



General Assembly

**Substitute Bill No. 7073**

January Session, 2007

\*        HB07073BA        030707        \*

**AN ACT PROTECTING CONSUMERS' PRIVACY IN MORTGAGE APPLICATIONS.**

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

1       Section 1. Section 36a-41 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3       As used in sections 36a-41 to 36a-45, inclusive, as amended by this  
4 act:

5       (1) "Financial institution" means a bank, Connecticut credit union,  
6 federal credit union, an out-of-state bank that maintains a branch in  
7 this state and an out-of-state credit union that maintains an office in  
8 this state.

9       (2) "Financial records" means any original or any copy, whether  
10 physically or electronically retained, of: (A) A document granting  
11 signature authority over a deposit account or a share account with a  
12 financial institution; (B) a statement, ledger card or other record on any  
13 deposit account or share account with a financial institution which  
14 shows each transaction in or with respect to that account; (C) any  
15 check, draft or money order drawn on a financial institution or issued  
16 and payable by such an institution; or (D) any item, other than an  
17 institutional or periodic charge, made pursuant to any agreement by a  
18 financial institution and a customer which constitutes a debit or credit

19 to that person's deposit account or share account with such financial  
20 institution if the item is not included in subparagraph (C) of this  
21 subdivision.

22 (3) "Mortgage trigger lead" means a consumer report obtained  
23 pursuant to Section 604 (c)(1)(B) of the federal Fair Credit Reporting  
24 Act, 15 USC 1681b, where the issuance of the report is triggered by an  
25 inquiry made with a consumer reporting agency in response to an  
26 application for credit. The term does not include a report obtained by a  
27 lender that holds or services existing indebtedness of the applicant  
28 who is the subject of the report.

29 Sec. 2. Section 36a-42 of the general statutes is repealed and the  
30 following is substituted in lieu thereof (*Effective October 1, 2007*):

31 (a) A financial institution may not disclose to any person, except to  
32 the customer or the customer's duly authorized agent, any financial  
33 records relating to such customer unless the customer has authorized  
34 disclosure to such person or the financial records are disclosed in  
35 response to (1) a certificate signed by the Commissioner of  
36 Administrative Services or the Commissioner of Social Services  
37 pursuant to the provisions of section 17b-137, (2) a lawful subpoena,  
38 summons, warrant or court order as provided in section 36a-43, (3)  
39 interrogatories by a judgment creditor or a demand by a levying  
40 officer as provided in sections 52-351b and 52-356a, (4) a certificate  
41 issued by a medical provider or its attorney under subsection (b) of  
42 section 17b-124, provided nothing in this subsection shall require the  
43 provider or its attorney to furnish to the financial institution any  
44 application for medical assistance filed pursuant to an agreement with  
45 the IV-D agency under subsection (c) of section 17b-137, (5) a certificate  
46 signed by the Commissioner of Veterans' Affairs pursuant to section  
47 27-117, or (6) the consent of an elderly person or the representative of  
48 such elderly person provided to a person, department, agency or  
49 commission pursuant to section 17b-454, provided the financial  
50 institution shall have no obligation to determine the capacity of such  
51 elderly person or the representative of such elderly person to provide

52 such consent.

53 (b) No first mortgage broker or mortgage lender, as defined in  
 54 section 36a-485, and no secondary mortgage broker or mortgage  
 55 lender, as defined in section 36a-510, shall engage in any unfair or  
 56 deceptive practice in soliciting an application for a loan or a line of  
 57 credit that would be secured by residential real property located in this  
 58 state when such solicitation is based, in whole or part, on information  
 59 contained in a mortgage trigger lead. For the purposes of this  
 60 subsection, "unfair or deceptive practice" means (1) the failure to  
 61 clearly and conspicuously state in the initial phase of the solicitation  
 62 that the solicitor is not affiliated with the lender or broker with which  
 63 the consumer initially applied, (2) the failure to clearly and  
 64 conspicuously state in the initial phase of the solicitation that the  
 65 solicitation is based on personal information about the consumer that  
 66 was purchased, directly or indirectly, from a consumer reporting  
 67 agency without the knowledge or permission of the lender or broker  
 68 with which the consumer initially applied, (3) the failure in the initial  
 69 solicitation to comply with the provisions of the federal Fair Credit  
 70 Reporting Act relating to prescreening solicitations that use consumer  
 71 reports, including the requirement to make a firm offer of credit to the  
 72 consumer, or (4) knowingly or negligently using information from a  
 73 mortgage trigger lead (A) to solicit consumers who have opted out of  
 74 prescreened offers of credit under the federal Fair Credit Reporting  
 75 Act, or (B) to place telephone calls to consumers who have placed their  
 76 contact information on a federal or state Do Not Call list.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	36a-41
Sec. 2	October 1, 2007	36a-42

**BA**      *Joint Favorable Subst.*