



General Assembly

Amendment

January Session, 2007

LCO No. 7303

SB0114307303SD0

Offered by:

SEN. DUFF, 25th Dist.

REP. BARRY, 12th Dist.

To: Subst. Senate Bill No. 1143

File No. 97

Cal. No. 140

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 36a-485 of the general statutes is repealed and the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

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

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

13 prepaid finance charges;

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

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

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

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

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

41 (7) "Mortgage lender" means a first mortgage lender, a first
42 mortgage correspondent lender, or both;

43 (8) "Originator" means an individual who is employed or retained
44 by, or otherwise acts on behalf of, a mortgage lender or first mortgage
45 broker that is licensed or required to be licensed under sections 36a-
46 485 to 36a-498a, inclusive, as amended by this act, for, or with the
47 expectation of, a fee, commission or other valuable consideration, to
48 take an application for or negotiate, solicit, arrange or find a first
49 mortgage loan. "Originator" does not include (1) an officer, if the
50 licensee is a corporation; a general partner, if the licensee is a
51 partnership; a member, if the licensee is a limited liability company; or
52 a sole proprietor, if the licensee is a sole proprietorship, or (2) an
53 individual whose responsibilities are limited to clerical and
54 administrative tasks and who does not solicit borrowers, take
55 applications or negotiate the terms of loans;

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

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

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

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

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

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

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

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

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

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

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

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

104 (1) "Advance fee" means any consideration paid or given, directly or
105 indirectly, to a mortgage lender, secondary mortgage broker or
106 originator required to be licensed or registered pursuant to sections
107 36a-510 to 36a-524, inclusive, as amended by this act, prior to the
108 closing of a secondary mortgage loan to any person, including, but not
109 limited to, loan fees, points, broker's fees or commissions, transaction
110 fees, or similar prepaid finance charges;

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

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

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

118 (5) "Originator" means an individual who is employed or retained
119 by, or otherwise acts on behalf of, a mortgage lender or secondary
120 mortgage broker that is licensed or required to be licensed under
121 sections 36a-510 to 36a-524, inclusive, as amended by this act, for, or
122 with the expectation of, a fee, commission or other valuable
123 consideration, to take an application for or negotiate, solicit, arrange or
124 find a secondary mortgage loan. "Originator" does not include (1) an
125 officer, if the licensee is a corporation; a general partner, if the licensee
126 is a partnership; a member, if the licensee is a limited liability
127 company; or a sole proprietor, if the licensee is a sole proprietorship, or
128 (2) an individual whose responsibilities are limited to clerical and
129 administrative tasks and who does not solicit borrowers, take
130 applications or negotiate the terms of loans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

223 (3) "Licensee" means any person licensed pursuant to sections 36a-
224 595 to 36a-610, inclusive, as amended by this act.

225 (4) "Material litigation" means any litigation that, according to
226 generally accepted accounting principles, is deemed significant to a
227 person's financial health and would be required to be referenced in a
228 person's annual audited financial statements, report to shareholders or

229 similar documents.

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

232 (6) "Money order" means any check, draft, money order or other
233 payment instrument. "Money order" does not include a travelers check
234 or electronic payment instrument.

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

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

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

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

255 (11) "Permissible investment" means: (A) Cash in United States
256 currency; (B) time deposits, as defined in section 36a-2, or other debt
257 instruments of a bank; (C) bills of exchange or bankers acceptances
258 which are eligible for purchase by member banks of the Federal

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

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

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

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

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

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

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

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

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

359 subsection (c) of this section or unless the licensee has ceased business
360 and has voluntarily surrendered the license. The commissioner shall
361 give the licensee notice of the automatic suspension pending
362 proceedings for revocation or refusal to renew such license and an
363 opportunity for a hearing on such actions in accordance with section
364 36a-51.

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

393 against the licensee to serve the faithful performance of the obligations
394 of the licensee with respect to the receipt, handling, transmission or
395 payment of money or monetary value in connection with the sale and
396 issuance of Connecticut payment instruments or transmission of
397 money or monetary value in the event of the bankruptcy of the
398 licensee, and shall be immune from attachment by creditors or
399 judgment creditors.

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

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

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

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

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

424 (4) A licensee shall be liable for the loss caused to any purchaser or
425 holder of the licensee's Connecticut payment instruments by the failure
426 of an agent or subagent of the licensee to forward to the licensee the
427 amount due from the proceeds of a sale or delivery of the licensee's
428 Connecticut payment instruments, or money or monetary value
429 received for transmission.

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

432 Any [financial institution, as defined in subdivision (1) of section
433 36a-41, or any other] person who makes any first mortgage loan, [(1)
434 for the purchase of real property to be secured by a first mortgage on
435 real property located in this state, or (2) to refinance an existing
436 indebtedness secured by a mortgage, which loan is to be secured by a
437 first mortgage on real property located in this state shall, at the time of
438 the execution] as defined in section 36a-485, as amended by this act, or
439 any secondary mortgage loan, as defined in section 36a-510, as
440 amended by this act, shall, at the time of consumation of such loan or
441 at the termination of any right to rescind the loan transaction under 12
442 CFR 226, as from time to time amended, whichever is later, pay the
443 loan proceeds to the mortgagor, to the mortgagor's attorney, [or] to the
444 mortgagee's attorney or to any other person specified in any settlement
445 statement, any written agreement between the mortgagor and the
446 mortgagee or any written instruction of the mortgagor, by a certified,
447 bank treasurer's or cashier's check or by means of wire transfer.

448 Sec. 13. Subsection (a) of section 36a-51 of the general statutes is
449 repealed and the following is substituted in lieu thereof (*Effective from*
450 *passage*):

451 (a) The commissioner may suspend, revoke or refuse to renew any
452 license issued by the commissioner under any provision of the general
453 statutes by sending a notice to the licensee by registered or certified
454 mail, return receipt requested, or by any express delivery carrier that
455 provides a dated delivery receipt. The notice shall be deemed received

456 by the licensee on the earlier of the date of actual receipt or seven days
457 after mailing or sending. Any such notice shall include: (1) A statement
458 of the time, place, and nature of the hearing; (2) a statement of the legal
459 authority and jurisdiction under which the hearing is to be held; (3) a
460 reference to the particular sections of the general statutes, regulations,
461 rules or orders involved; (4) a short and plain statement of the matters
462 asserted; and (5) a statement indicating that the licensee may file a
463 written request for a hearing on the matters asserted within fourteen
464 days of receipt of the notice. If the commissioner finds that public
465 health, safety or welfare imperatively requires emergency action, and
466 incorporates a finding to that effect in the notice, the commissioner
467 may order summary suspension of a license in accordance with
468 subsection (c) of section 4-182 and require the licensee to take or refrain
469 from taking such action as in the opinion of the commissioner will
470 effectuate the purposes of this section, pending proceedings for
471 suspension, revocation or refusal to renew.

472 Sec. 14. Subsection (b) of section 36a-52 of the general statutes is
473 repealed and the following is substituted in lieu thereof (*Effective from*
474 *passage*):

475 (b) If the commissioner finds that the public welfare requires
476 immediate action, the commissioner may incorporate a finding to that
477 effect in the notice sent in accordance with subsection (a) of this section
478 and issue a temporary order requiring the person to cease and desist
479 from the activity which constitutes such alleged violation and to take
480 or refrain from taking such action as in the opinion of the
481 commissioner will effectuate the purposes of this section. Such
482 temporary order shall become effective on receipt and, unless set aside
483 or modified by a court, shall remain in effect until the effective date of
484 a permanent order or dismissal of the matters asserted in the notice.

485 Sec. 15. Subdivision (1) of subsection (b) of section 36a-53 of the
486 general statutes is repealed and the following is substituted in lieu
487 thereof (*Effective from passage*):

488 (b) (1) Whenever the commissioner finds as the result of an
489 investigation that any related person of any Connecticut bank,
490 Connecticut holding company, Connecticut credit union or
491 Connecticut credit union service organization (A) has violated or is
492 violating any provision of the general statutes within the jurisdiction of
493 the commissioner, or any regulation, rule or order adopted or issued
494 thereunder, or any condition imposed in writing by the commissioner,
495 (B) has breached or is breaching any written agreement with the
496 commissioner, (C) has engaged or participated in or is engaging or
497 participating in any unsafe or unsound practice in connection with any
498 bank, Connecticut holding company, Connecticut credit union, federal
499 credit union or credit union service organization, (D) has been or is
500 charged in any information, indictment or complaint with the
501 commission of or participation in a crime which is punishable by
502 imprisonment for a term exceeding one year under state or federal law,
503 and continued service or participation by such related person may
504 pose a threat to the interests of depositors or members, or threatens to
505 impair public confidence in any bank, Connecticut holding company,
506 Connecticut credit union, federal credit union or Connecticut credit
507 union service organization, (E) has used or is using such related
508 person's position in a manner contrary to the interest of any bank,
509 Connecticut holding company, Connecticut credit union, federal credit
510 union or credit union service organization, or its depositors or
511 members, or (F) has been or is negligent in the performance of such
512 related person's duties, after having been warned in writing by the
513 commissioner to discontinue any such continuing delinquency, the
514 commissioner may send notice to such related person by registered or
515 certified mail, return receipt requested, or by any express delivery
516 carrier that provides a dated delivery receipt. The notice shall be
517 deemed received by the related person on the earlier of the date of
518 actual receipt or seven days after mailing or sending. Any such notice
519 shall include: (i) A statement of the time, place and nature of the
520 hearing; (ii) a statement of the legal authority and jurisdiction under
521 which the hearing is to be held; (iii) a reference to the particular
522 sections of the general statutes, regulations, rules or orders alleged to

523 have been violated; (iv) a short and plain statement of the matters
524 asserted; and (v) a statement indicating that such related person may
525 file a written request for a hearing on the matters asserted within
526 fourteen days of receipt of the notice. If a hearing is requested within
527 the time specified in the notice, the commissioner shall hold a hearing
528 upon the matters asserted in the notice unless such related person fails
529 to appear at the hearing. After the hearing, if the commissioner finds
530 that any of the grounds set forth in subparagraphs (A) to (F), inclusive,
531 of this subdivision exist with respect to such related person, the
532 commissioner shall order the removal of such related person from
533 office and from any participation in the management of the
534 Connecticut bank, Connecticut holding company, Connecticut credit
535 union or Connecticut credit union service organization. If such related
536 person fails to appear at the hearing, the commissioner shall order the
537 removal of such related person from office and from any participation
538 in the management of the Connecticut bank, Connecticut holding
539 company, Connecticut credit union or Connecticut credit union service
540 organization. If the commissioner finds that the protection of the
541 Connecticut bank, Connecticut holding company or its subsidiary that
542 is a Connecticut bank, Connecticut credit union or Connecticut credit
543 union service organization, or the interest of its depositors, depositors
544 of its subsidiary that is a Connecticut bank or members requires
545 immediate action, the commissioner may suspend any such related
546 person from office and from further participation in the management
547 of the Connecticut bank, Connecticut holding company, Connecticut
548 credit union or Connecticut credit union service organization and
549 require such related person to take or refrain from taking such action
550 as in the opinion of the commissioner will effectuate the purposes of
551 this subsection, by incorporating a finding to that effect in such notice.
552 The suspension or prohibition shall become effective upon receipt of
553 such notice and, unless stayed by a court, shall remain in effect until
554 the entry of a permanent order or the dismissal of the matters asserted.

555 Sec. 16. Subsection (c) of section 36a-53 of the general statutes is
556 repealed and the following is substituted in lieu thereof (*Effective from*

557 *passage*):

558 (c) Whenever it appears to the commissioner that any Connecticut
559 bank, Connecticut holding company, Connecticut credit union,
560 Connecticut credit union service organization or any related person of
561 any such entity (1) is violating, has violated or is about to violate any
562 provision of the general statutes within the jurisdiction of the
563 commissioner, or any regulation, rule or order adopted or issued
564 thereunder, or any condition imposed in writing by the commissioner,
565 (2) is breaching, has breached or is about to breach any written
566 agreement with the commissioner, (3) is engaging, has engaged or is
567 about to engage, in an unsafe or unsound practice, or (4) is using, has
568 used or is about to use such related person's position in a manner
569 contrary to the interest of any bank, Connecticut holding company,
570 Connecticut credit union, federal credit union or credit union service
571 organization, the commissioner may send notice and take action
572 against the Connecticut bank, Connecticut holding company,
573 Connecticut credit union, Connecticut credit union service
574 organization or related person in accordance with section 36a-52. If the
575 commissioner finds that the actual or threatened violation, breach,
576 unsafe or unsound practice or practices or use specified in such notice
577 is likely to cause insolvency or substantial dissipation of assets or
578 earnings of the Connecticut bank, Connecticut holding company,
579 Connecticut credit union or Connecticut credit union service
580 organization, or is likely to otherwise seriously prejudice the interests
581 of its depositors or members, the commissioner may incorporate a
582 finding to that effect in such notice and issue a temporary order
583 requiring the Connecticut bank, Connecticut holding company,
584 Connecticut credit union, Connecticut credit union service
585 organization or related person to cease and desist from any such
586 violation, breach, practice or use and to take or refrain from taking
587 such action as in the opinion of the commissioner will effectuate the
588 purposes of this subsection. The temporary order shall become
589 effective upon receipt and, unless set aside or modified by a court,
590 shall remain in effect until the effective date of a permanent order or

591 the dismissal of the matters asserted.

592 Sec. 17. Subsection (a) of section 36a-494 of the general statutes is
593 repealed and the following is substituted in lieu thereof (*Effective from*
594 *passage*):

595 (a) (1) The commissioner may suspend, revoke or refuse to renew
596 any license or take any other action, in accordance with the provisions
597 of section 36a-51, as amended by this act, for any reason which would
598 be sufficient grounds for the commissioner to deny an application for a
599 license under sections 36a-485 to 36a-498a, inclusive, as amended by
600 this act, or if the commissioner finds that the licensee or any
601 proprietor, director, officer, member, partner, shareholder, trustee,
602 employee or agent of such licensee has done any of the following: (A)
603 Made any material misstatement in the application; (B) committed any
604 fraud, misappropriated funds or misrepresented, concealed,
605 suppressed, intentionally omitted or otherwise intentionally failed to
606 disclose any of the material particulars of any first mortgage loan
607 transaction, including disclosures required by subdivision (6) of
608 subsection (a) of section 36a-493, or part III of chapter 669 or
609 regulations adopted pursuant thereto, to anyone entitled to such
610 information; (C) violated any of the provisions of this title or of any
611 regulations adopted pursuant thereto, or any other law or regulation
612 applicable to the conduct of its business; or (D) failed to perform any
613 agreement with a licensee or a borrower.

614 (2) The commissioner may suspend, revoke or refuse to renew any
615 registration of an originator or take any other action, in accordance
616 with the provisions of section 36a-51, as amended by this act, for any
617 reason which would be sufficient grounds for the commissioner to
618 deny an application for a registration under sections 36a-485 to 36a-
619 498a, inclusive, as amended by this act, or if the commissioner finds
620 that the registrant has committed any fraud, misappropriated funds,
621 misrepresented any of the material particulars of any first mortgage
622 loan transaction or has violated any of the provisions of this title or of
623 any regulations adopted pursuant to such title or any other law or

624 regulation applicable to the conduct of such registrant's business.

625 Sec. 18. Subsection (a) of section 36a-517 of the general statutes is
626 repealed and the following is substituted in lieu thereof (*Effective from*
627 *passage*):

628 (a) (1) The commissioner may suspend, revoke or refuse to renew
629 any license or take any other action, in accordance with section 36a-51,
630 as amended by this act, for any reason which would be sufficient
631 grounds for the commissioner to deny an application for a license
632 under sections 36a-510 to 36a-524, inclusive, as amended by this act, or
633 if the commissioner finds that the licensee or any proprietor, director,
634 officer, member, partner, shareholder, trustee, employee or agent of
635 such licensee has done any of the following: (A) Made any material
636 misstatement in the application; (B) committed any fraud,
637 misappropriated funds or misrepresented, concealed, suppressed,
638 intentionally omitted or otherwise intentionally failed to disclose any
639 of the material particulars of any secondary mortgage loan transaction,
640 including disclosures required by part III of chapter 669 or regulations
641 adopted pursuant thereto, to anyone entitled to such information; (C)
642 violated any of the provisions of this title, or of any regulations
643 adopted pursuant thereto or any other law or regulation applicable to
644 the conduct of its business; or (D) failed to perform any agreement
645 with a licensee or a borrower.

646 (2) The commissioner may suspend, revoke or refuse to renew any
647 registration of an originator or take any other action, in accordance
648 with the provisions of section 36a-51, as amended by this act, for any
649 reason which would be sufficient grounds for the commissioner to
650 deny an application for a registration under sections 36a-510 to 36a-
651 524, inclusive, as amended by this act, or if the commissioner finds that
652 the registrant has committed any fraud, misappropriated funds,
653 misrepresented any of the material particulars of any secondary
654 mortgage loan transaction or has violated any of the provisions of this
655 title or of any regulations adopted pursuant to such title or any other
656 law or regulation applicable to the conduct of such registrant's

657 business.

658 Sec. 19. Subsection (a) of section 36a-543 of the general statutes is
659 repealed and the following is substituted in lieu thereof (*Effective from*
660 *passage*):

661 (a) The commissioner may suspend, revoke or refuse to renew any
662 sales finance company license or take any other action, in accordance
663 with section 36a-51, as amended by this act, if the commissioner finds
664 that: (1) The licensee, knowingly or without the exercise of due care to
665 prevent such violation, has violated any provision of sections 36a-535
666 to 36a-546, inclusive, as amended by this act, or of any other law
667 regulating installment sales financing, or has failed to comply with any
668 demand or requirement, made by the commissioner under and within
669 the authority of sections 36a-535 to 36a-546, inclusive, as amended by
670 this act; or (2) there has been any material misstatement or failure to
671 give a true reply to a question in the application for the license; or (3)
672 the licensee has defrauded any retail buyer to the buyer's damage; or
673 wilfully failed to perform any written agreement with any retail buyer;
674 or (4) any fact or condition exists which, if it had existed at the time of
675 the original application for such license, would have warranted the
676 commissioner's denial of such license originally; or (5) in the case of a
677 licensee other than a natural person, (A) any officer, director, trustee,
678 member or partner of such licensee has been guilty of any act or
679 omission which would be cause for revoking or suspending a license
680 of such party as an individual; or (B) any other agent or employee of
681 such licensee has been guilty of such act or omission and the licensee
682 has approved or had knowledge thereof and, after such approval or
683 knowledge, has retained the benefit, proceeds, profit or advantage of
684 such act or omission or otherwise ratified it.

685 Sec. 20. Section 36a-572 of the general statutes is repealed and the
686 following is substituted in lieu thereof (*Effective from passage*):

687 The commissioner may [, in accordance with section 36a-51,]
688 suspend, revoke or refuse to renew any license issued under the

689 provisions of section 36a-556 or take any other action, in accordance
690 with section 36a-51, as amended by this act, if the commissioner finds
691 that the licensee has violated any provision of sections 36a-555 to 36a-
692 573, inclusive, as amended by this act, or any regulation or order
693 lawfully made pursuant to and within the authority of said sections, or
694 if the commissioner finds that any fact or condition exists which, if it
695 had existed at the time of the original application for the license,
696 clearly would have warranted a denial of such license.

697 Sec. 21. Subsection (a) of section 36a-587 of the general statutes is
698 repealed and the following is substituted in lieu thereof (*Effective from*
699 *passage*):

700 (a) The commissioner may suspend, revoke or refuse to renew any
701 license issued pursuant to section 36a-581 or take any other action, in
702 accordance with the provisions of section 36a-51, as amended by this
703 act, for any reason which would be sufficient grounds for the
704 commissioner to deny an application for a license under sections 36a-
705 580 to 36a-589, inclusive, or if the commissioner finds that the licensee
706 or any owner, director, officer, member, partner, shareholder, trustee,
707 employee or agent of such licensee has done any of the following: (1)
708 Made any material misstatement in the application; (2) committed any
709 fraud, engaged in dishonest activities or made any misrepresentation;
710 (3) violated any provision of sections 36a-580 to 36a-589, inclusive, or
711 any regulation promulgated under said sections; or (4) demonstrated
712 incompetency or untrustworthiness to act as a licensed check cashing
713 service.

714 Sec. 22. Subsection (b) of section 36a-608 of the general statutes is
715 repealed and the following is substituted in lieu thereof (*Effective from*
716 *passage*):

717 (b) The commissioner may suspend or revoke a license or take any
718 other action, in accordance with section 36a-51, as amended by this act,
719 on any ground on which the commissioner might refuse to issue an
720 original license, for any violation of sections 36a-595 to 36a-610,

721 inclusive, or of any regulation adopted under said sections, for
722 noncompliance with an order which the commissioner may issue
723 under said sections to a licensee, or for failure of the licensee to pay a
724 judgment ordered by any court within or outside this state within
725 thirty days after the judgment becomes final or within thirty days after
726 expiration or termination of a stay of execution of the judgment.

727 Sec. 23. Subsection (a) of section 36a-657 of the general statutes is
728 repealed and the following is substituted in lieu thereof (*Effective from*
729 *passage*):

730 (a) The commissioner may suspend, revoke or refuse to renew any
731 license or take any other action, in accordance with the provisions of
732 section 36a-51, as amended by this act, for any reason which would be
733 sufficient grounds for the commissioner to deny an application for a
734 license under sections 36a-655 to 36a-665, inclusive, or if the
735 commissioner finds that the licensee or any proprietor, director, officer,
736 member, partner, shareholder, trustee, employee or agent of such
737 licensee has done any of the following: (1) Made any material
738 misstatement in the application; (2) committed any fraud or
739 misappropriated funds; (3) violated any of the provisions of sections
740 36a-655 to 36a-665, inclusive, or any other law or regulation applicable
741 to the conduct of its business; or (4) failed to perform any agreement
742 with a debtor.

743 Sec. 24. Subsection (a) of section 36a-804 of the general statutes is
744 repealed and the following is substituted in lieu thereof (*Effective from*
745 *passage*):

746 (a) The commissioner may suspend, revoke or refuse to renew any
747 license or take any other action, in accordance with the provisions of
748 section 36a-51, as amended by this act, for any reason which would be
749 sufficient grounds for the commissioner to deny an application for a
750 license under sections 36a-800 to 36a-810, inclusive, or if the
751 commissioner finds that the licensee or any proprietor, director, officer,
752 member, partner, shareholder, trustee, employee or agent of such

753 licensee has done any of the following: (1) Made any material
754 misstatement in the application; (2) committed any fraud or
755 misrepresentation or misappropriated funds; or (3) violated any of the
756 provisions of sections 36a-800 to 36a-810, inclusive, or of any
757 regulations adopted pursuant thereto, or any other law or regulation
758 applicable to the conduct of its business.

759 Sec. 25. Subsection (c) of section 36b-15 of the general statutes is
760 repealed and the following is substituted in lieu thereof (*Effective from*
761 *passage*):

762 (c) The commissioner may by order summarily postpone or suspend
763 registration or require a registrant to take or refrain from taking such
764 action that in the opinion of the commissioner will effectuate the
765 purposes of sections 36b-2 to 36b-33, inclusive, as amended by this act,
766 pending final determination of any proceeding under this section.
767 Upon the entry of the order, the commissioner shall promptly notify
768 the applicant or registrant, as well as the employer or prospective
769 employer if the applicant or registrant is an agent or an investment
770 adviser agent, that it has been entered and of the reasons therefor and
771 that within fifteen days after the receipt of a written request the matter
772 will be set down for hearing. If no hearing is requested and none is
773 ordered by the commissioner, the order will remain in effect until it is
774 modified or vacated by the commissioner. If a hearing is requested or
775 ordered, the commissioner, after notice of and opportunity for hearing,
776 may modify or vacate the order or extend it until final determination.

777 Sec. 26. Subsection (a) of section 36b-27 of the general statutes is
778 repealed and the following is substituted in lieu thereof (*Effective from*
779 *passage*):

780 (a) Whenever it appears to the commissioner after an investigation
781 that any person has violated, is violating or is about to violate any of
782 the provisions of sections 36b-2 to 36b-33, inclusive, as amended by
783 this act, or any regulation, rule or order adopted or issued under said
784 sections, or that the further sale or offer to sell securities would

785 constitute a violation of said sections or any such regulation, rule or
786 order, or that any person has engaged in a dishonest or unethical
787 practice in the securities or commodities business within the meaning
788 of sections 36b-31-15a to 36b-31-15d, inclusive, of the regulations of
789 Connecticut state agencies, the commissioner may, in the
790 commissioner's discretion, order (1) the person, (2) any other person
791 that directly or indirectly controls such person and that is, was or
792 would be a cause of the violation of such sections or any such
793 regulation, rule or order, due to an act or omission such other person
794 knew or should have known would contribute to such violation, or (3)
795 any other person that has materially aided, is materially aiding or is
796 about to materially aid in such violation, to cease and desist from the
797 violations or the causing of or aiding in the violations of the provisions
798 of said sections or of the regulations, rules or orders thereunder, or
799 from the further sale or offer to sell securities constituting or which
800 would constitute a violation of the provisions of said sections or of the
801 regulations, rules or orders thereunder, or from further engaging in
802 such dishonest or unethical practice and to take or refrain from taking
803 such action that in the opinion of the commissioner will effectuate the
804 purposes of sections 36b-2 to 36b-33, inclusive, as amended by this act.
805 After such an order is issued, the person named in the order may,
806 within fourteen days after receipt of the order, file a written request for
807 a hearing. Any such hearing shall be held in accordance with the
808 provisions of chapter 54.

809 Sec. 27. Subsection (e) of section 51-81c of the general statutes is
810 repealed and the following is substituted in lieu thereof (*Effective July*
811 *1, 2007*):

812 (e) The advisory panel shall: (1) Consult with and make
813 recommendations to the tax-exempt organization administering the
814 program regarding the implementation and administration of the
815 program, including the methods of allocation and the allocation of
816 funds to be disbursed under the program; (2) review and evaluate, and
817 monitor the impact of the program; and (3) report on the program to
818 the joint standing [committee] committees of the General Assembly

819 having cognizance of matters relating to the judiciary and to banks and
820 to the Chief Court Administrator, as may from time to time be
821 requested by such committees or administrator.

822 Sec. 28. (NEW) (*Effective October 1, 2007*) Sections 28 to 37, inclusive,
823 of this act may be cited as the "Uniform Prudent Management of
824 Institutional Funds Act".

825 Sec. 29. (NEW) (*Effective October 1, 2007*) As used in sections 28 to 37,
826 inclusive, of this act, unless the context otherwise requires:

827 (1) "Charitable purpose" means the relief of poverty, the
828 advancement of education or religion, the promotion of health, the
829 promotion of governmental purposes and any other purpose the
830 achievement of which is beneficial to the community;

831 (2) "Endowment fund" means an institutional fund or any part
832 thereof not wholly expendable by the institution on a current basis
833 under the terms of a gift instrument. The term does not include assets
834 of an institution designated by the institution as an endowment fund
835 for its own use;

836 (3) "Gift instrument" means a record or records, including an
837 institutional solicitation, under which property is granted to,
838 transferred to or held by an institution as an institutional fund;

839 (4) "Institution" means:

840 (A) A person, other than an individual, organized and operated
841 exclusively for charitable purposes;

842 (B) A government or a governmental subdivision, agency or
843 instrumentality to the extent that it holds funds exclusively for a
844 charitable purpose; and

845 (C) A trust that had both charitable and noncharitable interests, after
846 all noncharitable interests have terminated;

847 (5) "Institutional fund" means a fund held by an institution
848 exclusively for charitable purposes. The term does not include:

849 (A) Program-related assets;

850 (B) A fund held for an institution by a trustee that is not an
851 institution; or

852 (C) A fund in which a beneficiary that is not an institution has an
853 interest other than an interest that could arise upon violation or failure
854 of the purposes of the fund;

855 (6) "Person" means an individual, corporation, business trust, estate,
856 trust, partnership, limited liability company, association, joint venture,
857 public corporation, government or governmental subdivision, agency
858 or instrumentality or any other legal or commercial entity;

859 (7) "Program-related asset" means an asset held by an institution
860 primarily to accomplish a charitable purpose of the institution and not
861 primarily for appreciation or the production of income; and

862 (8) "Record" means information that is inscribed on a tangible
863 medium or that is stored in an electronic or other medium and is
864 retrievable in perceivable form.

865 Sec. 30. (NEW) (*Effective October 1, 2007*) (a) Subject to the intent of a
866 donor expressed in a gift instrument, an institution, in managing and
867 investing an institutional fund, shall consider the charitable purposes
868 of the institution and the purposes of the institutional fund.

869 (b) In addition to complying with the duty of loyalty imposed by
870 law other than sections 28 to 37, inclusive, of this act, each person
871 responsible for managing and investing an institutional fund shall
872 manage and invest the fund in good faith and with the care an
873 ordinarily prudent person in a like position would exercise under
874 similar circumstances.

875 (c) In managing and investing an institutional fund, an institution:

876 (1) May incur only costs that are appropriate and reasonable in
877 relation to the assets, the purposes of the institution and the skills
878 available to the institution; and

879 (2) Shall make a reasonable effort to verify facts relevant to the
880 management and investment of the fund.

881 (d) An institution may pool two or more institutional funds for
882 purposes of management and investment.

883 (e) Except as otherwise provided by a gift instrument, the following
884 shall apply to an institution:

885 (1) In managing and investing an institutional fund, the following
886 factors, if relevant, shall be considered:

887 (A) General economic conditions;

888 (B) The possible effect of inflation or deflation;

889 (C) The expected tax consequences, if any, of investment decisions
890 or strategies;

891 (D) The role that each investment or course of action plays within
892 the overall investment portfolio of the fund;

893 (E) The expected total return from income and the appreciation of
894 investments;

895 (F) Other resources of the institution;

896 (G) The needs of the institution and the fund to make distributions
897 and to preserve capital; and

898 (H) An asset's special relationship or special value, if any, to the
899 charitable purposes of the institution.

900 (2) Management and investment decisions about an individual asset
901 shall be made not in isolation but rather in the context of the

902 institutional fund's portfolio of investments as a whole and as a part of
903 an overall investment strategy having risk and return objectives
904 reasonably suited to the fund and to the institution.

905 (3) Except as otherwise provided by law other than sections 28 to 37,
906 inclusive, of this act, an institution may invest in any kind of property
907 or type of investment consistent with the standards of this section.

908 (4) An institution shall diversify the investments of an institutional
909 fund unless the institution reasonably determines that because of
910 special circumstances the purposes of the fund are better served
911 without diversification.

912 (5) Within a reasonable time after receiving property, an institution
913 shall make and implement decisions concerning the retention or
914 disposition of the property or to rebalance a portfolio in order to bring
915 the institutional fund into compliance with the purposes, terms,
916 distribution requirements and other circumstances of the institution
917 and the requirements of sections 28 to 37, inclusive, of this act.

918 (6) A person who has special skills or expertise or is selected in
919 reliance upon the person's representation that the person has special
920 skills or expertise has a duty to use those special skills or that expertise
921 in managing and investing institutional funds.

922 Sec. 31. (NEW) (*Effective October 1, 2007*) (a) Subject to the intent of a
923 donor expressed in a gift instrument, an institution may appropriate
924 for expenditure or accumulate so much of an endowment fund as the
925 institution determines to be prudent for the uses, benefits, purposes
926 and duration for which the endowment fund is established. Unless
927 stated otherwise in a gift instrument, the assets in an endowment fund
928 are donor-restricted assets until appropriated for expenditure by the
929 institution. In making a determination to appropriate or accumulate,
930 the institution shall act in good faith, with the care that an ordinarily
931 prudent person in a like position would exercise under similar
932 circumstances and shall consider, if relevant, the following factors:

- 933 (1) The duration and preservation of the endowment fund;
- 934 (2) The purposes of the institution and the endowment fund;
- 935 (3) General economic conditions;
- 936 (4) The possible effect of inflation or deflation;
- 937 (5) The expected total return from income and the appreciation of
938 investments;
- 939 (6) Other resources of the institution; and
- 940 (7) The investment policy of the institution.
- 941 (b) To limit the authority to appropriate for expenditure or
942 accumulate under subsection (a) of this section, a gift instrument shall
943 specifically state the limitation.
- 944 (c) Terms in a gift instrument designating a gift as an endowment or
945 a direction or authorization in the gift instrument to use only "income",
946 "interest", "dividends" or "rents, issues or profits", or "to preserve the
947 principal intact", or similar words:
- 948 (1) Create an endowment fund of permanent duration unless other
949 language in the gift instrument limits the duration or purpose of the
950 fund; and
- 951 (2) Do not otherwise limit the authority to appropriate for
952 expenditure or accumulate under subsection (a) of this section.
- 953 Sec. 32. (NEW) (*Effective October 1, 2007*) (a) Subject to any specific
954 limitation set forth in a gift instrument or in law other than sections 28
955 to 37, inclusive, of this act, an institution may delegate to an external
956 agent the management and investment of an institutional fund to the
957 extent that an institution could prudently delegate under the
958 circumstances. An institution shall act in good faith, with the care that
959 an ordinarily prudent person in a like position would exercise under
960 similar circumstances, in:

- 961 (1) Selecting an agent;
- 962 (2) Establishing the scope and terms of the delegation, consistent
963 with the purposes of the institution and the institutional fund; and
- 964 (3) Periodically reviewing the agent's actions in order to monitor the
965 agent's performance and compliance with the scope and terms of the
966 delegation.
- 967 (b) In performing a delegated function, an agent owes a duty to the
968 institution to exercise reasonable care to comply with the scope and
969 terms of the delegation.
- 970 (c) An institution that complies with subsection (a) of this section is
971 not liable for the decisions or actions of an agent to which the function
972 was delegated.
- 973 (d) By accepting delegation of a management or investment
974 function from an institution that is subject to the laws of this state, an
975 agent submits to the jurisdiction of the courts of this state in all
976 proceedings arising from or related to the delegation or the
977 performance of the delegated function.
- 978 (e) An institution may delegate management and investment
979 functions to its committees, officers or employees as authorized by law
980 other than sections 28 to 37, inclusive, of this act.
- 981 Sec. 33. (NEW) (*Effective October 1, 2007*) (a) With the donor's
982 consent in a record, an institution may release or modify, in whole or
983 in part, a restriction contained in a gift instrument on the management,
984 investment or purpose of an institutional fund. A release or
985 modification may not allow a fund to be used for a purpose other than
986 a charitable purpose of the institution.
- 987 (b) If a restriction contained in a gift instrument on the management
988 or investment of an institutional fund becomes impracticable or
989 wasteful or impairs the management or investment of the fund or if
990 because of circumstances not anticipated by the donor a modification

991 of a restriction will further the purposes of the fund, a court, upon
992 application of the institution, may modify the restriction. The
993 institution shall notify the Attorney General, who shall be given an
994 opportunity to be heard. To the extent practicable, any modification
995 shall be made in accordance with the donor's probable intention.

996 (c) If a particular charitable purpose or a restriction contained in a
997 gift instrument on the use of an institutional fund becomes unlawful,
998 impracticable, impossible to achieve or wasteful, a court, upon
999 application of an institution, may modify the purpose of the fund or
1000 the restriction on the use of the fund in a manner consistent with the
1001 charitable purposes expressed in the gift instrument. The institution
1002 shall notify the Attorney General, who shall be given an opportunity to
1003 be heard.

1004 (d) Nothing in this section shall be construed as amending or
1005 altering existing standards in the general statutes for approximation,
1006 cy pres or equitable deviation actions.

1007 Sec. 34. (NEW) (*Effective October 1, 2007*) Compliance with sections
1008 28 to 37, inclusive, of this act is determined in light of the facts and
1009 circumstances existing at the time a decision is made or an action is
1010 taken.

1011 Sec. 35. (NEW) (*Effective October 1, 2007*) Sections 28 to 37, inclusive,
1012 of this act apply to institutional funds existing on or established after
1013 October 1, 2007. As applied to institutional funds existing on October
1014 1, 2007, sections 28 to 37, inclusive, of this act govern only decisions
1015 made or actions taken after such date.

1016 Sec. 36. (NEW) (*Effective October 1, 2007*) Sections 28 to 37, inclusive,
1017 of this act modify, limit and supersede the Electronic Signatures in
1018 Global and National Commerce Act, 15 USC Section 7001 et seq., but
1019 do not modify, limit or supersede Section 101 of said act, 15 USC
1020 Section 7001(a), or authorize electronic delivery of any of the notices
1021 described in Section 103 of said act, 15 USC Section 7003(b).

1022 Sec. 37. (NEW) (*Effective October 1, 2007*) In applying and construing
 1023 sections 28 to 36, inclusive, of this act, consideration shall be given to
 1024 the need to promote uniformity of the law with respect to its subject
 1025 matter among states that enact it.

1026 Sec. 38. Section 36a-758a of the general statutes is repealed. (*Effective*
 1027 *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>from passage</i>	36a-51(a)
Sec. 14	<i>from passage</i>	36a-52(b)
Sec. 15	<i>from passage</i>	36a-53(b)(1)
Sec. 16	<i>from passage</i>	36a-53(c)
Sec. 17	<i>from passage</i>	36a-494(a)
Sec. 18	<i>from passage</i>	36a-517(a)
Sec. 19	<i>from passage</i>	36a-543(a)
Sec. 20	<i>from passage</i>	36a-572
Sec. 21	<i>from passage</i>	36a-587(a)
Sec. 22	<i>from passage</i>	36a-608(b)
Sec. 23	<i>from passage</i>	36a-657(a)
Sec. 24	<i>from passage</i>	36a-804(a)
Sec. 25	<i>from passage</i>	36b-15(c)
Sec. 26	<i>from passage</i>	36b-27(a)
Sec. 27	<i>July 1, 2007</i>	51-81c(e)
Sec. 28	<i>October 1, 2007</i>	New section
Sec. 29	<i>October 1, 2007</i>	New section

Sec. 30	<i>October 1, 2007</i>	New section
Sec. 31	<i>October 1, 2007</i>	New section
Sec. 32	<i>October 1, 2007</i>	New section
Sec. 33	<i>October 1, 2007</i>	New section
Sec. 34	<i>October 1, 2007</i>	New section
Sec. 35	<i>October 1, 2007</i>	New section
Sec. 36	<i>October 1, 2007</i>	New section
Sec. 37	<i>October 1, 2007</i>	New section
Sec. 38	<i>October 1, 2007</i>	Repealer section