company,
696 Connecticut credit union, federal credit union or credit union service
697 organization, the commissioner may send notice and take action
698 against the Connecticut bank, Connecticut holding company,
699 Connecticut credit union, Connecticut credit union service

700 organization or related person in accordance with section 36a-52. If the
701 commissioner finds that the actual or threatened violation, breach,
702 unsafe or unsound practice or practices or use specified in such notice
703 is likely to cause insolvency or substantial dissipation of assets or
704 earnings of the Connecticut bank, Connecticut holding company,
705 Connecticut credit union or Connecticut credit union service
706 organization, or is likely to otherwise seriously prejudice the interests
707 of its depositors or members, the commissioner may incorporate a
708 finding to that effect in such notice and issue a temporary order
709 requiring the Connecticut bank, Connecticut holding company,
710 Connecticut credit union, Connecticut credit union service
711 organization or related person to cease and desist from any such
712 violation, breach, practice or use and to take or refrain from taking
713 such action as in the opinion of the commissioner will effectuate the
714 purposes of this subsection. The temporary order shall become
715 effective upon receipt and, unless set aside or modified by a court,
716 shall remain in effect until the effective date of a permanent order or
717 the dismissal of the matters asserted.

718 Sec. 19. Subsection (a) of section 36a-494 of the general statutes is
719 repealed and the following is substituted in lieu thereof (*Effective from*
720 *passage*):

721 (a) (1) The commissioner may suspend, revoke or refuse to renew
722 any license or take any other action, in accordance with the provisions
723 of section 36a-51, as amended by this act, for any reason which would
724 be sufficient grounds for the commissioner to deny an application for a
725 license under sections 36a-485 to 36a-498a, inclusive, as amended by
726 this act, or if the commissioner finds that the licensee or any
727 proprietor, director, officer, member, partner, shareholder, trustee,
728 employee or agent of such licensee has done any of the following: (A)
729 Made any material misstatement in the application; (B) committed any
730 fraud, misappropriated funds or misrepresented, concealed,
731 suppressed, intentionally omitted or otherwise intentionally failed to
732 disclose any of the material particulars of any first mortgage loan
733 transaction, including disclosures required by subdivision (6) of

734 subsection (a) of section 36a-493, or part III of chapter 669 or
735 regulations adopted pursuant thereto, to anyone entitled to such
736 information; (C) violated any of the provisions of this title or of any
737 regulations adopted pursuant thereto, or any other law or regulation
738 applicable to the conduct of its business; or (D) failed to perform any
739 agreement with a licensee or a borrower.

740 (2) The commissioner may suspend, revoke or refuse to renew any
741 registration of an originator or take any other action, in accordance
742 with the provisions of section 36a-51, as amended by this act, for any
743 reason which would be sufficient grounds for the commissioner to
744 deny an application for a registration under sections 36a-485 to 36a-
745 498a, inclusive, as amended by this act, or if the commissioner finds
746 that the registrant has committed any fraud, misappropriated funds,
747 misrepresented any of the material particulars of any first mortgage
748 loan transaction or has violated any of the provisions of this title or of
749 any regulations adopted pursuant to such title or any other law or
750 regulation applicable to the conduct of such registrant's business.

751 Sec. 20. Subsection (a) of section 36a-517 of the general statutes is
752 repealed and the following is substituted in lieu thereof (*Effective from*
753 *passage*):

754 (a) (1) The commissioner may suspend, revoke or refuse to renew
755 any license or take any other action, in accordance with section 36a-51,
756 as amended by this act, for any reason which would be sufficient
757 grounds for the commissioner to deny an application for a license
758 under sections 36a-510 to 36a-524, inclusive, as amended by this act, or
759 if the commissioner finds that the licensee or any proprietor, director,
760 officer, member, partner, shareholder, trustee, employee or agent of
761 such licensee has done any of the following: (A) Made any material
762 misstatement in the application; (B) committed any fraud,
763 misappropriated funds or misrepresented, concealed, suppressed,
764 intentionally omitted or otherwise intentionally failed to disclose any
765 of the material particulars of any secondary mortgage loan transaction,
766 including disclosures required by part III of chapter 669 or regulations

767 adopted pursuant thereto, to anyone entitled to such information; (C)
768 violated any of the provisions of this title, or of any regulations
769 adopted pursuant thereto or any other law or regulation applicable to
770 the conduct of its business; or (D) failed to perform any agreement
771 with a licensee or a borrower.

772 (2) The commissioner may suspend, revoke or refuse to renew any
773 registration of an originator or take any other action, in accordance
774 with the provisions of section 36a-51, as amended by this act, for any
775 reason which would be sufficient grounds for the commissioner to
776 deny an application for a registration under sections 36a-510 to 36a-
777 524, inclusive, as amended by this act, or if the commissioner finds that
778 the registrant has committed any fraud, misappropriated funds,
779 misrepresented any of the material particulars of any secondary
780 mortgage loan transaction or has violated any of the provisions of this
781 title or of any regulations adopted pursuant to such title or any other
782 law or regulation applicable to the conduct of such registrant's
783 business.

784 Sec. 21. Subsection (a) of section 36a-543 of the general statutes is
785 repealed and the following is substituted in lieu thereof (*Effective from*
786 *passage*):

787 (a) The commissioner may suspend, revoke or refuse to renew any
788 sales finance company license or take any other action, in accordance
789 with section 36a-51, as amended by this act, if the commissioner finds
790 that: (1) The licensee, knowingly or without the exercise of due care to
791 prevent such violation, has violated any provision of sections 36a-535
792 to 36a-546, inclusive, as amended by this act, or of any other law
793 regulating installment sales financing, or has failed to comply with any
794 demand or requirement, made by the commissioner under and within
795 the authority of sections 36a-535 to 36a-546, inclusive, as amended by
796 this act; or (2) there has been any material misstatement or failure to
797 give a true reply to a question in the application for the license; or (3)
798 the licensee has defrauded any retail buyer to the buyer's damage; or
799 wilfully failed to perform any written agreement with any retail buyer;

800 or (4) any fact or condition exists which, if it had existed at the time of
801 the original application for such license, would have warranted the
802 commissioner's denial of such license originally; or (5) in the case of a
803 licensee other than a natural person, (A) any officer, director, trustee,
804 member or partner of such licensee has been guilty of any act or
805 omission which would be cause for revoking or suspending a license
806 of such party as an individual; or (B) any other agent or employee of
807 such licensee has been guilty of such act or omission and the licensee
808 has approved or had knowledge thereof and, after such approval or
809 knowledge, has retained the benefit, proceeds, profit or advantage of
810 such act or omission or otherwise ratified it.

811 Sec. 22. Section 36a-572 of the general statutes is repealed and the
812 following is substituted in lieu thereof (*Effective from passage*):

813 The commissioner may [, in accordance with section 36a-51,]
814 suspend, revoke or refuse to renew any license issued under the
815 provisions of section 36a-556 or take any other action, in accordance
816 with section 36a-51, as amended by this act, if the commissioner finds
817 that the licensee has violated any provision of sections 36a-555 to 36a-
818 573, inclusive, as amended by this act, or any regulation or order
819 lawfully made pursuant to and within the authority of said sections, or
820 if the commissioner finds that any fact or condition exists which, if it
821 had existed at the time of the original application for the license,
822 clearly would have warranted a denial of such license.

823 Sec. 23. Subsection (a) of section 36a-587 of the general statutes is
824 repealed and the following is substituted in lieu thereof (*Effective from*
825 *passage*):

826 (a) The commissioner may suspend, revoke or refuse to renew any
827 license issued pursuant to section 36a-581 or take any other action, in
828 accordance with the provisions of section 36a-51, as amended by this
829 act, for any reason which would be sufficient grounds for the
830 commissioner to deny an application for a license under sections 36a-
831 580 to 36a-589, inclusive, or if the commissioner finds that the licensee
832 or any owner, director, officer, member, partner, shareholder, trustee,

833 employee or agent of such licensee has done any of the following: (1)
834 Made any material misstatement in the application; (2) committed any
835 fraud, engaged in dishonest activities or made any misrepresentation;
836 (3) violated any provision of sections 36a-580 to 36a-589, inclusive, or
837 any regulation promulgated under said sections; or (4) demonstrated
838 incompetency or untrustworthiness to act as a licensed check cashing
839 service.

840 Sec. 24. Subsection (b) of section 36a-608 of the general statutes is
841 repealed and the following is substituted in lieu thereof (*Effective from*
842 *passage*):

843 (b) The commissioner may suspend or revoke a license or take any
844 other action, in accordance with section 36a-51, as amended by this act,
845 on any ground on which the commissioner might refuse to issue an
846 original license, for any violation of sections 36a-595 to 36a-610,
847 inclusive, or of any regulation adopted under said sections, for
848 noncompliance with an order which the commissioner may issue
849 under said sections to a licensee, or for failure of the licensee to pay a
850 judgment ordered by any court within or outside this state within
851 thirty days after the judgment becomes final or within thirty days after
852 expiration or termination of a stay of execution of the judgment.

853 Sec. 25. Subsection (a) of section 36a-657 of the general statutes is
854 repealed and the following is substituted in lieu thereof (*Effective from*
855 *passage*):

856 (a) The commissioner may suspend, revoke or refuse to renew any
857 license or take any other action, in accordance with the provisions of
858 section 36a-51, as amended by this act, for any reason which would be
859 sufficient grounds for the commissioner to deny an application for a
860 license under sections 36a-655 to 36a-665, inclusive, or if the
861 commissioner finds that the licensee or any proprietor, director, officer,
862 member, partner, shareholder, trustee, employee or agent of such
863 licensee has done any of the following: (1) Made any material
864 misstatement in the application; (2) committed any fraud or
865 misappropriated funds; (3) violated any of the provisions of sections

866 36a-655 to 36a-665, inclusive, or any other law or regulation applicable
867 to the conduct of its business; or (4) failed to perform any agreement
868 with a debtor.

869 Sec. 26. Subsection (a) of section 36a-804 of the general statutes is
870 repealed and the following is substituted in lieu thereof (*Effective from*
871 *passage*):

872 (a) The commissioner may suspend, revoke or refuse to renew any
873 license or take any other action, in accordance with the provisions of
874 section 36a-51, as amended by this act, for any reason which would be
875 sufficient grounds for the commissioner to deny an application for a
876 license under sections 36a-800 to 36a-810, inclusive, or if the
877 commissioner finds that the licensee or any proprietor, director, officer,
878 member, partner, shareholder, trustee, employee or agent of such
879 licensee has done any of the following: (1) Made any material
880 misstatement in the application; (2) committed any fraud or
881 misrepresentation or misappropriated funds; or (3) violated any of the
882 provisions of sections 36a-800 to 36a-810, inclusive, or of any
883 regulations adopted pursuant thereto, or any other law or regulation
884 applicable to the conduct of its business.

885 Sec. 27. Subsection (c) of section 36b-15 of the general statutes is
886 repealed and the following is substituted in lieu thereof (*Effective from*
887 *passage*):

888 (c) The commissioner may by order (c) summarily postpone or suspend
889 registration or require a registrant to take or refrain from taking such
890 action that in the opinion of the commissioner will effectuate the
891 purposes of sections 36b-2 to 36b-33, inclusive, as amended by this act,
892 pending final determination of any proceeding under this section.
893 Upon the entry of the order, the commissioner shall promptly notify
894 the applicant or registrant, as well as the employer or prospective
895 employer if the applicant or registrant is an agent or an investment
896 adviser agent, that it has been entered and of the reasons therefor and
897 that within fifteen days after the receipt of a written request the matter
898 will be set down for hearing. If no hearing is requested and none is

899 ordered by the commissioner, the order will remain in effect until it is
900 modified or vacated by the commissioner. If a hearing is requested or
901 ordered, the commissioner, after notice of and opportunity for hearing,
902 may modify or vacate the order or extend it until final determination.

903 Sec. 28. Subsection (a) of section 36b-27 of the general statutes is
904 repealed and the following is substituted in lieu thereof (*Effective from*
905 *passage*):

906 (a) Whenever it appears to the commissioner after an investigation
907 that any person has violated, is violating or is about to violate any of
908 the provisions of sections 36b-2 to 36b-33, inclusive, as amended by
909 this act, or any regulation, rule or order adopted or issued under said
910 sections, or that the further sale or offer to sell securities would
911 constitute a violation of said sections or any such regulation, rule or
912 order, or that any person has engaged in a dishonest or unethical
913 practice in the securities or commodities business within the meaning
914 of sections 36b-31-15a to 36b-31-15d, inclusive, of the regulations of
915 Connecticut state agencies, the commissioner may, in the
916 commissioner's discretion, order (1) the person, (2) any other person
917 that directly or indirectly controls such person and that is, was or
918 would be a cause of the violation of such sections or any such
919 regulation, rule or order, due to an act or omission such other person
920 knew or should have known would contribute to such violation, or (3)
921 any other person that has materially aided, is materially aiding or is
922 about to materially aid in such violation, to cease and desist from the
923 violations or the causing of or aiding in the violations of the provisions
924 of said sections or of the regulations, rules or orders thereunder, or
925 from the further sale or offer to sell securities constituting or which
926 would constitute a violation of the provisions of said sections or of the
927 regulations, rules or orders thereunder, or from further engaging in
928 such dishonest or unethical practice and to take or refrain from taking
929 such action that in the opinion of the commissioner will effectuate the
930 purposes of sections 36b-2 to 36b-33, inclusive, as amended by this act.
931 After such an order is issued, the person named in the order may,
932 within fourteen days after receipt of the order, file a written request for

933 a hearing. Any such hearing shall be held in accordance with the
934 provisions of chapter 54.

935 Sec. 29. Subsection (e) of section 51-81c of the general statutes is
936 repealed and the following is substituted in lieu thereof (*Effective July*
937 *1, 2007*):

938 (e) The advisory panel shall: (1) Consult with and make
939 recommendations to the tax-exempt organization administering the
940 program regarding the implementation and administration of the
941 program, including the methods of allocation and the allocation of
942 funds to be disbursed under the program; (2) review and evaluate the
943 program, and monitor the impact of the program; and (3) report on the
944 program to the joint standing [committee] committees of the General
945 Assembly having cognizance of matters relating to the judiciary and to
946 banks and to the Chief Court Administrator, as may from time to time
947 be requested by such committees or administrator.

948 Sec. 30. Section 36a-758a of the general statutes is repealed. (*Effective*
949 *October 1, 2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	36a-485
Sec. 2	<i>October 1, 2007</i>	36a-488(d)
Sec. 3	<i>October 1, 2007</i>	36a-490
Sec. 4	<i>October 1, 2007</i>	36a-510
Sec. 5	<i>October 1, 2007</i>	36a-513(f)
Sec. 6	<i>October 1, 2007</i>	36a-515
Sec. 7	<i>from passage</i>	36a-570
Sec. 8	<i>October 1, 2007</i>	36a-596
Sec. 9	<i>October 1, 2007</i>	36a-602
Sec. 10	<i>October 1, 2007</i>	36a-603
Sec. 11	<i>October 1, 2007</i>	36a-607(a)(4)
Sec. 12	<i>October 1, 2007</i>	36a-758
Sec. 13	<i>October 1, 2007</i>	20-325c
Sec. 14	<i>October 1, 2007</i>	20-329
Sec. 15	<i>from passage</i>	36a-51(a)

Sec. 16	<i>from passage</i>	36a-52(b)
Sec. 17	<i>from passage</i>	36a-53(b)(1)
Sec. 18	<i>from passage</i>	36a-53(c)
Sec. 19	<i>from passage</i>	36a-494(a)
Sec. 20	<i>from passage</i>	36a-517(a)
Sec. 21	<i>from passage</i>	36a-543(a)
Sec. 22	<i>from passage</i>	36a-572
Sec. 23	<i>from passage</i>	36a-587(a)
Sec. 24	<i>from passage</i>	36a-608(b)
Sec. 25	<i>from passage</i>	36a-657(a)
Sec. 26	<i>from passage</i>	36a-804(a)
Sec. 27	<i>from passage</i>	36b-15(c)
Sec. 28	<i>from passage</i>	36b-27(a)
Sec. 29	<i>July 1, 2007</i>	51-81c(e)
Sec. 30	<i>October 1, 2007</i>	Repealer section

BA *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Banking Dept.	BF - Revenue Gain	Potential Minimal	Potential Minimal

Note: BF=Banking Fund

Municipal Impact: None

Explanation

This bill could result in a minimal revenue gain in civil penalties due to the requirement that mortgage loan originators accurately represent an applicant. In FY 06, \$81,600 was collected in penalty revenue for violations pertaining to this type of activity.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations, which is unknown at this time.

OLR Bill Analysis**sSB 1143*****AN ACT CONCERNING MORTGAGE, SMALL LOAN AND MONEY TRANSMITTER LICENSEES, MORTGAGE LOANS AND EMERGENCY ORDERS OF THE BANKING COMMISSIONER*****SUMMARY:**

This bill makes a number of changes to banking statutes. Among other things it:

1. authorizes the banking commissioner to, under certain circumstances, require a person to take or refrain from taking actions, in order to effectuate the purposes of the law;
2. consolidates statutes concerning mortgage closings, requires loan proceeds to be paid at closing or when the right of rescission terminates, if one exists, and extends certain requirements to second mortgages;
3. explicitly requires that any real estate broker or salesperson who acts as a mortgage broker or originator comply with the banking statutes' license and registration requirements;
4. allows the commissioner to adopt regulations and make necessary findings for the conduct of small loan licensees in their association with other businesses and the conduct of those associated businesses, rather than doing so just for the licensee; and
5. makes a number of changes to the money transmitter laws to specify that certain provisions apply to monetary value, rather than just money and Connecticut payment instruments, rather than just payment instruments.

It also makes a technical change and conforming changes.

EFFECTIVE DATE: October 1, 2007, except for the provisions on small loan licensees and the commissioner's authority regarding enforcement activities, which are effective on passage, and the provision on the IOLTA advisory panel which is effective July 1, 2007.

ORIGINATORS

§§ 1 & 4 — Definition

The bill makes several changes to the definition of first and second mortgage loan originators. It clarifies that the term includes individuals who act on behalf of lenders and brokers, rather than just those employed or retained by those individuals. It includes taking a mortgage loan application in the duties that define an originator. Currently, originators are those that negotiate, solicit, arrange, or find a first mortgage loan. The bill specifies that the term does not include individuals who fail to engage in any of these activities and whose only responsibilities are clerical and administrative. Current law excludes from the definition only officers, partners, members, or sole proprietors of the corporate entity holding the first or second mortgage broker or lender license.

§§ 2 & 5 — False or Misleading Statements in Registration Application

The bill clarifies that a first or second mortgage broker or lender filing an originator registration renewal application with knowledge that it contains a material misstatement by the originator violates the banking law prohibiting false or misleading statements. Current law does not specify whether it applies to initial or renewal applications.

§§ 3 & 6 — MORTGAGE LOAN LICENSE CHANGES

The bill requires that, at least 21 calendar days before changing the name or location specified on a first or second mortgage loan license or of the person with supervisory authority over the lending or brokerage activities at a licensed location, the licensee must file written notice with the banking commissioner on a form satisfactory to the

commissioner. In the case of a name or location change for a first mortgage loan license, the licensee must provide a bond rider or endorsement reflecting the changes. The bill allows the licensee to make the change unless the commissioner disapproves in writing or requests further information within the 21-day period.

§§ 8-11 — MONEY TRANSMISSION

The bill makes a number of changes to the money transmission statutes. First, it specifies that the definitions of “electronic payment instrument” and “payment instrument” relate to the transmission of monetary value, rather than just money. The term money transmission already includes the transmission of monetary value, which is defined as a medium of exchange, whether or not it is redeemable in money.

The bill also specifies that the proceeds of the surety bond that money transmitter licensees must file are for the benefit of any claimant against a licensee in connection with the sale or issuance of payment instruments sold in this state, rather than just payment instruments generally. It also specifies that the provision applies to the transmission of monetary value, rather than just money. It also specifies that investments in lieu of a surety bond benefit any claimants against a licensee in connection with the transmission of monetary value, rather than just money.

The bill specifies that permissible investments that money transmitter licensees must maintain must equal the aggregate amount of its outstanding payment instruments located in this state and stored value. Current law does not limit the requirement to Connecticut payment instruments.

Finally, the bill makes a licensee liable for the failure of its agents or subagents to forward the proceeds of any monetary value, rather than just money, given for transmission.

§§ 12, 30 — REAL ESTATE CLOSINGS

The bill requires first and second mortgage loan proceeds to be paid at the closing or, in the case of a loan where the mortgagor has the

right to rescind the transaction within three days under Regulation Z, at the termination of this period. Under current laws, proceeds must be paid when the loan is executed or at the termination of the rescission period and the provision is limited to first mortgage loans. The bill allows the lender to pay the loan proceeds to any person specified in the settlement agreement or any written agreement, as well as to the mortgagor or his attorney as allowed under current law. The law allows funds to be paid by certified bank or cashier's check or by wire transfer.

The bill eliminates current requirements specifically for first and second mortgage loan proceeds paid by wire transfer. The law requires these proceeds to be transferred to the bank that holds the mortgagor's attorney's account in a timely manner, but no later than the scheduled time and date of closing or, if there is a right to rescind, by the disbursement date. For second mortgages, the requirement only applies to loans to finance initial construction of the mortgagor's principal dwelling. It also specifically allows the commissioner to suspend, revoke, or refuse to renew a license for failure to comply. The commissioner can take these actions generally for any violation of the banking laws.

§ 13 – REAL ESTATE BROKERS OR SALESPERSONS

The bill specifically requires a person that is licensed or required to be licensed as a real estate broker or salesperson, or his affiliates, who acts as a first or second mortgage broker to be licensed as such. A mortgage broker is a person who, for a fee, commission, or other valuable consideration, directly or indirectly, negotiates, solicits, arranges, places or finds a mortgage loan to be made by a mortgage lender, regardless of whether the lender is licensed or required to be licensed under the banking statutes.

It requires the same real estate brokers and salespersons to be registered as mortgage originators if they act as such. An originator is a person who is employed or retained by a first or second mortgage lender or broker to negotiate, solicit, arrange or find a first mortgage

loan for, or with the expectation of, a fee, commission or other valuable consideration.

§§ 15-28 — BANKING COMMISSIONER’S AUTHORITY

The bill specifically authorizes the commissioner to order a summary suspension of a license, in accordance with the law, if he believes that the public health, safety, or welfare imperatively requires emergency action and puts that finding in the required notice.

It also allows him to require a licensee to take or not take certain actions in the interim in order to effectuate the law’s purposes, pending proceedings for suspension, revocation, or refusal to renew a license. The bill specifically allows the commissioner to take these actions for each type of licensee. It gives the commissioner similar authority to remove a related person of any Connecticut bank, holding company, credit union, or credit union service organization and registrants under the Connecticut Uniform Securities Act.

The law already allows the commissioner to issue a temporary cease and desist order for any person who is violating, about to violate, or has violated the banking laws after finding that the public welfare requires immediate action and putting this fact in the required notice. The bill allows him also to require that person or entity to take or not take any action that he believes will effectuate the purposes of the law, as part of the order. The bill gives the commissioner similar authority for cease and desist orders issued against a Connecticut bank, holding company, credit union, or credit union service organization and registrants under the Connecticut Uniform Securities Act.

§ 29 — IOLTA ADVISORY PANEL

The bill changes the duties of the advisory panel established to oversee the program that uses the interest on lawyers’ clients’ funds accounts (IOLTA). It requires the panel to review and evaluate the program, rather than just the program’s impact, as appears to be required under current law. The bill also requires the panel to report on the program to the Banks Committee, in addition to the Judiciary

Committee and chief court administrator as required under current law. It specifies that the committees or the administrator can request such reporting.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/06/2007)