



General Assembly

**Amendment**

February Session, 2008

LCO No. 6551

**\*HB0502306551SD0\***

Offered by:  
SEN. DUFF, 25<sup>th</sup> Dist.

To: Subst. House Bill No. 5023      File No. 720      Cal. No.

(As Amended by House Amendment Schedule "A")

**"AN ACT CONCERNING A PROGRAM OF CONTINUING  
EDUCATION FOR RESIDENTIAL MORTGAGE BROKERS AND  
ORIGINATORS."**

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1      After the last section, add the following and renumber sections and  
2      internal references accordingly:

3      "Sec. 501. Section 36a-664 of the general statutes is repealed and the  
4      following is substituted in lieu thereof (*Effective July 1, 2008*):

5      (a) (1) Except as provided in subdivision (2) of this subsection, no  
6      such license, and no renewal thereof, shall be granted unless the  
7      applicant has filed a surety bond with the commissioner written by a  
8      surety authorized to write such bonds in this state, provided any  
9      applicant that files applications for licenses for more than one location  
10     shall file a single bond. [For] Except as provided in this subdivision,  
11     for every applicant, the principal amount of the bond shall be the  
12     greater of (A) forty thousand dollars, or (B) twice the amount of the

13 [highest total] average daily balance of the payments received by the  
14 applicant from Connecticut debtors in connection with the applicant's  
15 debt adjustment activity [in any month] during the preceding twelve  
16 months ending July thirty-first of each year and, in the case of an  
17 applicant that has acquired the business of a predecessor debt adjuster,  
18 the predecessor's debt adjustment activity during such preceding  
19 period, not to exceed one million dollars. The commissioner may  
20 require a larger bond if the commissioner determines that a licensee  
21 has engaged in a pattern of conduct resulting in bona fide consumer  
22 complaints of misconduct and that such increased bond is necessary  
23 for the protection of consumers, or may increase or decrease the  
24 amount of the bond based upon the applicant's or licensee's financial  
25 condition, business plan and the actual or estimated aggregate amount  
26 of payments and fees paid by Connecticut debtors to such applicant.  
27 Each licensee shall submit to the commissioner, [evidence that the  
28 bond complies with the provisions of this subdivision] by September  
29 first of each year, a report containing information on the average daily  
30 balance of the payments received by the licensee from Connecticut  
31 debtors during the preceding twelve months ending July thirty-first of  
32 each such year. The report shall be subscribed and affirmed as true by  
33 the licensee and shall be in a form prescribed by the commissioner.

34 (2) If a licensee or applicant for renewal of a license establishes that  
35 such licensee or applicant is unable to comply with the bond required  
36 by subdivision (1) of this subsection, it [may submit to the  
37 commissioner, by July first, a request for an alternative to such  
38 requirement. If the commissioner finds that the financial responsibility,  
39 character, reputation, integrity and general fitness of the applicant so  
40 warrant, the commissioner may permit the applicant or licensee to  
41 supplement the maximum surety bond that] shall file a bond for the  
42 highest principal amount it can obtain, provided [the principal amount  
43 of the surety bond] such amount shall be a minimum of forty thousand  
44 dollars, [with such other bonds or insurance policies, in such amounts,  
45 for such period and subject to such conditions as the commissioner  
46 may approve. Any such bond or insurance policy shall be written or

47 issued by a surety or insurance company authorized to write such  
48 bonds or sell such insurance in this state] and the licensee or applicant  
49 for renewal shall, in lieu of the balance of the required amount of the  
50 bond, deposit a sum equal to the amount of the bond required by  
51 subdivision (1) of this subsection, less the amount of the bond filed  
52 with the commissioner, in cash or cash equivalents, with such bank,  
53 out-of-state bank that has a branch in this state, Connecticut credit  
54 union or federal credit union as such applicant or licensee may  
55 designate and the commissioner may approve, and subject to such  
56 conditions as the commissioner deems necessary for the protection of  
57 consumers and in the public interest. No applicant or licensee shall  
58 make such deposit until the depository institution and the applicant or  
59 licensee executes a deposit agreement satisfactory to the commissioner.  
60 The deposit agreement shall pledge the amount deposited to the  
61 commissioner and provide that the depository institution shall not  
62 release any of the moneys pledged without the authorization of the  
63 commissioner. The amount deposited shall secure the same obligation  
64 as would a surety bond filed under this section and shall be held at  
65 such banks or credit unions to cover claims during the period the  
66 license remains in full force and effect and the succeeding two years  
67 after such license has been surrendered, revoked or suspended or has  
68 expired. The applicant or licensee may collect interest on such deposit  
69 in accordance with its deposit agreement. The deposits made pursuant  
70 to this section shall be deemed, by operation of law, to be held in trust  
71 for the benefit of any debtor, who may be damaged by failure of an  
72 applicant or licensee to perform any written agreements or by the  
73 wrongful conversion of funds paid to a licensee in the event of the  
74 bankruptcy of the licensee, and shall be immune from attachment by  
75 creditors or judgment creditors.

76 (3) The form of any surety bond submitted pursuant to this section  
77 shall be approved by the Attorney General. Any surety bond filed  
78 under this section shall be conditioned upon the licensee faithfully  
79 performing any and all written agreements with debtors, truly and  
80 faithfully accounting for all funds received by the licensee in the

81 licensee's capacity as a debt adjuster, and conducting such business  
82 consistent with the provisions of sections 36a-655 to 36a-665, inclusive.  
83 Any debtor who may be damaged by failure to perform any written  
84 agreements, or by the wrongful conversion of funds paid to a licensee,  
85 may proceed on any such surety bond against the principal or surety  
86 thereon, or both, to recover damages. The commissioner may proceed  
87 on any such surety bond against the principal or surety thereon, or  
88 both, to collect any civil penalty imposed upon the licensee pursuant to  
89 subsection (a) of section 36a-50. The proceeds of any bond, [or  
90 insurance policy,] even if commingled with other assets of the licensee,  
91 shall be deemed by operation of law to be held in trust for the benefit  
92 of such claimants against the licensee in the event of bankruptcy of the  
93 licensee and shall be immune from attachment by creditors and  
94 judgment creditors. Any bond [or insurance policy] required by this  
95 section shall be maintained during the entire period of the license  
96 granted to the applicant, and the aggregate liability under any such  
97 bond [or insurance policy] shall not exceed the principal amount of the  
98 bond or the limit of liability. [of the insurance policy.]

99 (b) The surety [or insurance] company shall have the right to cancel  
100 any bond [or insurance policy written or issued] filed under subsection  
101 (a) of this section at any time by a written notice to the licensee, stating  
102 the date cancellation shall take effect. Such notice shall be sent by  
103 certified mail to the licensee at least thirty days prior to the date of  
104 cancellation. No such bond shall be cancelled unless the surety [or  
105 insurance] company notifies the commissioner in writing not less than  
106 thirty days prior to the effective date of cancellation. The commissioner  
107 shall automatically suspend the license on the date the cancellation  
108 takes effect, unless the bond [or insurance policy] has been replaced or  
109 renewed. The commissioner shall give the licensee notice of the  
110 automatic suspension pending proceedings for revocation or refusal to  
111 renew and an opportunity for a hearing on such actions in accordance  
112 with section 36a-51 of the 2008 supplement to the general statutes.

113 (c) No licensee shall use, attempt to use or make reference to, either  
114 directly or indirectly, any word or phrase which states or implies that

115 the licensee is endorsed, sponsored, recommended [,] or bonded [or  
116 insured] by the state. "