



***Substitute House Bill No. 5577***

***Public Act No. 08-176***

***AN ACT CONCERNING RESPONSIBLE LENDING AND ECONOMIC SECURITY.***

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section, "authority" means the Connecticut Housing Finance Authority created under section 8-244 of the general statutes.

(b) The authority is authorized to continue to develop and implement a program for home mortgage refinancing for homeowners with adjustable rate mortgages as an additional purpose pursuant to the provisions of subdivision (32) of section 8-250 of the general statutes. Such program shall be undertaken by the authority consistent with and subject to its contractual obligations to its bondholders in an initial amount of forty million dollars under terms and conditions determined by the authority.

Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Authority" means the Connecticut Housing Finance Authority created under section 8-244 of the general statutes;

(2) "Mortgage" means a mortgage deed or other instrument which constitutes a first or second consensual lien on one-to-four family

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owner-occupied residential real property located in this state, including, but not limited to, a single-family unit in a common interest community, securing a loan made primarily for personal, family or household purposes;

(3) "Borrower" means the owner-occupant of a one-to-four family residential real property located in this state, including, but not limited to, a single family unit in a common interest community, who has a mortgage encumbering such real property;

(4) "Lender" means the original lender under a mortgage, or its agents, successors or assigns; and

(5) "HERO program" means the Homeowner's Equity Recovery Opportunity Loan program.

(b) The authority is authorized to develop and implement the HERO program as an additional purpose pursuant to the provisions of subdivision (32) of section 8-250 of the general statutes. The HERO program shall be undertaken by the authority consistent with and subject to its contractual obligations with its bondholders in an initial amount of thirty million dollars.

(c) On and after July 1, 2008, the authority shall implement the HERO program in accordance with this section. Said program shall offer, within available funds, financing through the following mechanism: The authority shall purchase mortgages directly from lenders and then place borrowers it determines to be eligible on an affordable repayment plan. All borrowers approved by the authority for the program shall attend in-person financial counseling at an authority-approved agency.

(d) A HERO loan shall: (1) Be a mortgage for up to thirty years in an amount determined by the authority; (2) provide an interest rate at an amount determined by the authority; (3) be serviced by the authority

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or its agents; and (4) have property taxes and insurance, including mortgage insurance, homeowner's insurance and, if applicable, flood insurance, included in the borrower's monthly payment amount.

(e) For purposes of the HERO program, the authority shall purchase mortgages directly from lenders and make a HERO loan available to borrowers whose mortgages have been purchased by the authority and who have been determined by the authority to be eligible. A borrower shall be eligible if the HERO loan is in the first lien position, and if, in the authority's determination, the borrower has: (1) Made an effort to meet his or her financial obligations to the best of the borrower's ability; (2) sufficient and stable income to support timely repayment of a HERO loan; (3) legal title to the mortgaged property and resides in it as the borrower's permanent residence; and (4) if the borrower has stopped making monthly payments, the ability to account for the borrower's cash flow by showing how those funds were escrowed, saved or redirected. The authority shall make a determination of eligibility for the HERO program no later than thirty calendar days after the date of receipt of the borrower's application.

(f) The borrower shall apply for a HERO loan on the form provided by the authority. The borrower shall complete and sign the application subject to the penalty for false statement under section 53a-157b of the general statutes. Any borrower who misrepresents any financial or other pertinent information in conjunction with the filing of an application for a HERO loan may be denied assistance. The borrower shall provide the authority with full disclosure of all assets and liabilities, whether singly or jointly held, and all household income regardless of source. For purposes of this subsection, both of the following are included as assets:

(1) The sum of the household's savings and checking accounts, market value of stocks, bonds and other securities, other capital investments, pensions and retirement funds, personal property and

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equity in real property including the subject mortgage property. Income derived from family assets shall be considered as income. Equity is the difference between the market value of the property and the total outstanding principal of any loans secured by the property and other liens.

(2) Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker's compensation policies and settlements, verdicts or awards for personal or property losses or transfer of assets without consideration within one year of the time of application. Pending claims for such items must be identified by the borrower as contingent assets.

(g) On or before July 1, 2008, the authority shall adopt procedures in accordance with section 1-121 of the general statutes to implement the provisions of this section.

Sec. 3. Subsection (a) of section 8-251 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) In order to provide additional construction and permanent financing for housing in this state, the authority is authorized to make commitments to purchase, and to purchase, service and sell mortgages and to make loans directly upon the security of any mortgage, and to make commitments to purchase, and to purchase and sell participation sale certificates representing interests in mortgages, provided the underlying mortgage loans shall have been made and shall be used solely to finance or refinance the construction, rehabilitation, purchase or leasing of housing in this state, and provided further the aggregate amount of permanent mortgages, mortgage-backed securities and participation sale certificates representing interests in mortgages purchased, and permanent loans made by the authority which are not

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directly or indirectly insured or guaranteed by any department, agency, instrumentality of the United States of America, or public corporation chartered by the Congress of the United States, including but not limited to the Federal Home Loan Mortgage Corporation, or which are not insured or guaranteed by any department, agency or instrumentality of the state, any insurance company licensed to do business in the state and authorized to underwrite mortgage insurance or by the authority shall not at any one time exceed one billion five hundred million dollars.

Sec. 4. Section 8-250 of the general statutes is amended by adding subdivision (45) as follows (*Effective July 1, 2008*):

(NEW) (45) To develop and implement a program to purchase, and to fund the authority's purchase of, foreclosed residential real property in this state for the purpose of providing affordable and supportive housing, and to report, in accordance with section 11-4a, no later than January 1, 2009, on the program and plans for its implementation to the joint standing committees of the General Assembly having cognizance of matters relating to banks and planning and development, and to the select committee of the General Assembly having cognizance of matters relating to housing.

Sec. 5. Section 8-265cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

As used in sections 8-265cc to 8-265kk, inclusive, as amended by this act:

(1) "Aggregate family income" means the total income of persons residing in the same household as the mortgagor and any other resident of the household declared by the mortgagor as a dependent for federal tax purposes, from whatever source derived, including, but not limited to, pensions, annuities, retirement benefits and Social

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Security benefits, provided the authority may exclude from income (A) reasonable allowances for dependents, (B) reasonable allowances for medical expenses, (C) all or any part of the earnings of gainfully employed minors or family members other than the chief wage earner, (D) income not regularly received, and (E) such other expenses as the authority may allow;

(2) "Authority" means the Connecticut Housing Finance Authority [as] created under section 8-244;

(3) "Mortgage" means a mortgage deed or other instrument which constitutes a first or second consensual lien on [one or two-family] one-to-four family owner-occupied residential real property located in this state, including, but not limited to, a single-family [units] unit in a common interest community; [, located in this state;]

(4) "Mortgagee" means the original lender under a mortgage, or its agents, successors, [who agrees to participate in the program established pursuant to sections 8-265cc to 8-265kk, inclusive, or an assignee of a mortgage who agrees to participate in the program] or assigns;

(5) "Mortgagor" means the owner-occupant of [one or two-family] a one-to-four family residential real property located in this state, including, but not limited to, a single family unit in a common interest community, who is also the borrower under a mortgage encumbering such real property;

(6) "Housing expense" means the sum of the mortgagor's monthly maintenance expense in a common interest community, utility expense, heating expense, hazard insurance payment, taxes and required mortgage payment, including escrows;

(7) "Financial hardship due to circumstances beyond the mortgagor's control" means: [a] (A) A significant [curtailment]

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reduction of at least twenty-five per cent of aggregate family household income which reasonably cannot be or could not have been alleviated by the liquidation of assets by the mortgagor, [and is related to one or more of the following: (A) Unemployment] including, but not limited to, a reduction resulting from (i) unemployment or underemployment of one or more of the mortgagors; [(B)] (ii) a loss, reduction or delay in receipt of such federal, state or municipal benefits as Social Security, supplemental security income, public assistance and government pensions; [(C)] (iii) a loss, reduction or delay in receipt of such private benefits as pension, disability, annuity or retirement benefits; [(D)] (iv) divorce or a loss of support payments; [(E)] (v) disability, illness or death of a mortgagor; [(F)] (vi) uninsured damage to the mortgaged property which affects liveability and necessitates costly repairs; or [(G)] (vii) expenses related to the disability, illness or death of a member of the mortgagor's family, but is not related to accumulation of installment debt incurred for recreational or nonessential items prior to the occurrence of the alleged circumstances beyond the mortgagor's control in an amount that would have caused the mortgagor's total debt service to exceed sixty per cent of aggregate family income at that time; or (B) a significant increase in the dollar amount of the periodic payments required by the mortgage;

(8) "Consumer credit counseling agency" means a nonprofit corporation or governmental agency located in this state which has been designated by the authority to provide homeowners' emergency mortgage assistance program counseling. A qualified consumer credit counseling agency must either be certified as a housing counseling agency by the federal Department of Housing and Urban Development or otherwise determined accepted by the authority;

(9) "Foreclosure mediation program" means the foreclosure mediation program established by section 17 of this act; and

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(10) "Periodic payments" means principal, interest, taxes, insurance and, if applicable, condominium fees.

Sec. 6. Subsection (b) of section 8-265dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) Notwithstanding any provision of the general statutes, or any rule of law to the contrary, on and after [the date a mortgagee agrees to participation in the program established pursuant to sections 8-265cc to 8-265kk, inclusive] July 1, 2008, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action instituted by the mortgagee to foreclose a mortgage commenced on or after such date, for the foreclosure of an eligible mortgage unless (1) notice to the mortgagor has been given by the mortgagee in accordance with section 8-265ee, as amended by this act, and the time for response has expired, and (2) a determination has been made on the mortgagor's application for emergency mortgage assistance payments in accordance with section 8-265ff, as amended by this act, or the applicable time periods set forth in [said] sections 8-265cc to 8-265kk, inclusive, as amended by this act, have expired, whichever is earlier. For purposes of this section and sections 8-265ee to 8-265kk, inclusive, as amended by this act, an "eligible mortgage" is a mortgage which satisfies the standards contained in subdivisions (1), (3), (8) and (10) to (13), inclusive, of subsection (d) of section 8-265ff, as amended by this act.

Sec. 7. Section 8-265ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) On [or after the date a mortgagee files an agreement to participate in the program established pursuant to sections 8-265cc to 8-265kk, inclusive, the] and after July 1, 2008, a mortgagee who desires to foreclose upon a mortgage which satisfies the standards contained



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in subdivisions (1), (3), (10), (11) and (12) of subsection (d) of section 8-265ff, as amended by this act, shall give notice to the mortgagor by registered, or certified mail, postage prepaid at the address of the property which is secured by the mortgage. No such mortgagee may commence a foreclosure of a mortgage prior to mailing such notice. Such notice shall advise the mortgagor of his delinquency or other default under the mortgage and shall state that the mortgagor has [thirty] sixty days from the date of such notice in which to (1) have a face-to-face meeting, [or] telephone or other conference acceptable to the authority with the mortgagee or a face-to-face meeting with a consumer credit counseling agency to attempt to resolve the delinquency or default by restructuring the loan payment schedule or otherwise, and (2) [to] contact the authority, at an address and phone number contained in the notice, to obtain information and apply for emergency mortgage assistance payments if the mortgagor and mortgagee are unable to resolve the delinquency or default.

(b) If the mortgagor fails to meet with the mortgagee or comply with any of the time limitations specified in the notice as provided in subsection (a) of this section, or if the mortgagor's application is not filed [within] by the date thirty days after the date of any default in payment under an agreement as provided in subsection (c) of this section or if the mortgagor's application for emergency mortgage assistance payments is not approved [within] by the date thirty calendar days [of] after the date of receipt of the mortgagor's application in accordance with the provisions of section 8-265ff, as amended by this act, the foreclosure of the mortgagor's mortgage may, at any time thereafter, continue without any further restriction or requirement under the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided the mortgagee files an affidavit with the court stating the notice provisions of subsection (a) of this section have been complied with and that either the mortgagor failed to meet with the mortgagee or failed to comply with all of the

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time limitations specified in the notice as provided in subsection (a) of this section or that the mortgagor's application for emergency assistance payments was not approved [within] by the date thirty calendar days [of] after the date of receipt of the mortgagor's application, or that a determination of ineligibility was made.

(c) If, after a face-to-face meeting, [or] telephone or other conference acceptable to the authority, as provided in subsection (a) of this section, the mortgagor and the mortgagee reach an agreement to resolve the delinquency or default and, because of financial hardship due to circumstances beyond the mortgagor's control, the mortgagor is unable to fulfill the obligations of the agreement, the mortgagor may apply to the authority for emergency mortgage assistance payments under sections 8-265cc to 8-265kk, inclusive, [within] as amended by this act, by the date thirty days [of] after the date of any default in payment under the agreement. The mortgagee shall not be required to send any additional notice to the mortgagor other than the notice required under subsection (a) of this section.

(d) No person receiving financial relief under sections 8-265cc to 8-265kk, inclusive, as amended by this act, may file a defense, counterclaim or set-off to any action for foreclosure of the mortgage for which such financial relief was provided.

(e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by this act, shall prevent a mortgagor from exercising rights that may exist under the foreclosure mediation program and those rights may be exercised concurrently with the rights afforded under sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided the exercise of rights under the foreclosure mediation program shall not cause a delay in the determination under subsection (d) of section 8-265ff, as amended by this act.

Sec. 8. Section 8-265ff of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) If the mortgagor applies for emergency mortgage assistance payments under sections 8-265cc to 8-265kk, inclusive, as amended by this act, the authority shall, [within] no later than eight business days after the date of receipt of such application, notify all of the mortgagees listed on the application holding a mortgage on the mortgagor's real property.

(b) The mortgagor shall apply for a loan on the form provided by the authority. The mortgagor shall complete and sign the application subject to the penalty for false statement under section 53a-157b.

(c) The mortgagor shall provide the authority with full disclosure of all assets and liabilities, whether singly or jointly held, and all household income regardless of source. For purposes of this subsection, both of the following are included as assets:

(1) The sum of the household's savings and checking accounts, market value of stocks, bonds and other securities, other capital investments, pensions and retirement funds, personal property and equity in real property including the subject mortgage property. Income derived from family assets shall be considered as income. Equity is the difference between the market value of the property and the total outstanding principal of any loans secured by the property and other liens.

(2) Lump-sum additions to family assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker's compensation policies and settlements, verdicts or awards for personal or property losses or transfer of assets without consideration within one year of the time of application. Pending claims for such items must be identified by the homeowner as contingent assets.

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(d) The authority shall make a determination of eligibility for emergency mortgage assistance payments [within] by the date thirty calendar days after the date of receipt of the mortgagor's application. During said thirty-day period no judgment of strict foreclosure or any judgment ordering foreclosure by sale shall be entered in any action for the foreclosure of any mortgage any mortgagee holds on the mortgagor's real property. No emergency mortgage assistance payments may be provided unless the authority finds that:

(1) The real property securing the mortgage is a [single family or two-family] one-to-four family owner-occupied residence, including, but not limited to, a single family [units] unit in a common interest community, is the principal residence of the mortgagor and is located in this state;

(2) Payments, including amounts required to be paid into escrow or impound accounts as reserves for taxes and insurance payments, including mortgage insurance, or any combination of [the above] such payments, owed by the mortgagor under any mortgage on such real property have been contractually delinquent and the mortgagee has indicated to the mortgagor its intention to foreclose;

(3) The mortgage is not insured by the Federal Housing Administration under Title II of the National Housing Act, 12 USC Section 1707 et seq.;

(4) The mortgagor is a resident of this state and is suffering financial hardship which renders the mortgagor unable to correct the delinquency or delinquencies within a reasonable time and make full mortgage payments. For the purposes of subdivision (8) of this subsection, in order to determine whether the financial hardship is due to circumstances beyond the mortgagor's control, the authority may consider information regarding the mortgagor's employment, credit history and current and past household income, assets, total debt

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service, net worth, eligibility for other types of assistance and any other criteria or related factors it deems necessary and relevant;

(5) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments within [thirty-six] sixty months after the beginning of the period in which emergency mortgage assistance payments are provided in accordance with a written plan formulated or approved by the authority and pay the mortgage in full in level monthly payments of principal and interest, subject only to payment changes as provided in the mortgage, by its maturity date;

(6) The mortgagor has applied to the authority for emergency mortgage assistance payments on an application form prescribed by the authority which includes a financial statement disclosing all assets and liabilities of the mortgagor, whether singly or jointly held, and all household income regardless of source;

(7) Based on the financial statement, the mortgagor has insufficient household income or net worth to correct the delinquency or delinquencies within a reasonable period of time and make full mortgage payments;

(8) There is a reasonable prospect that the mortgagor, as determined by the authority, will be able to repay the emergency mortgage assistance within a reasonable amount of time under the terms of section 8-265hh, as amended by this act, including through a refinancing of the mortgage, and the authority finds that, except for the current delinquency, the mortgagor has had a favorable residential mortgage credit history for the previous [five] two years or period of ownership, whichever is less. For the purposes of this subdivision, if a mortgagor has been more than thirty days in arrears [two] four or more times on a residential mortgage within the previous [two years] year, the mortgagor shall be ineligible for emergency mortgage assistance payments unless the mortgagor can demonstrate that the

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prior delinquency was the result of financial hardship due to circumstances beyond the mortgagor's control. In making a determination under this subsection, the authority may consider information regarding the structure of the mortgage, its repayment schedule and any other relevant factors or criteria it deems appropriate;

(9) The mortgagee is not otherwise prevented by law from foreclosing upon the mortgage;

(10) The mortgagor has not mortgaged the real property for commercial or business purposes;

(11) The mortgagor has not previously received emergency mortgage assistance payments from the authority, provided a mortgagor who has previously received such payments shall be eligible to reapply if the mortgagor has reinstated the mortgage and the mortgagor shall not have been delinquent for at least six consecutive months immediately following such reinstatement;

(12) The mortgagor is not in default under the mortgage except for the monetary delinquency referred to in subdivision (2) of this subsection; and

(13) The mortgagor meets such other procedural requirements as the authority may establish.

Sec. 9. Section 8-265gg of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) If the authority approves a mortgagor for assistance under the provisions of section 8-265ff, as amended by this act, the authority shall make monthly emergency mortgage assistance payments directly to each mortgagee secured by the mortgagor's real property for a period not to exceed [thirty-six] sixty months, either consecutively or

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nonconsecutively. The total monthly payment made by the authority, to or on behalf of a mortgagor under subsection (c) of this section, shall be not more than twenty-eight per cent of one hundred forty per cent of annual area median income, as published by the United States Department of Housing and Urban Development, divided by twelve. Upon receipt of payment in full from a mortgagor of the monthly amount established under subsection (b) of this section, the authority shall pay to each mortgagee the full amount then due to the mortgagee pursuant to the terms of the mortgage without regard to any acceleration under the mortgage. Such payments shall include, but not be limited to, principal, interest, taxes, assessments and insurance premiums. The initial payment made by the authority to each mortgagee [shall] may be an amount which pays all arrearages and pays reasonable costs and reasonable attorney's fees incurred by the mortgagee in connection with foreclosure of the mortgage.

(b) A mortgagor on whose behalf the authority is making emergency mortgage assistance payments shall, during the period in which such assistance is provided, make monthly payments to the authority in lieu of the mortgagor's monthly mortgage payments. Such payments to the authority shall be in an amount which will cause the mortgagor's total housing expense to be less than or equal to thirty-five per cent of the mortgagor's aggregate family income. The mortgagor shall make such payments to the authority not later than seven days before each mortgage payment is due to the mortgagee.

(c) The amount by which the emergency mortgage assistance payments made by the authority to the mortgagee exceeds the payments made by the mortgagor to the authority shall be a loan in that amount made by the authority to the mortgagor. Any such loan shall be evidenced by such documents as the authority may require and shall be subject to repayment with interest and secured as provided in section 8-265hh, as amended by this act.

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(d) The authority shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination or adjustment of the amount of emergency mortgage assistance payments or adjustment of the payments by the mortgagor pursuant to subsection (b) of this section. Payments shall be discontinued when the authority determines that, due to changes in the mortgagor's financial condition, the payments are no longer necessary in accordance with the standards contained in section 8-265ff, as amended by this act, or the expiration of the [thirty-six-month] sixty-month period of a mortgagor eligibility for such payments under subsection (d) of section 8-265ff, as amended by this act, whichever is sooner, and a foreclosure of the mortgagor's mortgage may, at any time thereafter, proceed without further restriction or requirement under sections 8-265cc to 8-265hh, inclusive, as amended by this act. The authority may adjust payments by the mortgagor pursuant to subsection (b) of this section based on a review under this subsection.

(e) If the mortgagor fails to pay to the authority any amounts due under subsection (b) of this section within seven days of the date due to the authority, the authority shall review the mortgagor's financial circumstances to determine whether the delinquency is the result of additional financial hardship due to circumstances beyond the mortgagor's control. If the delinquency is not the result of additional financial hardship due to circumstances beyond the mortgagor's control in the mortgagor's financial circumstances, the authority shall terminate emergency mortgage assistance payments and the foreclosure of the mortgagor's mortgage may, at anytime thereafter, continue without any further restriction or requirement under sections 8-265cc to 8-265kk, inclusive, as amended by this act. If the delinquency is the result of a change in the mortgagor's financial circumstances, the authority may modify the mortgagor's required monthly payments to the authority.



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(f) If any mortgagee scheduled to receive payments from the authority under the provisions of sections 8-265cc to 8-265kk, inclusive, as amended by this act, fails to receive the full amount of such payment from the authority within thirty days of the scheduled due date, or if the mortgagor fails to observe and perform all of the terms, covenants and conditions of the mortgage, the mortgagee shall provide a fifteen-day notice to the authority and the foreclosure of the mortgagor's mortgage may, at any time thereafter, proceed without any further restriction or requirement under sections 8-265cc to 8-265kk, inclusive, as amended by this act.

Sec. 10. Subsection (d) of section 8-265hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(d) All moneys received by the authority from mortgagors for repayment of emergency mortgage assistance payments shall be paid to the authority, deposited in such funds or accounts as the authority may establish from time to time for such purpose and [paid by the authority to the State Treasurer and deposited into the General Fund] be used solely for the purposes of the program established pursuant to sections 8-265cc to 8-265kk, inclusive, as amended by this act.

Sec. 11. (NEW) (*Effective from passage*) (a) For purposes of this section "state assistance" means a payment by the state of actual debt service, comprised of principal, interest, interest rate swap payments, liquidity fees, letter of credit fees, trustee fees and other similar bond-related expenses.

(b) Not later than July 1, 2008, the state, acting by and through the Secretary of the Office of Policy and Management and the State Treasurer, shall enter into a contract or contracts with the Connecticut Housing Finance Authority that provide for the state to pay to said authority state assistance on bonds issued by said authority for

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purposes of providing funds for the emergency mortgage assistance program in sections 8-265cc to 8-265kk, inclusive, of the general statutes, as amended by this act, as an additional purpose pursuant to the provisions of section 8-252 of the general statutes and costs of issuance in an aggregate principal amount not to exceed fifty million dollars. Any provision of such a contract entered into providing for payments equal to annual debt service shall constitute a full faith and credit obligation of the state and as part of the contract of the state with the holders of any bonds or refunding bonds, as applicable, appropriation of all amounts necessary to meet punctually the terms of such contract shall be made and the State Treasurer shall pay such amounts as the same become due. The Connecticut Housing Finance Authority may pledge such state assistance as security for the payment of such bonds or refunding bonds issued by said authority for such purposes. Any bonds so issued by the Connecticut Housing Finance Authority for the emergency mortgage assistance program pursuant to sections 8-265cc to 8-265kk, inclusive, of the general statutes, as amended by this act, and at any time outstanding, may at any time or from time to time, be refunded, in whole or in part, by the Connecticut Housing Finance Authority by the issuance of its refunding bonds in such amounts as the authority may deem necessary or appropriate but not exceeding an amount sufficient to refund the principal amount of the bonds to be so refunded, any unpaid interest thereon, and any premiums, commissions and costs of issuance necessary to be paid in connection therewith. The state, acting by and through the Office of Policy and Management and the State Treasurer and without further authorization, may execute an amendment to any contract providing state assistance as required in connection with such refunding bonds.

(c) Notwithstanding any contract entered into by the state with the Connecticut Housing Finance Authority for state assistance, the bonds or refunding bonds to which such state assistance applies shall not constitute bonds or notes issued or guaranteed by the state within the

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meaning of section 3-21 of the general statutes.

Sec. 12. (*Effective July 1, 2008*) The sum of fourteen million dollars is appropriated to the Connecticut Housing Finance Authority from the State Banking Fund, for the fiscal year ending June 30, 2009, for the program described in sections 8-265cc to 8-265kk, inclusive, as amended by this act.

Sec. 13. (NEW) (*Effective July 1, 2008*) (a) The WorkPlace, Inc., in conjunction with the other regional workforce development boards pursuant to section 31-3k of the general statutes and the one-stop centers pursuant to section 31-3gg of the general statutes, shall establish a mortgage crisis job training program in accordance with this section. For purposes of the program, at least three mortgage crisis job training teams shall be established for different areas of the state. The WorkPlace, Inc. and Capital Workforce Partners shall manage such teams. The teams, in cooperation with the regional workforce development boards and the one-stop centers, shall ensure the provision of rapid, customized employment services, job training, repair training and job placement assistance to borrowers who are unemployed, underemployed or in need of a second job. The WorkPlace, Inc. shall arrange for the provision of financial literacy and credit counseling for participants in the program with the Connecticut Housing Finance Authority.

(b) Borrowers shall be eligible for the program if they are at least sixty days delinquent on their mortgages and (1) are referred by their Connecticut Housing Finance Authority lender, or (2) demonstrate an imminent need to increase earnings in order to avoid delinquency or foreclosure. Borrowers may also access the program through the one-stop centers.

(c) The WorkPlace, Inc. and the Connecticut Housing Finance Authority shall submit a joint report, in accordance with section 11-4a

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of the general statutes, on the implementation of the mortgage crisis job training program to the joint standing committees of the General Assembly having cognizance of matters relating to banks and planning and development, and to the select committee of the General Assembly having cognizance of matters relating to housing by January 1, 2009.

Sec. 14. (*Effective July 1, 2008*) The sum of two million five hundred thousand dollars is appropriated to the Labor Department from the State Banking Fund, for the fiscal year ending June 30, 2009, for the mortgage crisis job training program established in section 13 of this act.

Sec. 15. (NEW) (*Effective July 1, 2008*) As used in this section and sections 16 to 19, inclusive, of this act:

(1) "Mortgagor" means the owner-occupant of one-to-four family residential real property located in this state who is also the borrower under a mortgage encumbering such residential real property, which is the primary residence of such owner-occupant;

(2) "Residential real property" means a one-to-four family dwelling occupied as a residence by a mortgagor;

(3) "Mortgagee" means the original lender or servicer under a mortgage, or its successors or assigns, who is the holder of any mortgage on residential real property securing a loan made primarily for personal, family or household purposes that is the subject of a foreclosure action;

(4) "Authority" means the Connecticut Housing Finance Authority created under section 8-244 of the general statutes; and

(5) "Mortgage assistance programs" means the mortgage assistance programs developed and implemented by the authority in accordance with sections 1 and 2 of this act, and sections 8-265cc to 8-265kk,

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inclusive, of the general statutes, as amended by this act.

Sec. 16. (NEW) (*Effective July 1, 2008*) (a) Prior to July 1, 2010, when a mortgagee commences an action for the foreclosure of a mortgage on residential real property with a return date on or after July 1, 2008, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 17 of this act by attaching to the front of the foreclosure complaint that is served on the mortgagor: (1) A copy of the notice of the availability of foreclosure mediation, in such form as the Chief Court Administrator prescribes, and (2) a foreclosure mediation request form, in such form as the Chief Court Administrator prescribes.

(b) (1) Except as provided in subdivision (2) of this subsection, a mortgagor may request foreclosure mediation by submitting the foreclosure mediation request form to the court and filing an appearance not more than fifteen days after the return day for the foreclosure action. Upon receipt of the foreclosure mediation request form, the court shall notify each appearing party that a foreclosure mediation request form has been submitted by the mortgagor.

(2) The court may grant a mortgagor permission to submit a foreclosure mediation request form and file an appearance after the fifteen-day period established in subdivision (1) of this subsection, for good cause shown, except that no foreclosure mediation request form may be submitted and no appearance may be filed more than twenty-five days after the return date.

(3) No foreclosure mediation request form may be submitted to the court on or after July 1, 2010.

(c) If at any time on or after July 1, 2008, but prior to July 1, 2010, the court determines that the notice requirement of subsection (a) of this section has not been met, the court may, upon its own motion or upon

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the written motion of the mortgagor, issue an order that no judgment may enter for fifteen days during which period the mortgagor may submit a foreclosure mediation request form to the court.

(d) Notwithstanding any provision of the general statutes or any rule of law to the contrary, prior to July 1, 2010, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action instituted by the mortgagee to foreclose a mortgage on residential real property unless: (1) Notice to the mortgagor has been given by the mortgagee in accordance with subsection (a) of this section and the time for submitting a foreclosure mediation request form has expired and no foreclosure mediation request form has been submitted, or if such notice has not been given, the time for submitting a foreclosure mediation request form pursuant to subsection (b) or (c) of this section has expired and no foreclosure mediation request form has been submitted, or (2) the mediation period set forth in section 18 of this act has expired or has otherwise terminated, whichever is earlier.

(e) None of the mortgagor's or mortgagee's rights in the foreclosure action shall be waived by the mortgagor's submission of a foreclosure mediation request form to the court.

Sec. 17. (NEW) (*Effective from passage*) Not later than July 1, 2008, the Chief Court Administrator shall establish in each judicial district a foreclosure mediation program in actions to foreclose mortgages on residential real property. Such foreclosure mediation shall (1) address all issues of foreclosure, including, but not limited to, reinstatement of the mortgage, assignment of law days, assignment of sale date, restructuring of the mortgage debt and foreclosure by decree of sale, and (2) be conducted by foreclosure mediators who (A) are employed by the Judicial Branch, (B) are trained in mediation and all relevant aspects of the law, as determined by the Chief Court Administrator, (C) have knowledge of the community-based resources that are

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available in the judicial district in which they serve, and (D) have knowledge of the mortgage assistance programs. Such mediators may refer mortgagors who participate in the foreclosure mediation program to community-based resources when appropriate and to the mortgage assistance programs.

Sec. 18. (NEW) (*Effective July 1, 2008*) (a) The mediation period under the foreclosure mediation program established in section 17 of this act shall commence when the court sends notice to each appearing party that a foreclosure mediation request form has been submitted by a mortgagor to the court, which notice shall be sent not later than three business days after the court receives a completed foreclosure mediation request form. The mediation period shall conclude not more than sixty days after the return day for the foreclosure action, except that the court may, in its discretion, for good cause shown, extend by not more than ten days, or shorten, the mediation period on its own motion or upon motion of any party.

(b) The first mediation session shall be held not later than ten business days after the court sends notice to all parties that a foreclosure mediation request form has been submitted to the court. The mortgagor and mortgagee shall appear in person at each mediation session and shall have authority to agree to a proposed settlement, except that if the mortgagee is represented by counsel, the mortgagee's counsel may appear in lieu of the mortgagee to represent the mortgagee's interests at the mediation, provided such counsel has the authority to agree to a proposed settlement and the mortgagee is available during the mediation session by telephone or electronic means.

(c) Not later than two days after the conclusion of the first mediation session, the mediator shall determine whether the parties will benefit from further mediation. The mediator shall file with the court a report setting forth such determination and mail a copy of such

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report to each appearing party. If the mediator reports to the court that the parties will not benefit from further mediation, the mediation period shall terminate automatically. If the mediator reports to the court after the first mediation session that the parties may benefit from further mediation, the mediation period shall continue.

(d) If the mediator has submitted a report to the court that the parties may benefit from further mediation pursuant to subsection (c) of this section, not more than two days after the conclusion of the mediation, but no later than the termination of the mediation period set forth in subsection (a) of this section, the mediator shall file a report with the court describing the proceedings and specifying the issues resolved, if any, and any issues not resolved pursuant to the mediation. The filing of the report shall terminate the mediation period automatically. If certain issues have not been resolved pursuant to the mediation, the mediator may refer the mortgagor to any appropriate community-based services that are available in the judicial district, but any such referral shall not cause a delay in the mediation process.

(e) The Chief Court Administrator shall establish policies and procedures to implement this section. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first mediation session required by subsection (b) of this section that: (1) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action in accordance with applicable rules of the court; and (2) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property to foreclosure.

(f) In no event shall any determination issued by a mediator under this program form the basis of an appeal of any foreclosure judgment.

(g) Foreclosure mediation request forms shall not be accepted by the court on or after July 1, 2010, and the foreclosure mediation program



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shall terminate when all mediation has concluded with respect to any applications submitted to the court prior to July 1, 2010.

(h) At any time during the mediation period, the mediator may refer the mortgagor to the mortgage assistance programs, except that any such referral shall not prevent a mortgagee from proceeding to judgment when the conditions specified in subsection (d) of section 16 of this act have been satisfied.

Sec. 19. (NEW) (*Effective July 1, 2008*) Nothing in sections 15 to 18, inclusive, of this act, shall require a mortgagee to modify a mortgage or change the terms of payment of a mortgage without its consent.

Sec. 20. (*Effective July 1, 2008*) The sum of two million dollars is appropriated to the Judicial Department, from the State Banking Fund, for the fiscal year ending June 30, 2009, for the foreclosure mediation program established in section 17 of this act.

Sec. 21. (NEW) (*Effective July 1, 2008*) (a) As used in this section, sections 22 to 30, inclusive, and section 81 of this act:

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

(2) "CHFA loan" means a loan made, insured, purchased, subsidized or guaranteed by the Connecticut Housing Finance Authority;

(3) "FHA loan" means a loan made, insured, purchased, subsidized or guaranteed by the Federal Housing Administration;

(4) "First mortgage loan" has the same meaning as provided in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act;

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(5) "Lender" means any person engaged in the business of the making of mortgage loans who is required to be licensed by the Department of Banking under chapter 668 of the general statutes or the 2008 supplement to the general statutes, as amended by this act, or their successors or assigns, and shall also mean any bank, out-of-state bank, Connecticut credit union, federal credit union, out-of-state credit union, or an operating subsidiary of a federal bank or a federally chartered out-of-state bank where such subsidiary engages in the business of making mortgage loans, and their successors and assigns, but shall not include any mortgage broker, as defined in this section, or any mortgage loan originator, as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act;

(6) "Mortgage broker" means any person, other than a lender, who (A) for a fee, commission or other valuable consideration, negotiates, solicits, arranges, places or finds a mortgage, and (B) who is required to be licensed by the Department of Banking under chapter 668 of the general statutes or the 2008 supplement to the general statutes, or their successors or assigns;

(7) "Nonprime home loan" means any loan or extension of credit, excluding an open-end line of credit, and further excluding a reverse mortgage transaction, as defined in 12 CFR 226.33, as amended from time to time:

(A) In which the borrower is a natural person;

(B) The proceeds of which are to be used primarily for personal family or household purposes;

(C) In which the loan is secured by a mortgage upon any interest in one-to-four family residential property located in this state which is, or when the loan is made, intended to be used or occupied by the borrower as a principal residence;

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(D) In which the principal amount of the loan does not exceed (i) four hundred seventeen thousand dollars for a loan originated on or after July 1, 2008, but before July 1, 2010; and (ii) the then current conforming loan limit, as established from time to time by the Federal National Mortgage Association, for a loan originated on or after July 1, 2010;

(E) Where the loan is not a CHFA loan; and

(F) In which the conditions set forth in clauses (i) and (ii) of this subparagraph apply, subject to any adjustments made pursuant to clause (iii) of this subparagraph:

(i) The difference between the APR for the loan or extension of credit and the yield on United States Treasury securities having comparable periods of maturity is either equal to or greater than (I) three percentage points, if the loan is a first mortgage loan, or (II) five percentage points, if the loan is a secondary mortgage loan. For purposes of such calculation, without regard to whether the loan is subject to or reportable under the provisions of the federal Home Mortgage Disclosure Act, 12 USC 2801 et seq., the difference between the APR and the yield on United States Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirement of the federal Home Mortgage Disclosure Act, as those procedures and calculation methods are amended from time to time, provided the yield on United States Treasury securities is determined as of the fifteenth day of the month prior to the application for the loan.

(ii) The difference between the APR for the loan and the conventional mortgage rate is either equal to or greater than (I) one and three-quarters percentage points, if the loan is a first mortgage loan, or (II) three and three-quarters percentage points, if the loan is a

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secondary mortgage loan. For purposes of such calculation, "conventional mortgage rate" means the most recent daily contract interest rate on commitments for fixed-rate mortgages published by the board of governors of the federal reserve system in its statistical release H.15, or any publication that may supersede it, during the week in which the interest rate for the loan is set.

(iii) The commissioner shall have the authority, after consideration of the relevant factors, to increase the percentages set forth in clauses (i) and (ii) of this subparagraph. The authority of the commissioner, and any increases or decreases made under this clause, shall expire on August 31, 2009. For purposes of this clause, the relevant factors to be considered by the commissioner shall include, but not be limited to, the existence and amount of increases in fees or charges in connection with purchases of mortgages by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and increases in fees or charges imposed by mortgage insurers and the impact, including the magnitude of the impact, that such increases have had, or will likely have, on APRs for mortgage loans in this state. When considering such factors, the commissioner shall focus on those increases that are related to the deterioration in the housing market and credit conditions. The commissioner may refrain from increasing such percentages if it appears that lenders are increasing interest rates or fees in bad faith or if increasing the percentages would be contrary to the purposes of sections 21 to 27, inclusive, of this act. No increase authorized by the commissioner to a particular percentage shall exceed one-quarter of one percentage point, and the total of all increases to a particular percentage under this clause shall not exceed one-half of one percentage point. No increase shall be made unless: (I) The increase is noticed in the Banking Department Bulletin and the Connecticut Law Journal, and (II) a public comment period of twenty days is provided. Any increase made under this clause shall be reduced proportionately when the need for the increase has diminished or no longer exists. The

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commissioner, in the exercise of his discretion, may authorize an increase in the percentages with respect to all loans or just with respect to a certain class or classes of loans;

(8) "Open-end line of credit" means a mortgage extended by a lender under a plan in which: (A) The lender reasonably contemplates repeated transactions; (B) the lender may impose a finance charge from time to time on an outstanding unpaid balance; (C) the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and (D) none of the proceeds of the open-end line of credit are used at closing to (i) purchase the borrower's primary residence, or (ii) refinance a mortgage loan that had been used by the borrower to purchase the borrower's primary residence;

(9) "Residential property" has the same meaning as provided in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act;

(10) "Secondary mortgage loan" has the same meaning as provided in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

(b) The provisions of sections 22 to 30, inclusive, of this act shall be applicable to nonprime home loans and mortgages, as appropriate, for which applications have been received on or after August 1, 2008.

Sec. 22. (NEW) (*Effective July 1, 2008*) (a) A lender shall not engage in conduct in any transaction, practice or course of business in connection with the making of a nonprime home loan that is misleading, deceptive or untruthful.

(b) Lenders and mortgage brokers shall have a duty of good faith with respect to the performance of any contract with a borrower

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relative to a nonprime home loan. For purposes of this subsection, the duty of good faith is the same as the obligation imposed pursuant to section 42a-1-304 of the general statutes, and includes the observance of reasonable common standards of fair dealing. The provisions of this subsection cannot be waived.

(c) In connection with a nonprime home loan that is a first mortgage loan, a lender shall provide the borrower with a notice or letter that generally describes the terms of the transaction. Such notice or letter shall be provided no later than three business days prior to the closing, unless the borrower expressly requests an expedited closing and the lender has not yet, acting in good faith, provided the letter or notice. In cases where a letter or notice is required, the lender shall notify the borrower, within a reasonable time period, of any subsequent material changes to the terms of the transaction. The provisions of this subsection cannot be waived.

Sec. 23. (NEW) (*Effective July 1, 2008*) (a) No lender shall make a nonprime home loan unless the lender reasonably believes, at the time the loan is consummated, that one or more of the obligors, when considered individually or collectively, will be able to make the scheduled payments to repay the loan, and to pay related real estate taxes and insurance premiums, based upon a consideration of the obligor's current and expected income, current and expected obligations as disclosed by the obligor, or otherwise known to the lender, including subordinate mortgages made contemporaneously, homeowner's fees, condominium fees, employment status and other financial resources, excluding the equity in the dwelling that secures repayment of the loan. Notwithstanding the provisions of this subsection, in the case of a bridge loan, a lender may consider the equity in the dwelling as a source of repayment for the loan.

(b) A lender's analysis of an obligor's ability to repay under subsection (a) of this section may utilize commercially recognized

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underwriting standards and methodologies, including automated underwriting systems, provided they comply with the requirements of this subsection and subsection (a) of this section. In determining an obligor's ability to repay a nonprime home loan, the lender shall take reasonable steps to verify the accuracy and completeness of information provided by or on behalf of the obligor using tax returns, consumer reports, payroll receipts, bank records, reasonable alternative methods or reasonable third-party verification. In determining an obligor's ability to repay a nonprime home loan according to its terms when the loan has an adjustable rate feature, the lender shall underwrite the repayment schedule assuming that the interest rate is a fixed rate equal to the fully indexed interest rate at the time of consummation, or within fifteen days thereof, without considering any initial discounted rate. For purposes of this subsection, the "fully indexed rate" means the interest rate that would have been applied had the initial interest rate been determined by the application of the same interest rate formula that applies under the terms of the loan documents to subsequent interest rate adjustments, disregarding any limitations on the amount by which the interest rate may change at any one time. In determining an obligor's ability to repay a nonprime home loan that is not fully amortizing by its terms, the lender shall underwrite the loan based on a fully amortizing repayment schedule based on the maturity set forth in the note.

(d) This section shall not apply to FHA loans.

Sec. 24. (NEW) (*Effective July 1, 2008*) (a) No lender shall make a nonprime home loan where all or a portion of the proceeds are used to fully or partially pay off a special mortgage on the same property unless the borrower has obtained a written certification from a counselor with an independent third-party nonprofit organization approved by the United States Department of Housing and Urban Development that the borrower has received mortgage counseling. For

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purposes of this section, "special mortgage" means a loan originated, subsidized or guaranteed by or through a state, federal, tribal or local government, or nonprofit organization.

(b) The prohibition in subsection (a) of this section shall not apply where the borrower provides the lender with a statement from an organization described in subsection (a) of this section, on the organization's letterhead, stating that the required counseling is not available for at least thirty days from the date of the request for counseling.

(c) For purposes of this section, a lender shall make a good-faith effort to determine whether the loan to be refinanced is a special mortgage, but shall not be required to obtain the certification in subsection (a) of this section if the lender: (1) Makes a good-faith inquiry to the current holder or servicer of the loan and to the borrower as to whether the loan is a special mortgage; and (2) does not receive an affirmative response from either the current holder or servicer of the loan or the borrower indicating that it is a special mortgage.

Sec. 25. (NEW) (*Effective July 1, 2008*) A lender shall not make a nonprime home loan unless:

(1) With respect to nonprime home loans that are first mortgage loans originated on or after January 1, 2010, the lender requires and collects a monthly escrow for the payment of real property taxes and homeowner's insurance. The provisions of this subdivision shall not apply to: (A) FHA loans; or (B) a nonprime home loan product which, in good faith, is generally designed and marketed to the public as a subordinate lien home equity loan product but is secured by a first mortgage loan;

(2) To the extent applicable, the lender obtains the written



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certification or statement under section 24 of this act; and

(3) The lender mailed or delivered to applicants, no later than three business days after the receipt of a completed application for a nonprime home loan, a notice containing a toll-free number that can be used to obtain a list of nonprofit housing counselors approved by the United States Department of Housing and Urban Development. For purposes of this subdivision, a lender may use the toll-free number which satisfies the requirements of Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 USC 1701(x) Section (c)(5)). No borrower shall have a private right of action for the lender's failure to deliver, on a timely basis, a notice required by this subdivision.

Sec. 26. (NEW) (*Effective July 1, 2008*) (a) A lender shall not offer a nonprime home loan that contains:

(1) A prepayment penalty, except that this prohibition shall not apply to FHA loans;

(2) A provision that increases the interest rate after default other than a failure to comply with a provision to maintain an automatic electronic payment feature where that maintenance provision has been provided in return for an interest rate reduction and the increase is no greater than that reduction;

(3) A provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (A) Utilizes principles which are inconsistent with the law as set forth in the general statutes or common law; (B) limits any claim or defense the borrower may have; or (C) is less convenient, more costly or more dilatory for the resolution of a dispute than a judicial forum established in this state where the borrower may otherwise properly bring a claim or defense.

(b) If a nonprime home loan contains a provision which violates

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subdivision (1), (2) or (3) of subsection (a) of this section, that provision shall be void and unenforceable.

Sec. 27. (NEW) (*Effective July 1, 2008*) No lender or mortgage broker shall attempt in bad faith to avoid the application of sections 22 to 29, inclusive, of this act, by dividing any loan transaction into separate parts or to structure in bad faith a residential mortgage loan transaction as an open-end loan for the purpose of evading the applicable provisions of sections 22 to 29, inclusive, of this act, when the loan would have been a nonprime home loan if the loan had been structured as a closed-end loan.

Sec. 28. (NEW) (*Effective July 1, 2008*) (a) As used in this section and section 29 of this act, the term "mortgage" means a mortgage deed or other instrument that constitutes a first or secondary consensual lien upon any interest in one-to-four family residential real property located in this state, that is, or when the loan is made, intended to be occupied by the borrower as a principal residence. "Mortgage" includes, but is not limited to, a nonprime home loan.

(b) A lender shall not make and a mortgage broker shall not offer a nonprime home loan that refinances a mortgage unless the nonprime home loan provides or is expected to provide a tangible net benefit to the borrower. A lender or mortgage broker shall not take any action that recommends or encourages a default on an existing mortgage or other debt prior to and in connection with the closing or planned closing of a new nonprime home loan that refinances all or any portion of the existing loan or debt.

(c) A lender may not finance, directly or indirectly in connection with a mortgage, any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or

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debt cancellation or suspension fees calculated and paid on a monthly basis or through regularly scheduled periodic payments shall not be considered financed by the lender for the purposes of this subsection.

(d) If all defaults in connection with a nonprime home loan are cured after the initiation of any action to foreclose, but prior to the entry of judgment, the lender shall take steps as necessary to terminate the foreclosure proceeding or other action. The lender may require that the borrower pay any reasonable costs actually incurred by the lender in connection with the default and protecting its rights in the property, including any costs related to collection, foreclosure and termination of the proceeding or other action. Cure of default reinstates the borrower to the same position as if the default had not occurred and nullifies, as of the date of the cure, any acceleration of any obligation under the security instrument or note arising from the default. The borrower's right to reinstatement, as described in this subsection, may not be exercised by the borrower on more than two occasions over the course of twenty-four consecutive months.

Sec. 29. (NEW) (*Effective July 1, 2008*) A mortgage broker, in addition to duties imposed by federal statutes, other provisions of the general statutes or at common law, shall: (1) Use reasonable care, skill and diligence in performing the mortgage broker's duties and shall act in good-faith and fair dealing in all transactions with the borrower; (2) make reasonable good-faith efforts to secure a mortgage that is in the reasonable interests of the borrower considering all the circumstances reasonably available to the mortgage broker, including, but not limited to, the rates, points, fees, charges, costs and product type; (3) ensure that the cost of credit is reasonably appropriate considering the borrower's level of creditworthiness and other bona fide underwriting concerns; and (4) notify, before the closing, each lender of the payment obligations associated with each of the other lender's loans if the mortgage broker knows that more than one mortgage will be made by

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different lenders contemporaneously to a borrower secured by the same real property. The duties under this section may not be waived.

Sec. 30. (NEW) (*Effective July 1, 2008*) (a) A borrower who has been injured by a violation of sections 22 to 29, inclusive, of this act, may bring a claim in a court of competent jurisdiction by the date three years after the date of the closing for the following: The greater of actual damages or one thousand dollars; and costs and reasonable attorney's fees, unless:

(1) By the date ninety days after the date of the loan closing and prior to the commencement of any action against a lender under this section, the borrower is notified by the lender of the compliance failure, the lender tenders appropriate restitution and the lender either (A) makes the nonprime home loan comply with the applicable provisions of sections 22 to 29, inclusive, of this act; or (B) changes the terms of the mortgage in a manner beneficial to the borrower so that the mortgage will no longer be considered a nonprime home loan subject to the provisions of sections 22 to 29, inclusive, of this act; or

(2) The lender is able to show by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors. For the purposes of this subdivision, the phrase "bona fide error" includes, but is not limited to, a clerical, calculation, printing, computer malfunction or programming error, but does not include an error of legal judgment with respect to a lender's obligations under the relevant provisions of sections 22 to 29, inclusive, of this act. In actions where the compliance failure has caused material injury to the borrower, the lender shall also be able to show that it cured the compliance failure or otherwise undertook reasonable remedial steps to address or compensate for the injury; or

(3) The lender and borrower otherwise reach a mutual agreement on

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an appropriate remedy or curative action.

(b) In addition, the court may grant an injured borrower such relief as it deems just and equitable.

(c) A borrower or mortgagor may assert fraud and any violation of sections 22 to 29, inclusive, of this act which causes material injury to a borrower as a counterclaim or defense to foreclosure by the date six years after the date of the closing.

(d) Nothing in this section shall be construed as creating or permitting a cause of action or defense or counterclaim against an assignee of a nonprime home loan or other mortgage loan with respect to a violation of sections 22 to 29, inclusive, of this act by the originating lender or mortgage broker.

Sec. 31. (*Effective July 1, 2008*) Sections 1 to 25, inclusive, of public act 07-156 shall take effect July 1, 2008.

Sec. 32. Section 36a-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

This title shall be known as the "Banking Law of Connecticut" and shall be applicable to all Connecticut banks, Connecticut credit unions, [first and secondary] mortgage lenders, mortgage correspondent lenders, mortgage loan originators and mortgage brokers, money order and travelers check licensees, check cashing service licensees, trustees under mortgages or deeds of trust of real property securing certain investments, corporations exercising fiduciary powers, small loan licensees, sales finance companies, mortgage servicing companies, debt adjusters, and to such other persons as subject themselves to the provisions of this title or who, by violating any of its provisions, become subject to the penalties provided in this title.

Sec. 33. Section 36a-2 of the 2008 supplement to the general statutes,

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as amended by section 2 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

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

(1) "Affiliate" of a person means any person controlling, controlled by, or under common control with, that person;

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

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

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

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

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

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

(8) "Client" means a beneficiary of a trust for whom the Connecticut bank acts as trustee, a person for whom the Connecticut bank acts as agent, custodian or bailee, or other person to whom a Connecticut

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bank owes a duty or obligation under a trust or other account administered by such Connecticut bank, regardless of whether such Connecticut bank owes a fiduciary duty to the person;

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

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

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

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

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

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

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

(16) "Control" has the meaning given to that term in 12 USC Section 1841(a), as amended from time to time; [amended;]

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

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

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

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

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

(22) "Deposit account" means an account into which deposits may



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be made;

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

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

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

(26) "Executive officer" means every officer of a Connecticut bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policy-making functions of such bank, regardless of whether such officer has an official title or whether that title contains a designation of assistant and regardless of whether such officer is serving without salary or other compensation. The president, vice president, secretary and treasurer of such bank are deemed to be executive officers, unless, by resolution of the governing board or by such bank's bylaws, any such officer is excluded from participation in major policy-making functions, otherwise than in the capacity of a director of such bank, and such officer does not actually participate in such policy-making functions;

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

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

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

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

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

(32) "Financial institution" means any Connecticut bank, Connecticut credit union, or other person whose activities in this state are subject to the supervision of the commissioner, but does not include a person whose activities are subject to the supervision of the commissioner solely pursuant to chapter 672a, 672b or 672c or any combination thereof;

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

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

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

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

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

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

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

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

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

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

(43) ["National mortgage licensing system"] "Nationwide Mortgage Licensing System" means the [national] nation-wide mortgage licensing system [to be] implemented pursuant to a uniform mortgage licensing project under the auspices of the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators;

(44) "Out-of-state" includes any state other than Connecticut and any foreign country;

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

(46) "Out-of-state credit union" means any credit union other than a Connecticut credit union or a federal credit union;

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

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

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

(50) "Prepayment penalty" means any charge or penalty for paying all or part of the outstanding balance owed on a loan before the date on which the principal is due and includes computing a refund of unearned interest by a method that is less favorable to the borrower than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d), as amended from time to time;

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

[(51)] (52) "Reorganized savings and loan association" means any

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savings and loan association incorporated and organized in accordance with sections 36a-192 and 36a-193;

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

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

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

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

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

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

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

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

[(60)] (61) "Savings deposit" means any deposit other than a demand deposit or time deposit on which interest or a dividend is paid

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periodically;

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

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

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

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

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

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

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

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

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individuals;

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

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

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

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

Sec. 34. Section 36a-3 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

Other definitions applying to this title or to specified parts thereof and the sections in which they appear are:

"Account". Sections 36a-155 and 36a-365.

"Additional proceeds". Section 36a-746e.

"Administrative expense". Section 36a-237.

"Advance fee". Sections 36a-485 [, 36a-510] of the 2008 supplement to the general statutes, as amended by this act, and 36a-615, as amended by this act.

"Advertise" or "advertisement". [Sections] Section 36a-485 [and 36a-

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510] of the 2008 supplement to the general statutes, as amended by this act.

"Agency bank". Section 36a-285.

"Alternative mortgage loan". Section 36a-265.

"Amount financed". Section 36a-690.

"Annual percentage rate". Section 36a-690.

"Annual percentage yield". Section 36a-316, as amended by this act.

"Annuities". Section 36a-455a.

"Applicant". Section 36a-736, as amended by this act.

"APR". Section 36a-746a, as amended by this act.

"Assessment area". Section 36a-37.

"Assets". Section 36a-70.

"Associate". Section 36a-184.

"Associated member". Section 36a-458a.

"Bank". Section 36a-30.

"Bankers' bank". Section 36a-70.

"Banking business". Section 36a-425.

"Basic services". Section 36a-437a.

"Billing cycle". Section 36a-565.

"Bona fide nonprofit organization". Section 36a-655.

"Branch". Sections 36a-145 of the 2008 supplement to the general statutes, 36a-410 of the 2008 supplement to the general statutes and 36a-435b.

"Branch office". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Branch or agency net payment entitlement". Section 36a-428n.

"Branch or agency net payment obligation". Section 36a-428n.

"Broker". Section 36a-746a, as amended by this act.

"Business and industrial development corporation". Section 36a-626.

"Business and property in this state". Section 36a-428n.

"Capital". Section 36a-435b.

"Cash advance". Section 36a-564.



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- "Cash price". Section 36a-770.
- "Certificate of incorporation". Section 36a-435b.
- "CHFA loan". Section 21 of this act.
- "Closely related activities". Sections 36a-250 and 36a-455a.
- "Collective managing agency account". Section 36a-365.
- "Commercial vehicle". Section 36a-770.
- "Community bank". Section 36a-70.
- "Community credit union". Section 36a-37.
- "Community development bank". Section 36a-70.
- "Community reinvestment performance". Section 36a-37.
- "Connecticut holding company". Sections 36a-53 of the 2008 supplement to the general statutes and 36a-410 of the 2008 supplement to the general statutes.
- "Consolidate". Section 36a-145 of the 2008 supplement to the general statutes.
- "Construction loan". Section 36a-458a.
- "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- "Consumer Credit Protection Act". Section 36a-676.
- "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800 of the 2008 supplement to the general statutes.
- "Consumer collection agency". Section 36a-800 of the 2008 supplement to the general statutes.
- "Consummation". Section 36a-746a, as amended by this act.
- "Controlling interest". Section 36a-276.
- "Conventional mortgage rate". Section 21 of this act.
- "Corporate". Section 36a-435b.
- "Credit". Sections 36a-645 and 36a-676.
- "Credit manager". Section 36a-435b.
- "Creditor". Sections 36a-676, 36a-695 and 36a-800 of the 2008 supplement to the general statutes.
- "Credit card", "cardholder" and "card issuer". Section 36a-676.
- "Credit clinic". Section 36a-700.

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"Credit rating agency". Section 36a-695.

"Credit report". Section 36a-695.

"Credit sale". Section 36a-676.

"Credit union service organization". Section 36a-435b.

"Credit union service organization services". Section 36a-435b.

"De novo branch". Section 36a-410 of the 2008 supplement to the general statutes.

"Debt". Section 36a-645.

"Debt adjustment". Section 36a-655.

"Debt mutual fund". Sections 36a-275 and 36a-459a.

"Debt securities". Sections 36a-275 and 36a-459a.

"Debtor". Section 36a-655.

"Deliver". Section 36a-316, as amended by this act.

"Deposit". Section 36a-316, as amended by this act.

"Deposit account". Section 36a-316, as amended by this act.

"Deposit account charge". Section 36a-316, as amended by this act.

"Deposit account disclosures". Section 36a-316, as amended by this act.

"Deposit contract". Section 36a-316, as amended by this act.

"Deposit services". Section 36a-425.

"Depositor". Section 36a-316, as amended by this act.

"Director". Section 36a-435b.

"Earning period". Section 36a-316, as amended by this act.

"Electronic payment instrument". Section 36a-596 of the 2008 supplement to the general statutes.

"Eligible collateral". Section 36a-330.

"Equity mutual fund". Sections 36a-276 and 36a-459a.

"Equity security". Sections 36a-276 and 36a-459a.

"Executive officer". Sections 36a-263 and 36a-469c.

"Federal Credit Union Act". Section 36a-435b.

"Federal Home Mortgage Disclosure Act". Section 36a-736, as amended by this act.

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"FHA loan". Section 21 of this act.

"Fiduciary". Section 36a-365.

"Filing fee". Section 36a-770.

"Finance charge". Sections 36a-690 and 36a-770.

"Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, as amended by this act, 36a-330, 36a-435b, [and] 36a-736, as amended by this act, and 36a-755, as amended by this act.

"Financial records". Section 36a-41.

["First mortgage broker". Section 36a-485.

"First mortgage correspondent lender". Section 36a-485.

"First mortgage lender". Section 36a-485.]

"First mortgage loan". Sections 36a-485 of the 2008 supplement to the general statutes, as amended by this act, 36a-705, [and] as amended by this act, 36a-715, as amended by this act, and 36a-725, as amended by this act.

"Foreign banking corporation". Section 36a-425.

"Fully indexed rate". Section 23 of this act.

"General facility". Section 36a-580.

"Global net payment entitlement". Section 36a-428n.

"Global net payment obligation". Section 36a-428n.

"Goods". Sections 36a-535 and 36a-770.

"Graduated payment mortgage loan". Section 36a-265.

"Guardian". Section 36a-365.

"High cost home loan". Section 36a-746a, as amended by this act.

"Holder". Section 36a-596 of the 2008 supplement to the general statutes.

"Home banking services". Section 36a-170.

"Home banking terminal". Section 36a-170.

"Home improvement loan". Section 36a-736, as amended by this act.

"Home purchase loan". Section 36a-736, as amended by this act.

"Home state". Section 36a-410 of the 2008 supplement to the general statutes.

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- "Immediate family member". Section 36a-435b.
- "Insider". Section 36a-454b.
- "Installment loan contract". Sections 36a-535 and 36a-770.
- "Insurance". Section 36a-455a.
- "Insurance bank". Section 36a-285.
- "Insurance department". Section 36a-285.
- "Interest". Section 36a-316, as amended by this act.
- "Interest rate". Section 36a-316, as amended by this act.
- "Interim interest". Section 36a-746a, as amended by this act.
- "Lender". Sections 36a-746a, [and] as amended by this act,  
36a-770, and section 21 of this act.
- "Lessor". Section 36a-676.
- "License". Section 36a-626.
- "Licensee". Sections [36a-510,] 36a-596 of the 2008 supplement to the  
general statutes and 36a-626.
- "Limited branch". Section 36a-145 of the 2008 supplement  
to the general statutes.
- "Limited facility". Section 36a-580.
- "Loan broker". Section 36a-615, as amended by this act.
- "Loss". Section 36a-330.
- "Made in this state". Section 36a-770.
- "Main office". Section 36a-485 of the 2008 supplement to the general  
statutes, as amended by this act.
- "Managing agent". Section 36a-365.
- "Manufactured home". Section 36a-457b.
- "Material litigation". Section 36a-596 of the 2008  
supplement to the general statutes.
- "Member". Section 36a-435b.
- "Member business loan". Section 36a-458a.
- "Member in good standing". Section 36a-435b.
- "Membership share". Section 36a-435b.
- "Mobile branch". Section 36a-435b.

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"Money order". Section 36a-596 of the 2008 supplement to the general statutes.

"Money transmission". Section 36a-365.

"Mortgage". Section 28 of this act.

"Mortgage broker". Sections 36a-485 of the 2008 supplement to the general statutes, as amended by this act, 36a-705, as amended by this act, and section 21 of this act.

"Mortgage correspondent lender". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Mortgage insurance". Section 36a-725, as amended by this act.

"Mortgage lender". Sections 36a-485 [ , 36a-510 and] of the 2008 supplement to the general statutes, as amended by this act, 36a-705, as amended by this act, and 36a-725, as amended by this act.

"Mortgage loan". Sections 36a-261, 36a-265, [and] 36a-457b, 36a-485 of the 2008 supplement to the general statutes, as amended by this act, and 36a-736, as amended by this act.

"Mortgage loan originator". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Mortgage rate lock-in". Section 36a-705, as amended by this act.

"Mortgage servicing company". Section 36a-715, as amended by this act.

"Mortgagor". Section 36a-715, as amended by this act.

"Motor vehicle". Section 36a-770.

"Multiple common bond membership". Section 36a-435b.

"Municipality". Section 36a-800 of the 2008 supplement to the general statutes.

"Net outstanding member business loan balance". Section 36a-458a.

"Net worth". Sections 36a-441a, 36a-458a and 36a-596 of the 2008 supplement to the general statutes.

"Network". Section 36a-155.

"Nonprime home loan". Section 21 of this act.

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"Nonrefundable". [Sections] Section 36a-498 [and 36a-521] of the 2008 supplement to the general statutes, as amended by this act.

"Note account". Sections 36a-301 and 36a-456b.

"Office". [Section] Sections 36a-316, as amended by this act, and 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Officer". Section 36a-435b.

"Open-end credit plan". Section 36a-676.

"Open-end line of credit". Section 21 of this act.

"Open-end loan". Section 36a-565.

"Organization". Section 36a-800 of the 2008 supplement to the general statutes.

["Originator". Sections 36a-485 and 36a-510.]

"Out-of-state holding company". Section 36a-410 of the 2008 supplement to the general statutes.

"Outstanding". Section 36a-596 of the 2008 supplement to the general statutes.

"Passbook savings account". Section 36a-316, as amended by this act.

"Payment instrument". Section 36a-596 of the 2008 supplement to the general statutes.

"Periodic statement". Section 36a-316, as amended by this act.

"Permissible investment". Section 36a-596 of the 2008 supplement to the general statutes.

"Person". Section 36a-184.

"Post". Section 36a-316, as amended by this act.

"Prepaid finance charge". Section 36a-746a, as amended by this act.

["Prepayment penalty". Section 36a-746a.]

"Prime quality". Section 36a-596 of the 2008 supplement to the general statutes.

"Principal amount of the loan". Section [36a-510] 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Processor". Section 36a-155.

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"Public deposit". Section 36a-330.

"Purchaser". Section 36a-596 of the 2008 supplement to the general statutes.

"Qualified financial contract". Section 36a-428n.

"Qualified public depository" and "depository". Section 36a-330.

"Real estate". Section 36a-457b.

"Records". Section 36a-17.

"Related person". Section 36a-53 of the 2008 supplement to the general statutes.

"Relocate". Sections 36a-145 of the 2008 supplement to the general statutes and 36a-462a.

"Residential property". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Retail buyer". Sections 36a-535 and 36a-770.

"Retail credit transaction". Section 42-100b.

"Retail installment contract". Sections 36a-535 and 36a-770.

"Retail installment sale". Sections 36a-535 and 36a-770.

"Retail seller". Sections 36a-535 and 36a-770.

"Reverse annuity mortgage loan". Section 36a-265.

"Sales finance company". Sections 36a-535 and 36a-770.

"Savings department". Section 36a-285.

"Savings deposit". Section 36a-316, as amended by this act.

["Secondary mortgage broker". Section 36a-510.

"Secondary mortgage correspondent lender". Section 36a-510.

"Secondary mortgage lender". Section 36a-510.]

"Secondary mortgage loan". Section [36a-510] 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Security convertible into a voting security". Section 36a-184.

"Senior management". Section 36a-435b.

"Share". Section 36a-435b.

"Simulated check". [Sections] Section 36a-485 [and 36a-510] of the 2008 supplement to the general statutes, as amended by this act.

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"Single common bond membership". Section 36a-435b.

"Special mortgage". Section 24 of this act.

"Social purpose investment". Section 36a-277.

"Standard mortgage loan". Section 36a-265.

"Table funding agreement". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

"Tax and loan account". Sections 36a-301 and 36a-456b.

"The Savings Bank Life Insurance Company". Section 36a-285.

"Time account". Section 36a-316, as amended by this act.

"Travelers check". Section 36a-596 of the 2008 supplement to the general statutes.

"Troubled Connecticut credit union". Section 36a-448a.

"Unsecured loan". Section 36a-615, as amended by this act.

"Warehouse agreement". Section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

Sec. 35. Subsection (d) of section 36a-21 of the 2008 supplement to the general statutes, as amended by section 3 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(d) The provisions of this section shall not apply to the disclosure of (1) any record that is maintained by the commissioner with the [national mortgage licensing system] Nationwide Mortgage Licensing System to any supervisory, governmental or law enforcement agency that is authorized to access such record on the system, provided such record shall remain the property of the Department of Banking and may not be further disclosed to any person without the consent of the commissioner, or (2) any record of a licensee that is maintained by the commissioner with such system to such licensee. No person may obtain information from the [national mortgage licensing system] Nationwide Mortgage Licensing System that could not otherwise be obtained under state law. No information obtained from the [national



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mortgage licensing system] Nationwide Mortgage Licensing System shall be admissible as evidence in, or used to initiate, a civil proceeding in this state unless such information would otherwise be admissible in such proceeding under state law.

Sec. 36. Section 36a-56 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

Any person who knowingly makes any false statement or report, or wilfully overvalues any land, property or security, with intent to defraud and for the purpose of influencing in any way the action of a bank, out-of-state bank that maintains in this state a branch as defined in section 36a-410 of the 2008 supplement to the general statutes, Connecticut credit union, small loan licensee or any [first or secondary] person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker, [licensee] as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, upon any application, advance, commitment, loan or extension of credit, or any change, extension, renewal or refinancing thereof, or the acceptance, release or substitution of security therefor, and upon which such bank, out-of-state bank, credit union or licensee relies in taking such action, shall be fined not more than five hundred dollars or imprisoned not more than one year, or both. A finding by the commissioner as a result of an investigation of any such making or overvaluing shall be considered a violation of this section for purposes of the administrative enforcement of sections 36a-50 to 36a-53, inclusive. The commissioner shall refer to the Chief State's Attorney any evidence found by the commissioner of a criminal violation of the provisions of this section.

Sec. 37. Subdivision (6) of subsection (c) of section 36a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(6) A licensee under section 36a-489 [, 36a-513] of the 2008

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supplement to the general statutes, as amended by this act, 36a-541, 36a-556, 36a-581, 36a-600, 36a-628, 36a-656 or 36a-801 shall pay to the commissioner the actual cost of any examination of the licensee, as such cost is determined by the commissioner. If the licensee fails to pay such cost not later than [thirty] sixty days after receipt of demand from the commissioner, the commissioner [shall automatically] may suspend the license until such costs are paid.

Sec. 38. Section 36a-485 of the 2008 supplement to the general statutes, as amended by section 4 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

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

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

(2) "Advertise" or "advertisement" means the use of [media, mail, computer, telephone, personal contact or any other means to offer the opportunity for a first mortgage loan] any announcement, statement, assertion or representation that is placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster or over any radio or television station, by means of the Internet, or by other electronic means of distributing information, by personal contact, or in any other way;

[(3) "First mortgage broker" means a person who, for a fee, commission or other valuable consideration, directly or indirectly,

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negotiates, solicits, arranges, places or finds a first mortgage loan that is to be made by a mortgage lender, whether or not the mortgage lender is required to be licensed under sections 36a-485 to 36a-498a, inclusive;

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

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

(3) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a mortgage lender, mortgage correspondent lender or mortgage broker;

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

(5) "Main office" means the main address designated on the Nationwide Mortgage Licensing System;

(6) "Mortgage broker" means a person who, for a fee, commission or other valuable consideration, directly or indirectly, negotiates, solicits,

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arranges, places or finds a mortgage loan that is to be made by a mortgage lender or mortgage correspondent lender, whether or not the mortgage lender or mortgage correspondent lender are required to be licensed under sections 36a-485 to 36a-498a, inclusive, as amended by this act;

(7) ["Mortgage lender" means a first mortgage lender, a first mortgage correspondent lender, or both;] "Mortgage correspondent lender" means a person engaged in the business of making mortgage loans in such person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement;

(8) "Mortgage lender" means a person engaged in the business of making mortgage loans in such person's own name utilizing such person's own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement;

(9) "Mortgage loan" means a first mortgage loan or secondary mortgage loan;

[(8) "Originator"] (10) "Mortgage loan originator" means an individual who is employed or retained by, or otherwise acts on behalf of, a mortgage lender, mortgage correspondent lender or [first] mortgage broker [that is licensed or required to be licensed under sections 36a-485 to 36a-498a, inclusive] licensee who, for, or with the expectation of, a fee, commission or other valuable consideration, [to take] takes an application for or [negotiate, solicit, arrange or find a first] negotiates, solicits, arranges or finds a mortgage loan. ["Originator"] "Mortgage loan originator" does not include (1) an officer, if the [mortgage lender or first mortgage broker] licensee is a corporation; a general partner, if the licensee is a partnership; a member, if the licensee is a limited liability company; or a sole

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proprietor, if the licensee is a sole proprietorship, or (2) an individual whose responsibilities are limited to clerical and administrative tasks and who does not solicit borrowers, arrange or find mortgage loans, take applications or negotiate the terms of loans;

(11) "Office" means a branch office or a main office;

(12) "Principal amount of the loan" means the gross amount the borrower is obligated to repay including any prepaid finance charge that is financed, and any other charge that is financed;

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

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

[(10)] (15) "Simulated check" means a document that imitates or resembles a check but is not a negotiable instrument;

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

[(12)] (17) "Warehouse agreement" means an agreement to provide credit to a person to enable the person to have funds to make mortgage

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loans and hold such loans pending sale to other persons.

Sec. 39. (NEW) (*Effective July 1, 2008*) (a) The Banking Commissioner shall participate in the Nationwide Mortgage Licensing System for this state and permit such system to process applications for mortgage lender, mortgage correspondent lender, mortgage broker and mortgage loan originator licenses in this state and receive and maintain records related to such licenses that are allowed or required to be maintained by the commissioner.

(b) (1) Each first mortgage lender license and secondary mortgage lender license in existence on June 30, 2008, shall be deemed on and after July 1, 2008, to be a mortgage lender license, as defined in section 36a-485 of the 2008 supplement of the general statutes, as amended by this act; (2) each first mortgage correspondent lender license and secondary mortgage correspondent lender license in existence on June 30, 2008, shall be deemed on and after July 1, 2008, to be a mortgage correspondent lender license, as defined in section 36a-485 of the 2008 supplement of the general statutes, as amended by this act; (3) each first mortgage broker license and secondary mortgage broker license in existence on June 30, 2008, shall be deemed on and after July 1, 2008, to be a mortgage broker license, as defined in section 36a-485 of the 2008 supplement of the general statutes, as amended by this act; and (4) each originator registration in existence on June 30, 2008, shall be deemed on and after July 1, 2008, to be a mortgage loan originator license, as defined in section 36a-485 of the 2008 supplement of the general statutes, as amended by this act.

(c) (1) Each person licensed on July 1, 2008, as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator shall, prior to October 1, 2008, transition on to the Nationwide Mortgage Licensing System by submitting all licensing and license-related information required by the Nationwide Mortgage Licensing System for this state.

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(2) On and after July 1, 2008, any licensing or license-related filings shall be submitted exclusively through the Nationwide Mortgage Licensing System.

(3) Any person making any filing or submission of any information on the Nationwide Mortgage Licensing System shall do so in accordance with the procedures and requirements of such system and pay the applicable fees or charges to such system.

(d) Notwithstanding the provisions of this section, any initial application for a license submitted on the Nationwide Mortgage Licensing System between October 1, 2008, and December 31, 2008, shall not be approved by the commissioner prior to January 1, 2009.

Sec. 40. Section 36a-486 of the 2008 supplement to the general statutes, as amended by section 5 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) No person shall engage in the business of making [first] mortgage loans or act as a [first] mortgage broker in this state unless such person has first obtained the required license for its main office and each branch office where such business is conducted in accordance with the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act. A person, other than a licensed mortgage loan originator acting on behalf of the mortgage lender, mortgage correspondent lender or mortgage broker, that employs or retains such mortgage loan originator, shall be deemed to be engaged in the business of making mortgage loans if such person advertises, causes to be advertised, solicits, offers to make or makes mortgage loans, either directly or indirectly. A [first] mortgage correspondent lender shall not be deemed to be acting as a [first] mortgage lender if such [first] mortgage correspondent lender makes a loan utilizing its own funds in a situation where another person does not honor such person's commitment to fund the loan.

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(b) No person licensed as a mortgage lender, mortgage correspondent lender or [first] mortgage broker shall employ or retain [an] a mortgage loan originator unless such mortgage loan originator is licensed under sections 36a-485 to 36a-498a, inclusive, [provided such licensure shall not be required for any originator who is licensed under sections 36a-510 to 36a-524, inclusive] as amended by this act. No individual may act as [an] a mortgage loan originator without being licensed, or act as [an] a mortgage loan originator [, as defined in sections 36a-485 and 36a-510,] for more than one person. The license of [an] a mortgage loan originator is not effective during any period when such mortgage loan originator is not associated with a licensed mortgage lender, mortgage correspondent lender or [first] mortgage broker. [Both] Either the mortgage loan originator [and] or the mortgage lender, [and first] mortgage correspondent lender or mortgage broker [shall promptly notify the commissioner, in writing,] may file a notification of the termination of employment [or services] of [an] a mortgage loan originator with the Nationwide Mortgage Licensing System.

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

Sec. 41. Section 36a-487 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

The following are exempt from licensing under sections 36a-485 to 36a-498a, inclusive, as amended by this act:

(1) Any bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union, provided subsidiaries of such institutions other than operating subsidiaries of federal banks and federally-chartered out-of-state banks are not exempt from licensure;



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(2) Persons making five or fewer [first] mortgage loans within any period of twelve consecutive months, provided nothing herein shall relieve such persons from complying with all applicable laws;

(3) Bona fide nonprofit corporations making [first] mortgage loans to promote home ownership for the economically disadvantaged;

(4) Agencies of the federal government, or any state or municipal government, or any quasi-governmental agency making [first] mortgage loans under the specific authority of the laws of any state or the United States;

(5) Persons licensed under sections 36a-555 to 36a-573, inclusive, as amended by this act, when making mortgage loans authorized by said sections;

(6) Persons [licensed under sections 36a-510 to 36a-524, inclusive, when making loans authorized by said sections, provided such licensed mortgage lender makes less than twelve first mortgage loans within any period of twelve consecutive months] owning real property who take back from the buyer of such property a secondary mortgage loan in lieu of any portion of the purchase price of the property;

(7) Any corporation or its affiliate which makes [first] mortgage loans exclusively for the benefit of its employees or agents;

(8) Any corporation, licensed in accordance with section 38a-41, or its affiliate or subsidiary, which makes [first] mortgage loans to promote home ownership in urban areas; [and]

(9) Persons acting as fiduciaries with respect to any employee pension benefit plan qualified under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, who make [first] mortgage loans solely to plan participants from plan assets; and

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(10) Persons making secondary mortgage loans to individuals related to the maker by blood or marriage.

Sec. 42. Section 36a-488 of the 2008 supplement to the general statutes, as amended by section 2 of public act 07-91 and section 6 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) (1) The commissioner shall not issue a [license as a first] mortgage lender license, a [first] mortgage correspondent lender license or a [first] mortgage broker license to any person unless such person meets the following tangible net worth and experience requirements, as applicable: (A) The minimum tangible net worth requirement for a [first] mortgage lender shall be two hundred fifty thousand dollars and the minimum tangible net worth requirement for a [first] mortgage correspondent lender and a [first] mortgage broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars, and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a mortgage lender, mortgage correspondent lender or mortgage broker shall have, at the [location] main office for which the license is sought, a [person] qualified individual with supervisory authority over the lending or brokerage activities who has at least three years' experience in the mortgage [lending] business within the five years immediately preceding the application for the license, [and a first mortgage broker shall have, at the location for which the license is sought, a person with supervisory authority over the brokerage activities who has at least three years' experience in the mortgage lending or mortgage brokerage business within the five years immediately preceding the application for the license.] and at each branch office, the lender or broker shall have a branch manager with supervisory authority over the lending or brokerage activities who has at least three years' experience in the mortgage business within the five years immediately preceding the application for the license. As used in this subdivision, "experience in

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the mortgage business" means paid experience in the origination, processing or underwriting of mortgage loans, the marketing of such loans in the secondary market or in the supervision of such activities, or any other relevant experience as determined by the commissioner.

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

(b) The commissioner may issue a [first] mortgage lender license, a [first] mortgage correspondent lender license, or a [first] mortgage broker license. Each [first] mortgage lender licensee may also act as a [first] mortgage correspondent lender and a [first] mortgage broker, and each [first] mortgage correspondent lender licensee may also act as a [first] mortgage broker. [An] On and after July 1, 2008, an application for a license as a mortgage lender, mortgage correspondent lender or mortgage broker office or renewal of such license shall be [made under oath and on a form provided by the commissioner. The application shall include: (1) The type of license sought; (2) the name and address of the applicant; (3) the location for which the license is sought; (4) the name and address of each member, partner, officer, director, authorized agent and shareholder owning ten per cent or more of the outstanding stock, as applicable; (5) if the applicant is a trust or the lead lender in one or more participation loans, the name and address of each trustee or lead lender and each beneficiary of the trust or other participant lenders in all outstanding participation loans; (6)] filed with the Nationwide Mortgage Licensing System and the following supplementary information shall be filed directly with the commissioner: (1) In the case of an application for a license for the main office or renewal of such license, a financial statement as of a date not more than [six] twelve months prior to the filing of the application which reflects tangible net worth, and if such financial statement is

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unaudited, the proprietor, general partner, or duly authorized officer, trustee or member shall swear to its accuracy under oath before a notary public; ~~[(7)]~~ (2) a bond as required by section 36a-492 of the 2008 supplement to the general statutes, as amended by this act; (3) evidence that the [person with supervisory authority over the lending or brokerage activities at the location for which the license is sought] qualified individual or branch manager meets the experience required by subsection (a) of this section; and ~~[(8)]~~ (4) such other information pertaining to the applicant, the applicant's background, the background of its principals, [and] employees, and mortgage loan originators, and the applicant's activities as the commissioner may require. For the purpose of this subsection, evidence of experience of the qualified individual or branch manager shall include: (A) A statement specifying the duties and responsibilities of such person's employment, the term of employment, including month and year, and the name, address and telephone number of a supervisor, employer or, if self-employed, a business reference; and (B) if required by the commissioner, copies of W-2 forms, 1099 tax forms or, if self-employed, 1120 corporate tax returns, signed letters from the employer on the employer's letterhead verifying such person's duties and responsibilities and term of employment including month and year, and if such person is unable to provide such letters, other proof satisfactory to the commissioner that such person meets the experience requirement. The commissioner may conduct a criminal history records check of the applicant, of each member, partner, officer or director of the applicant and of the person with supervisory authority at the [location] office for which the license is sought, and require the applicant to submit the fingerprints of such persons as part of the application. The [application shall be filed with the national mortgage licensing system, which shall process the fingerprints through the Federal Bureau of Investigation] applicant shall submit such fingerprints for processing with the Nationwide Mortgage Licensing System, as required.

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(c) [An] On and after July 1, 2008, an application [for an] to license a person as a mortgage loan originator [license] for a specified office or renewal of such license shall be [made on a form provided by the commissioner. The commissioner may conduct a criminal history records check of the applicant and require the applicant to submit fingerprints as part of the application] filed with the Nationwide Mortgage Licensing System. The [application shall be filed with the national mortgage licensing system, which shall process the fingerprints through the Federal Bureau of Investigation] applicant shall submit such fingerprints for processing with the Nationwide Mortgage Licensing System, as required.

Sec. 43. Section 36a-489 of the 2008 supplement to the general statutes, as amended by section 7 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) If the commissioner finds, upon the filing of an application for a license as a mortgage lender, mortgage correspondent lender or [first] mortgage broker, [license,] that the applicant meets the requirements of subsection (a) of section 36a-488 of the 2008 supplement to the general statutes, as amended by this act, and that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the partners thereof if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-485 to 36a-498a, inclusive, as amended by this act, and sections 22 to 29, inclusive, of this act, the commissioner may thereupon issue [the applicant] the license. If the commissioner fails to make such findings, or if the commissioner finds that the applicant has made a material misstatement in such application, the commissioner shall not issue a

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license, and shall notify the applicant of the denial and the reasons for such denial. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

(b) Upon the filing of an application for [an] a mortgage loan originator license, the commissioner shall license the mortgage loan originator named in the application unless the commissioner finds that such applicant or mortgage loan originator has made a material misstatement in the application or that the financial responsibility, character, reputation, integrity and general fitness of such mortgage loan originator are not such as to warrant belief that granting such license would be in the public interest and consistent with the purposes of sections 36a-485 to 36a-498a, inclusive, as amended by this act, and sections 22 to 29, inclusive, of this act. If the commissioner denies an application for [an] a mortgage loan originator license, the commissioner shall notify [such] the applicant and the proposed mortgage loan originator of the denial and the reasons for such denial. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. [A license shall remain in force and effect until it has been surrendered, revoked, suspended or expires in accordance with the provisions of sections 36a-485 to 36a-498a, inclusive.]

Sec. 44. Section 36a-490 of the 2008 supplement to the general statutes, as amended by section 3 of public act 07-91 and section 8 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) [Each mortgage] A mortgage lender, mortgage correspondent lender and [first] mortgage broker license [shall state the location at which the business is to be conducted and shall state fully the name of the licensee. If the licensee desires to make first mortgage loans in more than one location or to act as a first mortgage broker in more than one location, the licensee shall procure a license for each location

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where the business is to be conducted. Each license shall be maintained at the location for which the license was issued and shall be available for public inspection. Such license] shall not be transferable or assignable. No licensee [shall] may use any name other than [the] its legal name or a fictitious name [stated on the license issued] approved by the commissioner, provided such licensee may not use its legal name if the commissioner disapproves use of such name. Any licensee who intends to permanently cease engaging in the business of making mortgage loans or acting as a mortgage broker at any time during a license period for any cause, including, but not limited to, bankruptcy, license revocation or voluntary dissolution, shall file a surrender of the license for each office at which the licensee intends to cease to do business, on the Nationwide Mortgage Licensing System, not later than fifteen days after such cessation, provided this requirement shall not apply when a license has been suspended pursuant to section 36a-51 of the 2008 supplement to the general statutes.

(b) A mortgage lender, mortgage correspondent lender or mortgage broker licensee may change the name of the licensee or [location] address of the office specified on [its license] the most recent filing with the Nationwide Mortgage Licensing System if (1) at least [twenty-one] thirty calendar days prior to such change, the licensee [notifies the commissioner, in writing, on a form satisfactory to the commissioner,] files such change with the Nationwide Mortgage Licensing System and provides, directly to the commissioner, a bond rider or endorsement to the surety bond on file with the commissioner that reflects the new name or [location] address of the office, and (2) the commissioner does not disapprove such change, in writing, or request further information within such [twenty-one-day] thirty-day period. The licensee shall promptly file with the Nationwide Mortgage Licensing System or, if the information cannot be filed on the Nationwide Mortgage Licensing System, directly notify the commissioner, in writing, of any other change in the information provided in the [application for license or

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most recent renewal of such license] most recent filing with the Nationwide Mortgage Licensing System.

(c) The mortgage lender, mortgage correspondent lender or mortgage broker licensee shall promptly file with the Nationwide Mortgage Licensing System or, if the information cannot be filed on the Nationwide Mortgage Licensing System, directly notify the commissioner, in writing, of the occurrence of any of the following developments:

(1) Filing for bankruptcy, or the consummation of a corporate restructuring, of the licensee;

(2) Filing of a criminal indictment against the licensee in any way related to the lending or brokerage activities of the licensee, or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock;

(3) Receiving notification of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons therefor;

(4) Receiving notification of the initiation of any action by the Attorney General or the attorney general of any other state and the reasons therefor;

(5) Receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement;

(6) Suspension or termination of the licensee's status as an approved seller or servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National



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(7) Exercise of recourse rights by investors or subsequent assignees of mortgage loans if such loans for which the recourse rights are being exercised, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets;

(8) Receiving notification of filing for bankruptcy of any of the licensee's officers, directors, members, partners or shareholders owning ten per cent or more of the outstanding stock of the licensee; or

(9) Any proposed change in control in the ownership of the licensee, or among the officers, directors, members or partners of the licensee on a form provided by the commissioner. The commissioner may thereupon cause such investigation to be made as he deems necessary, as if the licensee were applying for an initial license. In the case of a corporation, "change in control" means a change of ownership by a person or group acting in concert to acquire ten per cent or more of any class of voting securities, or the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy of the corporation.

(d) Each mortgage loan originator licensee shall promptly file with the Nationwide Mortgage Licensing System or, if the information cannot be filed on the Nationwide Mortgage Licensing System, directly notify the commissioner, in writing, of the occurrence of any of the following developments:

(1) Filing for bankruptcy of the mortgage loan originator licensee;

(2) Filing of a criminal indictment against the mortgage loan originator licensee;

(3) Receiving notification of the institution of license or registration denial, cease and desist, suspension or revocation procedures, or other

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formal or informal regulatory action by any governmental agency against the mortgage loan originator licensee and the reasons therefor; or

(4) Receiving notification of the initiation of any action against the mortgage loan originator licensee by the Attorney General or the attorney general of any other state and the reasons therefor.

[(c)] (e) Each mortgage lender, mortgage correspondent lender, mortgage broker and mortgage loan originator license shall remain in force and effect until it has been surrendered, revoked, suspended or expires, or is no longer effective, in accordance with the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act.

Sec. 45. Section 36a-491 of the 2008 supplement to the general statutes, as amended by section 9 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) (1) [Each applicant for a first mortgage lender license, a first mortgage correspondent lender license or a first mortgage broker license shall, at the time of making such application, pay to the national mortgage licensing system the required license fee and processing fee for an initial or renewal application. Each license issued pursuant to section 36a-489 shall expire at the close of business on December thirty-first of the year following its issuance unless such license is renewed.] The expiration date of any mortgage lender, mortgage correspondent lender and mortgage broker license that expires on September 30, 2008, shall be extended to the close of business on December 31, 2008. On and after July 1, 2008, each mortgage lender, mortgage correspondent lender or mortgage broker license shall expire at the close of business on December thirty-first of the year in which it is approved, unless such license is renewed, and provided any such license that is approved on or after November first shall expire at the close of business on December thirty-first of the year

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following the year in which it is approved. An application for renewal of a license shall be filed between November first and December thirty-first of the year in which the license expires, provided a licensee may file a renewal application not later than March first of the following year together with a late fee of one hundred dollars. Any such filing after December thirty-first shall be deemed timely and sufficient for purposes of subsection (b) of section 4-182. Each applicant for a license or renewal of a license as a mortgage lender or mortgage correspondent lender shall pay to the Nationwide Mortgage Licensing System any required fees or charges and a license fee of eight hundred dollars, and each applicant for an initial or renewal license as a mortgage broker shall pay to the Nationwide Mortgage Licensing System any required fees or charges and a license fee of four hundred dollars, provided each mortgage lender or mortgage correspondent lender licensee who is a licensee on September 30, 2008, who submits a renewal application shall, at the time of making such application, pay to the Nationwide Mortgage Licensing System any required fees or charges and a license fee of nine hundred dollars and each mortgage broker who was a licensee on June 30, 2008, who submits a renewal application shall, at the time of making such application, pay to the Nationwide Mortgage Licensing System any required fees or charges and a license fee of four hundred fifty dollars.

(2) Each mortgage loan originator license shall expire at such time as the license of the mortgage lender, mortgage correspondent lender or mortgage broker that employs or retains the mortgage loan originator expires, unless such mortgage loan originator license is renewed. Each [applicant] mortgage lender, mortgage correspondent lender or mortgage broker applicant and each mortgage lender licensee, mortgage correspondent lender licensee or mortgage broker licensee that files an application for [an] a mortgage loan originator license shall [, at the time of making such application,] pay to the [national mortgage licensing system the required] Nationwide Mortgage

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Licensing System any required fees or charges and a license fee [and processing fee for an initial or renewal application] of one hundred dollars for each mortgage loan originator, provided each mortgage lender, mortgage correspondent lender or mortgage broker who is a licensee on September 30, 2008, who submits a renewal application for a mortgage loan originator shall, at the time of making such application, pay to the Nationwide Mortgage Licensing System any required fees or charges and a license fee of one hundred twenty-five dollars. On and after January 1, 2010, each mortgage lender, mortgage correspondent lender or mortgage broker filing an application for a mortgage loan originator license shall pay a license fee of one hundred dollars for each mortgage loan originator and any required fees or charges to the Nationwide Mortgage Licensing System. [Each such license shall expire at the close of business on December thirty-first of the year following its issuance unless such license is renewed.]

(b) [No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued.] All fees [required by] paid pursuant to this section, including fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license, shall be nonrefundable, provided such fees paid by an originator for a license that is not sponsored by a mortgage lender, mortgage correspondent lender or mortgage broker may be refundable. No fee paid pursuant to this section shall be prorated if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

Sec. 46. Subsection (a) of section 36a-492 of the 2008 supplement to the general statutes, as amended by section 10 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) No mortgage lender, mortgage correspondent lender or [first]

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mortgage broker license, and no renewal thereof, shall be granted unless the applicant has filed a bond with the commissioner written by a surety authorized to write such bonds in this state, in the sum of forty thousand dollars, the form of which shall be approved by the Attorney General, provided on and after August 1, 2009, the bond shall be in the sum of eighty thousand dollars. Such bond shall be conditioned upon such licensee faithfully performing any and all written agreements or commitments with or for the benefit of borrowers and prospective borrowers, truly and faithfully accounting for all funds received from a borrower or prospective borrower by the licensee in the licensee's capacity as a mortgage lender, mortgage correspondent lender or a [first] mortgage broker, and conducting such mortgage business consistent with the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act. Any borrower or prospective borrower who may be damaged by failure to perform any written agreements or commitments, or by the wrongful conversion of funds paid by a borrower or prospective borrower to a licensee, may proceed on such bond against the principal or surety thereon, or both, to recover damages. Commencing August 1, 2009, any borrower or prospective borrower who may be damaged by a licensee's failure to satisfy a judgment against the licensee arising from the making or brokering of a nonprime home loan, as defined in section 21 of this act, may proceed on such bond against the principal or surety thereon, or both, to recover the amount of the judgment. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50 and any unpaid costs of examination of the licensee as determined pursuant to section 36a-65, as amended by this act. The proceeds of the bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. The bond shall run concurrently

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

Sec. 47. Subsection (b) of section 36a-492 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) The surety company shall have the right to cancel the bond at any time by a written notice to the licensee stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. [The commissioner shall automatically suspend the license on the date the cancellation takes effect, unless the surety bond has been replaced or renewed. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51.]

Sec. 48. Subsection (a) of section 36a-493 of the 2008 supplement to the general statutes, as amended by section 11 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Each mortgage lender, mortgage correspondent lender and [first] mortgage broker licensee shall maintain adequate records of each loan transaction at the [location] office named in the license, or, if requested by the commissioner, shall make such records available at such [location] office or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon

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request, the commissioner may grant a licensee additional time to make such records available or send them to the commissioner. Such records shall provide the following information: (1) A copy of any disclosures required under part III of chapter 669; (2) whether the licensee acted as a mortgage lender, a mortgage correspondent lender, a [first] mortgage broker, [or both] a mortgage lender and a mortgage broker, or a mortgage correspondent lender and a mortgage broker; (3) if the licensee is acting as a mortgage lender or mortgage correspondent lender, and retains the [first] mortgage loan or receives payments thereon, an adequate loan history for those loans retained or upon which payments are received, itemizing the amount and date of each payment and the unpaid balance at all times; (4) the purpose for which the loan was made; (5) the original or an exact copy of the note, loan agreement or other evidence of indebtedness and mortgage deed; (6) a statement signed by the [borrowers] borrower acknowledging the receipt of such statement which discloses the full amount of any fee, commission or consideration paid to the [first] mortgage lender, mortgage correspondent lender and mortgage broker for all services in connection with the origination and settlement of the mortgage loan; [and] (7) the name and address of the mortgage lender, mortgage correspondent lender and the mortgage broker, if any, involved in the loan transaction; (8) a copy of the initial and a copy of the final mortgage loan application taken from the borrower; and (9) a copy of all information used in evaluating the application.

Sec. 49. Subsections (b) and (c) of section 36a-493 of the 2008 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) For each loan that is made and serviced by a licensee, the licensee shall retain: (1) The records of such loan transaction for not less than two years following the final payment thereon, or the assignment of such loan, whichever occurs first, or such longer period

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as may be required by any other provision of law, and (2) copies of the note, HUD-1 settlement statement or other settlement statement, or such other records as are sufficient to verify the mortgage lender's or mortgage correspondent lender's compliance with section 36a-498a of the 2008 supplement to the general statutes, as amended by this act, for not less than five years from the date of the transaction.

(c) For each loan transaction in which a licensee acts as a mortgage lender, mortgage correspondent lender or [first] mortgage broker but does not service the loan, the licensee shall retain: [the] (1) The records of such loan transaction for not less than two years from the date of the transaction or such longer period as may be required by any other provision of law, and (2) copies of the note, HUD-1 settlement statement or other settlement statement, or such other records as are sufficient to verify the mortgage lender's or mortgage correspondent lender's compliance with section 36a-498a of the 2008 supplement to the general statutes, as amended by this act, for not less than five years from the date of the transaction.

Sec. 50. Section 36a-494 of the 2008 supplement to the general statutes, as amended by section 17 of public act 07-91 and section 12 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) (1) The commissioner may suspend, revoke or refuse to renew any mortgage lender, mortgage correspondent lender or [first] mortgage broker license or take any other action, in accordance with the provisions of section 36a-51 of the 2008 supplement to the general statutes, for any reason which would be sufficient grounds for the commissioner to deny an application for such license under sections 36a-485 to 36a-498a, inclusive, as amended by this act, or if the commissioner finds that the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has done any of the following: (A) Made any material



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misstatement in the application; (B) committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any [first] mortgage loan transaction, including disclosures required by subdivision (6) of subsection (a) of section 36a-493 of the 2008 supplement to the general statutes, as amended by this act, or part III of chapter 669 or regulations adopted pursuant thereto, to anyone entitled to such information; (C) violated any of the provisions of this title or of any regulations adopted pursuant thereto, or any other law or regulation applicable to the conduct of its business; or (D) failed to perform any agreement with a licensee or a borrower.

(2) The commissioner may suspend, revoke or refuse to renew any mortgage loan originator license or take any other action, in accordance with the provisions of section 36a-51 of the 2008 supplement to the general statutes, for any reason which would be sufficient grounds for the commissioner to deny an application for such license under sections 36a-485 to 36a-498a, inclusive, as amended by this act, or if the commissioner finds that the licensee has committed any fraud, misappropriated funds, misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any [first] mortgage loan transaction or has violated any of the provisions of this title or of any regulations adopted pursuant to such title or any other law or regulation applicable to the conduct of such licensee's business.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any regulation adopted pursuant thereto, or any licensee has failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed,

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intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any mortgage loan transaction, including disclosures required by subdivision (6) of subsection (a) of section 36a-493 of the 2008 supplement to the general statutes, as amended by this act, or part III of chapter 669 or regulations adopted pursuant thereto, to anyone entitled to such information, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52 of the 2008 supplement to the general statutes.

Sec. 51. Section 36a-496 of the 2008 supplement to the general statutes, as amended by section 13 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

No person engaged in the business of making [first] mortgage loans in this state, whether licensed in accordance with the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or exempt from licensing, shall accept applications or referral of applicants from, or pay a fee to, any [first] mortgage broker or mortgage loan originator who is required to be licensed under said sections but [is] was not, as of the time of the performance of such mortgage broker's or mortgage loan originator's services in connection with loans made or to be made by the mortgage lender or mortgage correspondent lender, licensed to act as such by the commissioner, if the mortgage lender or mortgage correspondent lender has actual knowledge that the [first] mortgage broker or mortgage loan originator [is] was not licensed by the commissioner.

Sec. 52. Section 36a-497 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

No [person licensed pursuant to section 36a-489] mortgage lender licensee, mortgage correspondent lender licensee or mortgage broker licensee shall:

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(1) Advertise or cause to be advertised in this state, any [first] mortgage loan in which such person intends to act only as a [first] mortgage broker unless the advertisement includes the following statement, clearly and conspicuously expressed: MORTGAGE BROKER ONLY, NOT A MORTGAGE LENDER OR MORTGAGE CORRESPONDENT LENDER; or

(2) In connection with an advertisement in this state, use (A) a simulated check; (B) a comparison between the loan payments under the [first] mortgage loan offered and the loan payments under a hypothetical loan or extension of credit, unless the advertisement includes, with respect to both the hypothetical loan or extension of credit and the [first] mortgage loan being offered, the interest rate, the loan balance, the total amount of finance charges, the total number of payments and the monthly payment amount that would be required to pay off the outstanding loan balance shown; (C) representations such as "verified as eligible", "eligible", "preapproved", "prequalified" or similar words or phrases, without also disclosing, in immediate proximity to and in similar size print, language which sets forth prerequisites to qualify for the [first] mortgage loan, including, but not limited to, income verification, credit check, and property appraisal or evaluation; or (D) any words or symbols in the advertisement or on the envelope containing the advertisement that give the appearance that the mailing was sent by a government agency.

Sec. 53. Section 36a-498 of the 2008 supplement to the general statutes, as amended by section 1 of public act 07-118 and section 14 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Except as provided in subsection (c) of this section, every advance fee paid or given, directly or indirectly, to a mortgage lender, mortgage correspondent lender or [first] mortgage broker required to be licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as

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amended by this act, shall be refundable.

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

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

(d) An agreement under subsection (c) of this section shall meet all of the following requirements to be valid and enforceable: (1) The agreement shall be dated, signed by both parties, and be executed prior to the payment of any advance fee; (2) the agreement shall expressly state the total advance fee required to be paid and any amount of the advance fee that shall not be refundable; (3) the agreement shall clearly and conspicuously state any conditions under which the advance fee will be retained by the [licensee] mortgage lender, mortgage correspondent lender or mortgage broker; (4) the term "nonrefundable" shall be used to describe each advance fee or portion thereof to which the term is applicable, and shall appear in boldface type in the agreement each time it is used; and (5) the form of the agreement shall (A) be separate from any other forms, contracts, or applications utilized by the [licensee] mortgage lender, mortgage correspondent lender or mortgage broker, (B) contain a heading in a

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size equal to at least ten-point boldface type that shall title the form "AGREEMENT CONCERNING NONREFUNDABILITY OF ADVANCE FEE", (C) provide for a duplicate copy which shall be given to the person paying the advance fee at the time of payment of the advance fee, and (D) include such other specifications as the commissioner may by regulation prescribe.

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

(f) (1) No mortgage lender, mortgage correspondent lender or [first] mortgage broker required to be licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall enter into an agreement with or otherwise require any person to pay the mortgage lender, mortgage correspondent lender or [first] mortgage broker for any fee, commission or other valuable consideration lost as a result of such person failing to consummate a [first] mortgage loan, provided the mortgage lender, mortgage correspondent lender or [first] mortgage broker may collect such fee, commission or consideration as an advance fee subject to the requirements of this section.

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

(g) (1) For the purposes of this subsection:

(A) "Unfair or deceptive act or practice" means (i) the failure to clearly and conspicuously state in the initial phase of the solicitation that the solicitor is not affiliated with the mortgage lender, mortgage

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correspondent lender or mortgage broker with which the consumer initially applied, (ii) the failure to clearly and conspicuously state in the initial phase of the solicitation that the solicitation is based on personal information about the consumer that was purchased, directly or indirectly, from a consumer reporting agency without the knowledge or permission of the mortgage lender, mortgage correspondent lender or mortgage broker with which the consumer initially applied, (iii) the failure in the initial solicitation to comply with the provisions of the federal Fair Credit Reporting Act relating to prescreening solicitations that use consumer reports, including the requirement to make a firm offer of credit to the consumer, or (iv) knowingly or negligently using information from a mortgage trigger lead (I) to solicit consumers who have opted out of prescreened offers of credit under the federal Fair Credit Reporting Act, or (II) to place telephone calls to consumers who have placed their contact information on a federal or state Do Not Call list; and

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

(2) No mortgage lender, [or first] mortgage correspondent lender, mortgage broker or mortgage loan originator shall engage in an unfair or deceptive act or practice in soliciting an application for a [first] mortgage loan when such solicitation is based, in whole or in part, on information contained in a mortgage trigger lead. Any violation of this subsection shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b.

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Sec. 54. Section 36a-498a of the 2008 supplement to the general statutes, as amended by section 15 of public act 07-156, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) No mortgage lender [or first mortgage broker] licensee or mortgage correspondent lender licensee under section 36a-489 of the 2008 supplement to the general statutes, as amended by this act, and no person exempt from licensure under subdivisions (1), (2), (5) and (6) of section 36a-487, as amended by this act, making a first mortgage loan [shall] may charge, impose or cause to be paid, directly or indirectly, prepaid finance charges that exceed in the aggregate, the greater of five per cent of the principal amount of the loan or two thousand dollars. If the proceeds of the loan are used to refinance an existing loan, the aggregate of the prepaid finance charges for the current refinancing and any previous financings by such licensee or exempt person or affiliate of such licensee or exempt person within two years of the current refinancing shall not exceed the greater of five per cent of the principal amount of the initial loan or two thousand dollars. The provisions of this section shall not prohibit such licensee or exempt person from charging, imposing or causing to be paid, directly or indirectly, prepaid finance charges in addition to those permitted by this section in connection with any additional proceeds received by the borrower in the refinancing, provided such prepaid finance charges on the additional proceeds shall not exceed five per cent of the additional proceeds. [For purposes of this section, "additional proceeds" has the meaning given to that term in subdivision (3) of section 36a-746e and "prepaid finance charge" has the meaning given to that term in subdivision (7) of section 36a-746a.]

(b) (1) No mortgage lender or mortgage correspondent lender making a secondary mortgage loan may (A) charge, impose or cause to be paid, directly or indirectly, in connection with any secondary mortgage loan transaction, prepaid finance charges that exceed in the

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aggregate eight per cent of the principal amount of the loan, or (B) include in the loan agreement, under which prepaid finance charges have been assessed, any provision that permits the mortgage lender or mortgage correspondent lender to demand payment of the entire loan balance prior to the scheduled maturity, except that such loan agreement may contain a provision that permits the mortgage lender or mortgage correspondent lender to demand payment of the entire loan balance if any scheduled installment is in default for more than sixty days or if any condition of default set forth in the mortgage note exists.

(2) Any mortgage lender, mortgage correspondent lender or mortgage broker who fails to comply with the provisions of this subsection shall be liable to the borrower in an amount equal to the sum of: (A) The amount by which the total of all prepaid finance charges exceeds eight per cent of the principal amount of the loan; (B) eight per cent of the principal amount of the loan or two thousand five hundred dollars, whichever is less; and (C) the costs incurred by the borrower in bringing an action under this subsection, including reasonable attorney's fees, as determined by the court, provided no such mortgage lender, mortgage correspondent lender or mortgage broker shall be liable for more than the amount specified in this subsection in a secondary mortgage loan transaction involving more than one borrower.

(c) For purposes of this section, "additional proceeds" has the same meaning as provided in subdivision (3) of section 36a-746e and "prepaid finance charge" has the same meaning as provided in subdivision (7) of section 36a-746a, as amended by this act.

(d) Any mortgage deed to secure a secondary mortgage loan that is recorded in the land records of any town shall contain the word "Mortgage" in the heading, either in capital letters or underscored and shall contain the principal amount of the loan.



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Sec. 55. (NEW) (*Effective July 1, 2008*) (a) Each mortgage lender, mortgage correspondent lender and mortgage broker, all as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, and licensed under section 36a-489 of the 2008 supplement to the general statutes, as amended by this act, shall deliver to the mortgagor a release of a secondary mortgage: (1) Upon receipt by such licensee of cash or a certified check in the amount of the outstanding balance of the obligation secured by such mortgage; or (2) upon payment by the payor bank, as defined in section 42a-4-105 of the general statutes, of any check that is payable to such licensee or its assignee in the amount of the outstanding balance of the obligation secured by such mortgage.

(b) Each such licensee shall advise any person designated by the mortgagor of the amount of the outstanding balance of the obligation secured by the secondary mortgage granted to such licensee no later than the second business day after the licensee receives a request for such information.

Sec. 56. (NEW) (*Effective July 1, 2008*) At least once a year, each mortgage lender and mortgage correspondent lender, both as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, and licensed under section 36a-489 of the 2008 supplement to general statutes, as amended by this act, shall adopt a mortgage loan policy with respect to subprime mortgage loans and nontraditional mortgage loans made by such mortgage lender or such mortgage correspondent lender based on and consistent with the most current version of the Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators and National Association of Consumer Credit Administrators Statement on Subprime Mortgage Lending, and the Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators Guidance on Nontraditional Mortgage Product Risks. Such

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licensees shall comply with such policy and develop and implement internal controls that are reasonably designed to ensure such compliance. The mortgage loan policy and any mortgage loan, as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, made pursuant to the policy shall be subject to examination concerning prudent lending practices by the Banking Commissioner.

Sec. 57. Subsection (a) of section 36a-534a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Any [first] mortgage broker<sub>z</sub> or mortgage lender or mortgage correspondent lender, as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, and licensed pursuant to section [36a-486] 36a-489 of the 2008 supplement to the general statutes, as amended by this act, [and any secondary mortgage broker or mortgage lender, as defined in section 36a-510 and licensed pursuant to section 36a-511,] shall notify the commissioner by written affidavit if any such mortgage broker<sub>z</sub> [or] mortgage lender or mortgage correspondent lender, as a result of a transaction in which such mortgage broker<sub>z</sub> [or] mortgage lender or mortgage correspondent lender was involved, reasonably believes that the lending practices of a financial institution or federal bank violate section 36a-737 or 46a-66. Such mortgage broker<sub>z</sub> [or] mortgage lender or mortgage correspondent lender shall provide the commissioner with any written document containing lending restrictions which a financial institution or federal bank has provided to such mortgage broker<sub>z</sub> [or] mortgage lender or mortgage correspondent lender. In the event the commissioner finds that there is a reasonable basis for said notification, the commissioner shall notify the Commission on Human Rights and Opportunities of said notification and the action the commissioner plans to take with respect thereto.

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Sec. 58. Section 36a-555 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

No person shall engage in the business of making loans of money or credit in the amount or to the value of fifteen thousand dollars or less for loans made under section 36a-563 of the 2008 supplement to the general statutes or section 36a-565, and charge, contract for or receive a greater rate of interest, charge or consideration than twelve per cent per annum therefor, unless licensed to do so by the commissioner pursuant to sections 36a-555 to 36a-573, inclusive. The provisions of this section shall not apply to (1) a bank, (2) an out-of-state bank, (3) a Connecticut credit union, (4) a federal credit union, (5) an out-of-state credit union, (6) a savings and loan association wholly owned subsidiary service corporation, (7) a person to the extent that such person makes loans for agricultural, commercial, industrial or governmental use or extends credit through an open-end credit plan, as defined in subdivision (8) of subsection (a) of section 36a-676, for the retail purchase of consumer goods or services, (8) a mortgage lender or mortgage correspondent lender licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as amended by this act, when making first mortgage loans, as defined in section 36a-485 [, (9) a mortgage lender licensed pursuant to sections 36a-510 to 36a-524, inclusive, when making secondary mortgage loans, as defined in section 36a-510] of the 2008 supplement to the general statutes, as amended by this act, or [(10)] (9) a licensed pawnbroker.

Sec. 59. Section 36a-705 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

As used in this section and sections 36a-706, 36a-707 and 36a-708, unless the context otherwise requires:

(1) "First mortgage loan" means "first mortgage loan", as defined in section 36a-485 of the 2008 supplement to the general statutes, as

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amended by this act;

(2) "Mortgage broker" means ["first mortgage broker"] a "mortgage broker", as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, who is licensed or required to be licensed under sections 36a-485 to 36a-498a, inclusive, as amended by this act;

(3) "Mortgage lender" means a "mortgage lender" or "mortgage correspondent lender", as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, who is required to be licensed under sections 36a-485 to 36a-498a, inclusive, as amended by this act, except that the term shall include a bank, out-of-state bank, Connecticut credit union, federal credit union and out-of-state credit union; and

(4) "Mortgage rate lock-in" means a written or electronically transmitted confirmation issued to a mortgage applicant or the representative of such applicant by a mortgage lender or mortgage correspondent lender or the mortgage lender's or mortgage correspondent lender's representative, prior to the issuance of a first mortgage loan commitment, stating that a particular rate, number of points or variable rate terms will be the rate, number of points, or variable rate terms at which the mortgage lender or mortgage correspondent lender will make the loan, provided the first mortgage loan is closed by a specified date, and the applicant qualifies for the loan in accordance with the mortgage lender's or mortgage correspondent lender's standards of creditworthiness.

Sec. 60. Subdivision (1) of section 36a-715 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(1) "First mortgage loan" has the same meaning as provided in

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[subdivision (6) of] section 36a-485 of the 2008 supplement to the general statutes, as amended by this act.

Sec. 61. Section 36a-725 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

As used in this section and section 36a-726, unless the context otherwise requires:

(1) "First mortgage loan" means any loan made to an individual, the proceeds of which are to be used primarily for personal, family or household purposes, which loan is secured by a mortgage upon any interest in one-to-four-family residential, owner-occupied real property located in this state which is not subject to any prior mortgages. The term includes the renewal or refinancing of an existing first mortgage loan;

(2) "Mortgage insurance" means insurance written by an independent mortgage insurance company to protect the mortgage lender against loss incurred in the event of a default by a borrower under the mortgage loan;

(3) "Mortgage lender" means any person engaged in the business of making first mortgage loans, including, but not limited to, banks, out-of-state banks, Connecticut credit unions, federal credit unions, out-of-state credit unions, and [first] mortgage lenders and correspondent mortgage lenders required to be licensed under sections 36a-485 to 36a-498a, inclusive, as amended by this act.

Sec. 62. Section 36a-736 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

As used in sections 36a-735 to 36a-744, inclusive, unless the context otherwise requires:

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(1) "Applicant" means any person who applies for a home purchase loan, home improvement loan or other mortgage loan as defined in sections 36a-735 to 36a-744, inclusive, whether or not the loan is granted;

(2) "Federal Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act of 1975 (12 USC Section 2801 et seq.), as amended from time to time, [amended,] and any regulations promulgated by the Federal Reserve Board pursuant to that act, except, for purposes of sections 36a-735 to 36a-744, inclusive, the supervisory agency shall be the commissioner;

(3) "Financial institution" means any Connecticut bank or Connecticut credit union which makes home purchase loans or home improvement loans or any for profit mortgage lending institution other than a Connecticut bank or Connecticut credit union, whose home purchase loan originations equaled or exceeded ten per cent of its loan origination volume, measured in dollars, in the preceding calendar year, if such mortgage lending institution is licensed under sections 36a-485 to 36a-498a, inclusive, [or 36a-510 to 36a-524, inclusive] as amended by this act;

(4) "Home improvement loan" has the same meaning as provided in the federal Home Mortgage Disclosure Act;

(5) "Home purchase loan" has the same meaning as provided in the federal Home Mortgage Disclosure Act; and

(6) "Mortgage loan" means a loan which is secured by residential real property.

Sec. 63. Section 36a-746a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

As used in this section and sections 36a-746b to 36a-746g, inclusive,

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as amended by this act:

(1) "APR" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act, 15 USC Section 1601 et seq., as amended from time to time, [amended,] and the regulations promulgated thereunder. For open-end lines of credit, "APR" means the highest corresponding annual percentage rate required to be disclosed under 12 CFR [Sections] 226.6(a)(2) and 226.14(b), as amended from time to time, [amended,] excluding any maximum rates required to be disclosed or stated pursuant to 12 CFR [Sections] 226.6(a)(2) or 226.30, as amended from time to time. [amended.] For closed-end loans, "APR" means the annual percentage rate required to be disclosed under 12 CFR [Section] 226.18(e), as amended from time to time, [amended,] excluding any maximum rates required to be disclosed or stated pursuant to 12 CFR [Sections] 226.18(f) or 226.30, as amended from time to time. [amended.] For purposes of this subdivision, any variable rate calculation shall use an index value in effect within forty-five days prior to consummation;

(2) "Broker" means a person who, for a fee, commission or other valuable consideration, negotiates, solicits, arranges, places or finds a high cost home loan that is to be made by a lender;

(3) "Consummation" means the time that a borrower becomes contractually obligated on a loan or extension of credit;

(4) "High cost home loan" means any loan or extension of credit, including an open-end line of credit but excluding a reverse mortgage transaction, as defined in 12 CFR [Section] 226.33, as amended from time to time; [amended:]

(A) In which the borrower is a natural person;

(B) The proceeds of which are to be used primarily for personal, family or household purposes;

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(C) In which the loan is secured by a mortgage upon any interest in one-to-four family residential [real] property, as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, located in this state [which] that is, or, when the loan is made, is intended to be used or occupied by the borrower as a principal residence; and

(D) In which the APR at consummation [will exceed] is greater than the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan or extension of credit is received by the lender, by more than the number of percentage points specified in 12 CFR 226.32(a)(1)(i), as amended from time to time; [amended;]

(5) "Interim interest" means interest for the period from funding to the start of amortization paid by a borrower at or before consummation of a closed-end loan where such amortization begins sixty-two days or less after funding;

(6) "Lender" means any person who originates one or more high cost home loans; and

(7) "Prepaid finance charge" means any finance charge determined in accordance with 12 CFR [Section] 226.4, as amended from time to time, [amended,] that is paid separately in cash or by check before or at consummation of a loan or extension of credit or withheld from the proceeds of such transaction at any time, except the term includes any fees or commissions payable to the lender or broker in connection with the sale of credit life, accident, health, disability or unemployment insurance products or unrelated goods or services sold in conjunction with the loan or extension of credit when the cost of such insurance products or goods or services is prepaid with the proceeds of the loan or extension of credit and financed as part of the principal amount of



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the loan or extension of credit, and excludes premiums, fees and any other amounts paid to a governmental agency, any amounts required to be escrowed by a governmental agency and interim interest. [;]

[(8) "Prepayment penalty" means any charge or penalty for paying all or part of the principal before the date on which the principal is due and includes computing a refund of unearned interest by a method that is less favorable to the borrower than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d), as from time to time amended.]

Sec. 64. Section 36a-746c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

A high cost home loan shall not provide for or include the following:

(1) For a loan with a term of less than seven years, a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance, except that this limitation does not apply to a loan with maturities of less than one year if the purpose of the loan is a bridge loan, as used in 12 CFR 226.32, as amended from time to time, [amended,] connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling;

(2) A payment schedule with regular periodic payments that cause the principal balance to increase;

(3) A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;

(4) An increase in the interest rate after default or default charges in

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excess of five per cent of the amount in default;

(5) A refund calculated by a method less favorable than the actuarial method, as defined by Section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d), as amended from time to time, [amended,] for rebates of interest arising from a loan acceleration due to default;

(6) A prepayment penalty; [except as allowed by this subdivision. A high cost home loan may provide for or include a prepayment penalty, including a refund calculated according to the rule of 78s, as such term is used in 12 CFR 226.32, as from time to time amended, if:

(A) The penalty can be exercised only for the first three years following consummation. No prepayment penalty shall exceed three per cent of the balance prepaid for any payment occurring earlier than one year after consummation of the loan, two per cent of the balance prepaid for any payment occurring between one and two years after consummation of the loan, and one per cent of the balance prepaid for any payment occurring between two and three years after consummation of the loan;

(B) The source of the prepayment funds is not a refinancing by the lender or an affiliate of the lender; and

(C) At consummation, the borrower's total monthly debts, including amounts owed under the high cost home loan, do not exceed fifty per cent of the borrower's monthly gross income, as verified by the borrower's signed financial statement, a credit report and payment records for employment income;]

(7) A [mandatory arbitration clause or] waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (A) Utilizes principles

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which are inconsistent with the law as set forth in the general statutes or common law; (B) limits any claim or defense the borrower may have; or (C) is less convenient, more costly or more dilatory for the resolution of a dispute than a judicial forum established in this state where the borrower may otherwise properly bring a claim or defense;  
or

(8) A call provision that permits the lender, in its sole discretion, to accelerate the indebtedness. This prohibition shall not apply when repayment of the loan is accelerated by bona fide default, pursuant to a due-on-sale clause provision, or pursuant to another provision of the loan agreement unrelated to the payment schedule including, but not limited to, bankruptcy or receivership.

Sec. 65. Section 36a-746g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

The lender and any assignee of the lender shall have the obligation, jointly and severally, to refund or credit the borrower for any default charges [, prepayment penalties] or prepaid finance charges collected in excess of the limits set forth in sections 36a-746c and 36a-746e.

Sec. 66. Section 36a-758 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

Any person who makes any first mortgage loan, as defined in section 36a-485 of the 2008 supplement to the general statutes, as amended by this act, or any secondary mortgage loan, as defined in section [36a-510] 36a-485 of the 2008 supplement to the general statutes, as amended by this act, shall, at the time of consummation of such loan or at the termination of any right to rescind the loan transaction under 12 CFR 226, as amended from time to time, [amended,] whichever is later, pay the loan proceeds to the mortgagor,

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to the mortgagor's attorney, to the mortgagee's attorney or to any other person specified in any settlement statement, any written agreement between the mortgagor and the mortgagee or any written instruction of the mortgagor, by a certified, bank treasurer's or cashier's check or by means of wire transfer.

Sec. 67. Section 25 of public act 07-156 is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

The Banking Commissioner shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to banks three annual reports that shall include financial statements of the State Regulatory Registry, LLC, concerning the [national mortgage licensing system] Nationwide Mortgage Licensing System described in section [1] 39 of this act. Each such financial statement shall cover a twelve-month period. The commissioner shall submit such reports for three consecutive years not later than ten days after receipt of such financial statements by the commissioner.

Sec. 68. Subsection (g) of section 19a-343a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(g) If the defendant is a financial institution and the record owner of the real property, or if the defendant is a financial institution claiming an interest of record pursuant to a bona fide mortgage, assignment of lease or rent, lien or security in the real property and is not determined to be a principal or an accomplice in the conduct constituting the public nuisance, the court shall not enter any order against such defendant. The state shall have the burden of proving by clear and convincing evidence that any such defendant claiming an interest of record under this subsection is a principal or an accomplice in the alleged conduct constituting the public nuisance. For the purposes of this subsection, "financial institution" means a bank, as defined in

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[subdivision (4) of] section 36a-2 of the 2008 supplement to the general statutes, as amended by this act, an out-of-state bank, as defined in [subdivision (44) of] section 36a-2 of the 2008 supplement to the general statutes, as amended by this act, an institutional lender or any subsidiary or affiliate of such bank, out-of-state bank or institutional lender that directly or indirectly acquires the real property pursuant to strict foreclosure, foreclosure by sale or deed-in-lieu of foreclosure, and with the intent of ultimately transferring the property, or other lender licensed by the Department of Banking.

Sec. 69. Subdivision (17) of section 36a-316 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(17) "Savings deposit" means a savings deposit, as defined in [subdivision (59) of] section 36a-2 of the 2008 supplement to the general statutes, as amended by this act, and the payment on shares at a Connecticut credit union or federal credit union, and a "savings account" is a deposit account which contains savings deposits.

Sec. 70. Section 20-329 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

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

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consummation by performance of any contract for the sale, leasing or exchange of real estate, or to service rendered by any attorney-at-law in the performance of the attorney-at-law's duties as such attorney-at-law; (3) a receiver, trustee in bankruptcy, administrator, executor or other fiduciary, while acting as such, or any person selling real estate under order of any court, or to a trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof; (4) witnesses in court as to the values of real estate; (5) persons in the employ of the federal or state government or any political subdivision thereof while acting in the course of such employment; (6) any employee of any nonprofit housing corporation that (A) has been certified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and manages a housing project, or (B) manages a housing project assisted in whole or in part by the federal government pursuant to Section 8 of The United States Housing Act of 1937, as amended from time to time, [amended,] while such employee is performing duties in the regular course of, or incidental to, the management of such housing project; (7) [any person licensed as a broker in accordance with sections 36a-510 to 36a-524, inclusive, who engages solely in the activities described in subsection (6) of section 36a-510; (8)] any person licensed to maintain or operate a mobile manufactured home park under chapter 412 who performs any of the acts enumerated in section 20-311, with reference to lots or mobile manufactured homes within the park or to the person's employees with respect to lots or mobile manufactured homes within such park when such acts are performed in the regular course of, or incidental to, the management of such property and the investment therein; [(9)] (8) persons licensed as sellers of mobile manufactured homes under section 21-67; or [(10)] (9) any person or such person's regular employee who, as owner, lessor, licensor, manager, representative or agent manages, leases, or licenses space on or in a tower, building or

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

Sec. 71. Subsection (a) of section 51-81c of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) A program for the use of interest earned on lawyers' clients' funds accounts is hereby established. The organization administering the program shall use such interest to provide funding for (1) the delivery of legal services to the poor by nonprofit corporations whose principal purpose is providing legal services to the poor, and (2) law school scholarships based on financial need. Each lawyer and law firm having a clients' funds account shall participate in the program. On and after July 1, 2005, each entity, other than a borrower, having an account established to receive loan proceeds from a mortgage lender, as defined in this subsection, shall participate in the program. Under the program, funds in accounts established to receive such loan proceeds, regardless of the amount or period held, and clients' funds that are less than ten thousand dollars in amount or expected to be held for a period of not more than sixty business days, shall be deposited by participating lawyers, law firms and entities in interest-bearing accounts specifically established pursuant to the program. Funds deposited in such accounts shall be subject to withdrawal upon

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request by the depositor and without delay. The interest earned on such accounts shall be paid to an organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, which shall be designated to administer the program by the judges of the Superior Court pursuant to subsection (b) of this section. Nothing in this section shall prevent (A) a lawyer or law firm from depositing a client's funds, regardless of the amount of such funds or the period for which such funds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the client, or (B) an entity from depositing a person's loan proceeds, regardless of the amount of such proceeds or the period for which such proceeds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the person. The organization administering the program shall mail to each lawyer, law firm and entity participating in the program a detailed annual report of all funds disbursed under the program including the amount disbursed to each recipient of funds. Any recipient of funds under the program which, using program funds, represents a party in an action filed after July 1, 1992, against the state or any officer or agency thereof and is awarded attorney's fees in such action by the court, shall reimburse the program for the amount of attorney's fees received in proportion to the percentage of program funds used for the litigation. No recipient of funds under the program may use such funds to pay the occupational tax imposed pursuant to section 51-81b of the 2008 supplement to the general statutes, on behalf of any attorney. As used in this section, "mortgage lender" means any person engaged in the business of making [first] mortgage loans, [or secondary mortgage loans,] including, but not limited to, a bank, out-of-state bank, Connecticut credit union, federal credit union, out-of-state credit union, [first] mortgage lender or mortgage correspondent lender required to be licensed under sections 36a-485 to 36a-498a, inclusive, [or secondary mortgage lender required to be licensed under



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sections 36a-510 to 36a-524, inclusive] as amended by this act.

Sec. 72. Subsection (a) of section 51-344a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Whenever the term "judicial district of Hartford-New Britain" or "judicial district of Hartford-New Britain at Hartford" is used or referred to in the following sections of the general statutes, it shall be deemed to mean or refer to the judicial district of Hartford on and after September 1, 1998: Sections 1-205 of the 2008 supplement to the general statutes, 1-206 of the 2008 supplement to the general statutes, 2-48, 3-21a, 3-62d, 3-70a, 3-71a, 4-61, 4-160, 4-164, 4-177b, 4-180, 4-183, 4-197, 5-202, 5-276a, 8-30g, 9-7a, 9-7b, 9-369b, 10-153e, 12-208, 12-237, 12-268l, 12-312, 12-330m, 12-405k, 12-422, 12-448, 12-454, 12-456, 12-463, 12-489, 12-522, 12-554, 12-565, 12-572, 12-586f, 12-597, 12-730, 13b-34, 13b-235, 13b-315, 13b-375, 14-57, 14-66 of the 2008 supplement to the general statutes, 14-67u, 14-110, 14-195, 14-311, 14-311c, 14-324, 14-331, 15-125, 15-126, 16-41 of the 2008 supplement to the general statutes, 16a-5, 17b-60, 17b-100, 17b-238, 17b-531, 19a-85, 19a-86, 19a-123d, 19a-425, 19a-498, 19a-517, 19a-526, 19a-633, 20-12f, 20-13e of the 2008 supplement to the general statutes, 20-29, 20-40, 20-45, 20-59 of the 2008 supplement to the general statutes, 20-73a, 20-86f, 20-99, 20-114, 20-133, 20-154, 20-156, 20-162p, 20-192, 20-195p, 20-202, 20-206c, 20-227, 20-238, 20-247, 20-263, 20-271, 20-307, 20-341f, 20-363 of the 2008 supplement to the general statutes, 20-373, 20-404, 20-414, 21a-55, 21a-190i, 22-7, 22-64, 22-228, 22-248, 22-254, 22-320d, 22-326a, 22-344b, 22-386, 22a-6b of the 2008 supplement to the general statutes, 22a-7, 22a-16, 22a-30, 22a-34, 22a-53, 22a-60, 22a-62, 22a-63 of the 2008 supplement to the general statutes, 22a-66h, 22a-106a, 22a-119, 22a-167, 22a-180, 22a-182a, 22a-184, 22a-220a, 22a-220d, 22a-225, 22a-226, 22a-226c, 22a-227, 22a-250, 22a-255l, 22a-276, 22a-285a, 22a-285g of the 2008 supplement to the general statutes, 22a-285j, 22a-310, 22a-342a, 22a-344, 22a-361a, 22a-374,

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22a-376, 22a-408, 22a-430, 22a-432, 22a-438, 22a-449f of the 2008 supplement to the general statutes, 22a-449g, 22a-459, 23-5e, 23-65m, 25-32e, 25-36, 28-5, 29-143j of the 2008 supplement to the general statutes, 29-158, 29-161z, 29-317, 29-323, 29-329, 29-334, 29-340, 29-369, 30-8, 31-109, 31-249b of the 2008 supplement to the general statutes, 31-266, 31-266a, 31-270, 31-273, 31-284, 31-285, 31-339, 31-355a, 31-379, 35-3c, 35-42, 36a-186, 36a-187, 36a-471a, 36a-494 [, 36a-517] of the 2008 supplement to the general statutes, as amended by this act, 36a-587 of the 2008 supplement to the general statutes, 36a-647, 36a-684, 36a-718, 36a-807, 36b-26, 36b-27 of the 2008 supplement to the general statutes, 36b-30, 36b-50, 36b-71, 36b-72, 36b-74, 36b-76, 38a-41, 38a-52, 38a-134, 38a-139, 38a-140, 38a-147, 38a-150, 38a-185, 38a-209, 38a-225, 38a-226b, 38a-241, 38a-337, 38a-470, 38a-620, 38a-657, 38a-687, 38a-774, 38a-776, 38a-817, 38a-843, 38a-868, 38a-906, 38a-994, 42-103c, 42-110d, 42-110k, 42-110p, 42-182, 46a-5, 46a-56 of the 2008 supplement to the general statutes, 46a-100, 47a-21, 49-73, 51-44a, 51-81b of the 2008 supplement to the general statutes, 51-194, 52-146j, 53-392d and 54-211a.

Sec. 73. Subdivision (2) of section 42-287 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(2) Any transaction between a consumer and a bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union as each is defined in section 36a-2 of the 2008 supplement to the general statutes, as amended by this act, or a [first] mortgage broker, mortgage correspondent lender or mortgage lender, [second mortgage broker or lender,] sales finance company or small loan lender licensed under chapter 668 in which any such person, or such person's subsidiary, affiliate or agent markets its own services to a consumer.

Sec. 74. Subdivision (2) of section 36a-615 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2008):

(2) "Loan broker" means any person who: (A) For or in expectation of a fee (i) arranges, negotiates, places, solicits or finds an unsecured loan; (ii) assists or advises a person in obtaining an unsecured loan; or (iii) offers or attempts to engage in the activities described in subparagraph (i) or (ii) of this subdivision; (B) acts for or on behalf of a loan broker; (C) holds himself out to the public generally as a person engaging in the activities described in subdivision (A) of this subsection. A principal, officer, director, partner, joint venturer, manager or other person with similar supervisory or managerial responsibility for persons engaging in the activities described in subdivisions (A) to (C), inclusive, of this subsection shall be deemed to be a loan broker. "Loan broker" shall not include any bank, out-of-state bank, Connecticut credit union, federal credit union, out-of-state credit union, small loan licensee, nondepository [first] mortgage lender, mortgage correspondent lender or mortgage broker, [secondary mortgage loan lender or broker,] sales finance company, securities broker-dealer or investment adviser, investment company as defined in the Investment Company Act of 1940, as amended from time to time, [amended,] forwarder of money, trustee under a mortgage or deed of trust of real property, corporation exercising fiduciary powers, money order and travelers check licensee, check cashing licensee, real estate broker or agent, attorney, Federal Housing Authority or Veterans' Administration approved lender, or insurance company; provided any such person or entity so excluded is licensed by and subject to the regulation and supervision of the appropriate regulatory agency of the United States or this state or any other state and is acting within the scope of the license.

Sec. 75. Subdivision (2) of subsection (a) of section 36a-755 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

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(2) "Financial institution" means a bank, out-of-state bank, Connecticut credit union, federal credit union, out-of-state credit union, [secondary mortgage loan licensee and first] mortgage lender, mortgage correspondent lender or mortgage broker licensee.

Sec. 76. Subdivision (1) of subsection (a) of section 49-6a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(1) "Creditor" means any state bank and trust company or national banking association, state or federal savings bank, state or federal savings and loan association, state or federal credit union, licensed [first] mortgage lender, mortgage correspondent lender or other financial institution.

Sec. 77. (*Effective from passage*) (a) There is established a Commission on Nontraditional Loans and Home Equity Lines of Credit.

(b) The commission shall determine: (1) The number of homeowners in Connecticut who have nontraditional loans and home equity lines of credit; (2) the number of Connecticut residents who have nontraditional loans or home equity lines of credit which are in default or who have been affected by foreclosure action or are likely to face such action over the next four years; (3) the types of nontraditional loans and home equity lines of credit that pose a high risk of loan default or foreclosure and the characteristics or features of such loans that are possible factors in defaults or foreclosure; and (4) the circumstances under which nontraditional loans and home equity lines of credit are appropriate for borrowers.

(c) For the purposes of this section, "nontraditional mortgage" has the same meaning as set forth in the "Interagency Guidance on Nontraditional Mortgage Product Risks", 71 Federal Register 58609 (Oct. 4, 2006), as amended from time to time. For purposes of this

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section, "home equity line of credit" means a mortgage extended by a lender under a plan in which: (1) The lender reasonably contemplates repeated transactions; (2) the lender may impose a finance charge from time to time on an outstanding unpaid balance; (3) the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and (4) none of the proceeds of the open-end line of credit are used at closing to (A) purchase the borrower's primary residence, or (B) refinance a mortgage loan that had been used by the borrower to purchase the borrower's primary residence.

(d) The commission shall consist of the following members:

(1) The Banking Commissioner, or the commissioner's designee, who shall serve as the chair of the commission;

(2) The chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to banks, or their designees;

(3) Two persons appointed by the Governor, one of whom shall represent state chartered banks and one of whom is a housing advocate who represents low-income residents;

(4) One person appointed by the speaker of the House of Representatives who represents mortgage bankers;

(5) One person appointed by the president pro tempore of the Senate who is an attorney who represents homeowners who are defendants in foreclosure actions;

(6) One person appointed by the majority leader of the Senate who is a consumer who has been a defendant in a foreclosure action related to a nontraditional mortgage or home equity line of credit;

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(7) One person appointed by the majority leader of the House of Representatives who is an attorney who represents the banking industry;

(8) One person appointed by the minority leader of the Senate who represents a nonprofit organization which advocates for people affected by predatory lending; and

(9) One person appointed by the minority leader of the House of Representatives who represents federally chartered banks.

(e) All appointments to the task force shall be made no later than August 1, 2008. Any vacancy shall be filled by the appointing authority.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to banks shall serve as administrative staff of the task force.

(g) Not later than January 1, 2009, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to banks, in accordance with the provisions of section 11-4a of the general statutes. The commission's recommendation shall include recommendations on measures that address nontraditional loans and home equity lines of credit that have a high incidence of defaults and foreclosures and possible restrictions on such loans or certain features of such loans that increase the likelihood of foreclosure or default. When making such recommendations, the commission shall give consideration to the impact that such measures and restrictions might have on responsible lending activities that can help to serve the credit needs of Connecticut residents, including, but not limited to, the impact on the secondary market and credit costs and availability. The task force shall terminate on the date that it submits such report or

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January 1, 2009, whichever is later.

Sec. 78. Section 36a-605 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

[(a)] In connection with the examination of a licensee under section 36a-17, the commissioner may also examine the agents and subagents of such licensee. The commissioner, in lieu of conducting an examination, may accept the report of examination of any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination or other supervision of any person subject to the provisions of sections 36a-595 to 36a-610, inclusive, or a report prepared by an independent accounting firm, and reports so accepted are considered for purposes of sections 36a-595 to 36a-610, inclusive, as an official examination report of the commissioner.

[(b) The commissioner may enter into cooperative, coordinating and information-sharing agreements with any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination, examination fees or other supervision of any person subject to the provisions of sections 36a-595 to 36a-610, inclusive. Any such agreement may include provisions concerning the assessment or sharing of fees for such examination or supervision.]

Sec. 79. Section 36a-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) The commissioner may enter into one or more stipulations and agreements or memoranda of understanding with a Connecticut bank, either alone or in conjunction with the Federal Deposit Insurance Corporation or its successor agency, or may enter into one or more letters of understanding and agreement or memoranda of

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understanding with a Connecticut credit union or Connecticut credit union service organization, either alone or in conjunction with the National Credit Union Administration or its successor agency, if the commissioner finds as a result of an examination or investigation that the Connecticut bank, Connecticut credit union or Connecticut credit union service organization: (1) Has failed to file a report when due, (2) is insolvent, (3) has violated any provisions of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, or (4) has engaged or participated in, or is engaging or participating in, any unsafe and unsound practice.

(b) The commissioner may enter into cooperative, coordinating or information-sharing agreements with any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination, examination fees or other supervision of any person subject to the provisions of sections 36a-485 to 36a-810, inclusive, as amended by this act. Any such agreement may include provisions concerning the assessment or sharing of fees for such examination or supervision.

Sec. 80. (*Effective July 1, 2008*) The sum of two million five hundred thousand dollars is appropriated to the State Treasurer, from the State Banking Fund, for the fiscal year ending June 30, 2009, for purposes of providing state assistance under section 11 of this act.

Sec. 81. (NEW) (*Effective July 1, 2008*) A mortgage broker shall not influence real estate appraisals of residential property. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to: (1) Refusal, or intentional failure, to pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price; or (2) refusal, or intentional failure, to utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the



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sale contract price.

Sec. 82. (NEW) (*Effective July 1, 2008*) (a) A real estate broker or real estate salesperson licensed under chapter 392 of the general statutes shall not influence residential real estate appraisals. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to, refusal or intentional failure to refer a homebuyer, or encouraging other real estate brokers or real estate salespersons not to refer a homebuyer, to a mortgage broker, as defined in section 21 of this act, or a lender, as defined in section 21 of this act, based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

(b) Violations of subsection (a) of this section shall be subject to the actions and penalties set forth in section 20-320 of the general statutes.

Sec. 83. (*Effective July 1, 2008*) Sections 36a-510, 36a-511, 36a-513, 36a-514, 36a-515, 36a-516, 36a-517, 36a-521, 36a-523 and 36a-534g of the 2008 supplement to the general statutes are repealed.

Sec. 84. (*Effective July 1, 2008*) Sections 8-265jj, 36a-512, 36a-519, 36a-520, 36a-522, 36a-524 and 36a-746f of the general statutes are repealed.

Approved June 12, 2008