



**Substitute Senate Bill No. 948**

**Public Act No. 09-209**

**AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E. MORTGAGE LICENSING ACT, THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM, FORECLOSURE PROCEDURES AND TECHNICAL REVISIONS TO THE BANKING STATUTES.**

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

Section 1. Section 36a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) Notwithstanding any provision of state law and except as provided in [subsection] subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, as amended by this act, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery:

(1) Examination and investigation reports and information contained in or derived from such reports, including examination reports prepared by the commissioner or prepared on behalf of or for the use of the commissioner;

(2) Confidential supervisory or investigative information obtained from a state, federal or foreign regulatory or law enforcement agency; and

***Substitute Senate Bill No. 948***

(3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (A) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation and all related administrative and legal actions are concluded; (B) personal or financial information, including account or loan information, without the written consent of the person or persons to whom the information pertains; or (C) information that would harm the reputation of any person or affect the safety and soundness of any person whose activities in this state are subject to the supervision of the commissioner, and the disclosure of such information under this subparagraph would not be in the public interest.

(b) The commissioner may, without waiving any privilege, disclose the records described in subsection (a) of this section for any appropriate supervisory, governmental, law enforcement or other public purpose. Any such disclosure shall be made under safeguards designed to prevent further dissemination of such records. In any proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of any such record and order that any such record on file with the court or filed in connection with the court proceeding be sealed and that the public be excluded from any portion of the proceeding at which any such record is disclosed.

(c) No director, officer, employee or agent of any Connecticut bank or Connecticut credit union shall disclose without the prior written consent of the commissioner any information contained in an examination report about such bank or credit union, which

**Substitute Senate Bill No. 948**

information is not otherwise a matter of public record.

(d) (1) The provisions of subsections (a) and (b) of this section shall not apply to the disclosure of [(1)] any record [that is] provided to or maintained by the commissioner with the [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 Nationwide Mortgage Licensing System that could not otherwise be obtained under state law. No information obtained from the 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.] system. Except as otherwise provided in Section 1512 of the federal S.A.F.E. Mortgage Licensing Act of 2008, any requirements under federal law or any law of this state, including this section and chapter 14 and any privilege arising under federal law or any law of this state, including the rules of any federal court or court of this state that protect the disclosure of any record provided to or maintained with the system, shall continue to apply to such record after it has been disclosed to the system. Such record may be shared with all state and federal regulatory officials that have oversight authority over the mortgage industry without the loss of privilege or the loss of confidentiality protections provided by federal law or the laws of this state. For purposes of this subsection, the commissioner may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or associations representing governmental agencies.

**Substitute Senate Bill No. 948**

(2) Any information or material that is protected from disclosure under subdivision (1) of this subsection shall not be subject to (A) disclosure under any federal or state law governing disclosure to the public of information held by an officer or agency of the federal government or the respective state; or (B) subpoena, discovery or admission into evidence in any private civil action or administrative process, except a person may, at such person's discretion, waive in whole or in part a privilege held by the system concerning such information and material.

(3) Any law of this state relating to the disclosure of confidential supervisory information or of any information or material described in subdivision (1) of this subsection that is inconsistent with subdivision (1) shall be superseded by the requirements of this subsection.

(e) The confidentiality provisions of this section shall not apply to records relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that are included in the system for access by the public.

(f) For purposes of this section, "system" has the same meaning as provided in section 36a-485, as amended by this act.

Sec. 2. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

As used in this section and sections 36a-486 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, unless the context otherwise requires:

(1) "Advance fee" means any consideration paid or given, directly or indirectly, to a mortgage lender, mortgage correspondent lender or mortgage broker required to be licensed pursuant to sections 36a-485

***Substitute Senate Bill No. 948***

to 36a-498a, inclusive, as amended by this act, and sections 36a-534a and 36a-534b, prior to the closing of a residential 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" or "advertising" means the use of 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) "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;

(4) "Control person" means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this subdivision, "control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

(5) "Depository institution" has the same meaning as provided in Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and includes any Connecticut credit union, federal credit union or out-of-

**Substitute Senate Bill No. 948**

state credit union;

(6) "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration and the Federal Deposit Insurance Corporation;

[(4)] (7) "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] residential mortgage loan that is secured by a first mortgage; [upon any interest in one-to-four-family owner-occupied 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;]

(8) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild and includes stepparents, stepchildren, stepsiblings and adoptive relationships;

(9) "Individual" means a natural person;

(10) "Loan processor" or "underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under sections 36a-485 to 36a-498a, inclusive, as amended by this act, and sections 36a-534a and 36a-534b, as amended by this act. The term "clerical or support duties" includes, subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does

**Substitute Senate Bill No. 948**

not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

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

[(6)] (12) "Mortgage broker" means a person who, [for a fee, commission or other valuable consideration, directly or indirectly, negotiates, solicits, 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] for compensation or gain or in the expectation of compensation or gain (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan, excluding an individual who is sponsored by another mortgage lender, mortgage correspondent lender or mortgage broker;

[(7)] (13) "Mortgage correspondent lender" means a person engaged in the business of making residential 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)] (14) "Mortgage lender" means a person engaged in the business of making residential 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;]

[(10)] (15) "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 mortgage broker licensee

**Substitute Senate Bill No. 948**

who, for, or with the expectation of, a fee, commission or other valuable consideration, takes an application for or negotiates, solicits, arranges or finds a mortgage loan. "Mortgage loan originator" does not include (1) an officer, if the 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 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] for compensation or gain or with the expectation of compensation or gain (A) takes a residential mortgage loan application or (B) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include (i) an individual engaged solely as a loan processor or underwriter except as otherwise provided in subdivision (3) of subsection (b) of section 36a-486, as amended by this act; (ii) a person who only performs real estate brokerage activities and is licensed in accordance with chapter 392, unless the person is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator; (iii) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Paragraph 53D of 11 USC 101; or (iv) any individual who solely renegotiates terms for existing mortgage loans and who does not otherwise act as a mortgage loan originator, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires such individual to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act;

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

**Substitute Senate Bill No. 948**

(17) "Person" means a natural person, corporation, company, limited liability company, partnership or association;

~~[(12)]~~ (18) "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;

(19) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including (A) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property; (B) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property; (C) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction; (D) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and (E) offering to engage in any activity, or act in any capacity, described in this subdivision;

(20) "Registered mortgage loan originator" means any individual who (A) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (B) is registered with and maintains a unique identifier through the system;

(21) "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, or residential real estate upon which is constructed or

**Substitute Senate Bill No. 948**

intended to be constructed a dwelling, as so defined;

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

(22) "Residential real estate" means any real property located in this state, upon which is constructed or intended to be constructed a dwelling as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602;

[(14)] (23) "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] a residential mortgage loan 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;]

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

(25) "Sponsored" means employed or retained as an independent contractor;

(26) "System" means the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage lenders, mortgage correspondent lenders, mortgage brokers and mortgage loan originators;

**Substitute Senate Bill No. 948**

[(16)] (27) "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]

(28) "Unique identifier" means a number or other identifier assigned by protocols established by the system; and

[(17)] (29) "Warehouse agreement" means an agreement to provide credit to a person to enable the person to have funds to make residential mortgage loans and hold such loans pending sale to other persons.

Sec. 3. Section 36a-534b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) [The Banking Commissioner] (1) In addition to any other duties imposed upon the Banking Commissioner by law, the commissioner shall require mortgage lenders, mortgage correspondent lenders, mortgage brokers and mortgage loan originators to be licensed and registered through the system. In order to carry out this requirement, the commissioner shall participate in the [Nationwide Mortgage Licensing System] system [for this state] and permit [such system] the 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. For this purpose, the commissioner may establish requirements as necessary for participation in the system, including: (A) Background checks for criminal history through (i) fingerprint or other databases, (ii) civil or administrative records, or (iii) credit history or any other information as deemed necessary by the system; (B) the payment of fees to apply for or renew licenses through the system; (C) the setting or resetting of renewal or reporting dates; and (D) the requirements for amending or surrendering a license or any

***Substitute Senate Bill No. 948***

other such activities as the commissioner deems necessary for participation in the system. For the purpose of participating in the system, the commissioner may waive or modify, in whole or in part, by regulation or order, any requirement of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, and to establish new requirements as reasonably necessary to participate in the system. For the purposes of implementing an orderly and efficient licensing process, the commissioner may adopt licensing regulations, in accordance with the provisions of chapter 54, and interim procedures for licensing and acceptance of applications. For previously licensed individuals, the commissioner may establish expedited review and licensing procedures.

(2) The commissioner shall report regularly to the system violations of and enforcement actions under sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, and other relevant information.

(3) The commissioner may establish relationships or enter into contracts with the system or other entities designated by the system to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act.

(4) For the purposes of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of subsections (b) and (c) of section 36a-488, as amended by this act, the commissioner may use the system as a

***Substitute Senate Bill No. 948***

channeling agent for requesting information from and distributing information to the United States Department of Justice or any governmental agency.

(5) For the purposes of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, and to reduce the points of contact that the commissioner may have to maintain for purposes of subsections (b) and (c) of section 36a-488, as amended by this act, the commissioner may use the system as a channeling agent for requesting and distributing information to and from any source, as directed by the commissioner.

(6) The commissioner shall establish a process whereby mortgage lenders, mortgage correspondent lenders, mortgage brokers and mortgage loan originators may challenge information entered into the system 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, 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, 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, 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, as amended by this act.

(c) (1) Each person licensed on July 1, 2008, as a mortgage lender,

**Substitute Senate Bill No. 948**

mortgage correspondent lender, mortgage broker or mortgage loan originator shall, prior to October 1, 2008, transition on to the [Nationwide Mortgage Licensing System] system by submitting all licensing and license-related information required by the [Nationwide Mortgage Licensing System] system for this state.

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

(3) Any person making any filing or submission of any information on the [Nationwide Mortgage Licensing System] system shall do so in accordance with the procedures and requirements of [such system] the system and pay the applicable fees or charges to [such system] the system. Each mortgage lender, mortgage correspondent lender, mortgage broker and mortgage loan originator licensee shall submit to the system reports of condition that shall be in such form and shall contain such information as the system may require.

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

Sec. 4. Section 36a-498c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

At least once a year, each mortgage lender and mortgage correspondent lender, both as defined in section 36a-485, as amended by this act, and licensed under section 36a-489, 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

**Substitute Senate Bill No. 948**

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 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 residential mortgage loan, as defined in section 36a-485, as amended by this act, made pursuant to the policy shall be subject to examination concerning prudent lending practices by the [Banking Commissioner] commissioner.

Sec. 5. Section 36a-486 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) No person shall engage in the business of making residential mortgage loans or act as a 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] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act. Effective April 1, 2010, any such person who is an individual shall also obtain a mortgage loan originator license prior to conducting such business unless such individual does not engage directly in the activities of a mortgage loan originator. A person, other than a licensed mortgage loan originator acting on behalf of [the] a mortgage lender [,] or 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 residential mortgage loans if such person advertises, causes to be advertised, solicits [,] or offers to make

***Substitute Senate Bill No. 948***

[or makes] residential mortgage loans, either directly or indirectly. A person, other than a licensed mortgage loan originator acting on behalf of a mortgage broker, shall be deemed to be acting as a mortgage broker if such person advertises or causes to be advertised that such person will negotiate, solicit, place or find a residential mortgage loan, either directly or indirectly. A mortgage correspondent lender shall not be deemed to be acting as a mortgage lender if such 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.

(b) (1) No person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker shall [employ or retain] engage the services of a mortgage loan originator unless such mortgage loan originator is licensed under [sections 36a-485 to 36a-498a, inclusive] section 36a-489, as amended by this act. An individual, unless specifically exempted under subdivision (2) of this subsection, shall not engage in the business of a mortgage loan originator with respect to any dwelling, as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, located in this state without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489, as amended by this act. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the system. No individual may act as a mortgage loan originator [without being licensed, or act as a mortgage loan originator] for more than one person at the same time. The license of a mortgage loan originator is not effective during any period when such mortgage loan originator is not [associated with] sponsored by a licensed mortgage lender, mortgage correspondent lender or mortgage broker. Either the mortgage loan originator or the mortgage lender, mortgage correspondent lender or mortgage broker may file a notification of the termination of [employment] sponsorship of a mortgage loan originator with the [Nationwide Mortgage Licensing

**Substitute Senate Bill No. 948**

System] system.

(2) The following are exempt from this section: (A) A registered mortgage loan originator or an employee of an institution or subsidiary described in subdivision (20) of section 36a-485, as amended by this act, who is not required to be registered under Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, when acting for such institution or subsidiary, (B) an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate family member of such individual, (C) an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling, as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, that served as the individual's residence, and (D) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator.

(3) Effective July 31, 2010, a loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license as a mortgage loan originator under section 36a-489, as amended by this act. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the system.

(4) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other

**Substitute Senate Bill No. 948**

promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

(c) If the United States Department of Housing and Urban Development or a court of competent jurisdiction determines that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101 et seq., requires an individual described in subparagraph (B)(iv) of subdivision (15) of section 36a-485, as amended by this act, to be licensed as a mortgage loan originator under state laws implementing said S.A.F.E. Mortgage Licensing Act, such individual may continue to act in such individual's current capacity, provided such individual files an application for a mortgage loan originator license not later than the date sixty days from the date of such determination by the United States Department of Housing and Urban Development or a court of competent jurisdiction.

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

Sec. 6. Section 36a-487 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) The following are exempt from licensing under sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of 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] provided such bank or credit union is federally insured, any operating [subsidiaries] subsidiary of a federal [banks and] bank or federally-chartered out-of-state [banks are not exempt from licensure;] bank or any wholly-owned subsidiary of a

***Substitute Senate Bill No. 948***

Connecticut bank or a Connecticut credit union. Each wholly-owned subsidiary of a Connecticut bank or Connecticut credit union that engages in the business of making residential mortgage loans or acts as a mortgage broker in this state shall provide written notification to the commissioner prior to engaging in such activity.

(b) The following are exempt from licensing as a mortgage lender or mortgage correspondent lender under sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act:

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

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

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

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

[(6)] (5) Persons 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)] (6) Any corporation or its affiliate [which] that makes residential mortgage loans exclusively for the benefit of its employees

**Substitute Senate Bill No. 948**

or agents;

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

[(9)] (8) 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 residential mortgage loans solely to plan participants from plan assets; and

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

Sec. 7. Section 36a-488 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) (1) The commissioner shall not issue a mortgage lender license, a mortgage correspondent lender license or a 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 mortgage lender shall be two hundred fifty thousand dollars and the minimum tangible net worth requirement for a mortgage correspondent lender and a 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 main office for which the license is sought, a qualified individual [with] and, at each branch office, a branch manager who have supervisory authority over the lending or brokerage activities who [has] have at least three years' experience in the mortgage business within the five years immediately preceding the date of the application for the license [, and at each branch office, the lender or

**Substitute Senate Bill No. 948**

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] and who, effective April 1, 2010, have completed the prelicensing education requirement described in section 9 of this act and passed a written test that meets the test requirement described in section 9 of this act. As used in this subdivision, "experience in the mortgage business" means paid experience in the origination, processing or underwriting of residential 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.]

(3) Not later than April 1, 2010, each qualified individual and branch manager shall have completed the prelicensing education requirement described in section 9 of this act and passed a written test that meets the test requirement described in section 9 of this act.

(b) The commissioner may issue a mortgage lender license, a mortgage correspondent lender license, or a mortgage broker license. Each mortgage lender licensee may also act as a mortgage correspondent lender and a mortgage broker, and each mortgage correspondent lender licensee may also act as a mortgage broker. 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 filed, in a form prescribed by the commissioner, with the [Nationwide Mortgage Licensing System and the] system. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as

***Substitute Senate Bill No. 948***

necessary by the commissioner in order to carry out the purpose of section 36a-21, as amended by this act, sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 22, inclusive, of this act. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager, including personal history and experience in a form prescribed by the system and information related to any administrative, civil or criminal findings by any governmental jurisdiction. The following supplementary information shall be filed directly with the commissioner: (1) In the case of an initial application for a license for the main office, [or renewal of such license,] a financial statement as of a date not more than twelve months prior to the filing of the application which reflects tangible net worth, and if such financial statement is unaudited, the proprietor, general partner, or duly authorized officer, trustee or member shall swear to its accuracy under oath before a notary public; (2) a bond as required by section 36a-492, as amended by this act; (3) evidence that the qualified individual or branch manager meets the experience required by subsection (a) of this section; and (4) such other information pertaining to the applicant, the applicant's background, the background of its principals, 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

**Substitute Senate Bill No. 948**

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 office for which the license is sought, and require the applicant to submit the fingerprints of such persons as part of the application. The applicant shall submit such fingerprints for processing with the Nationwide Mortgage Licensing System, as required] any control person of the applicant and the qualified individual or branch manager with supervisory authority at the office for which the license is sought and require the applicant to submit the fingerprints of such persons and authorization of such persons for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as part of the application.

(c) [On and after July 1, 2008, an] (1) An application to license a person as a mortgage loan originator for a specified office or renewal of such license shall be filed, in a form prescribed by the commissioner, with the [Nationwide Mortgage Licensing System The applicant shall submit such fingerprints for processing with the Nationwide Mortgage Licensing System, as required.] system. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purpose of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 22, inclusive, of this act. The applicant shall, at a minimum, furnish to the system, in a form prescribed by the system, information concerning the applicant's identity, including personal history and experience and information related to any administrative, civil or criminal findings by any governmental jurisdiction. Effective April 1, 2010, each applicant for a

**Substitute Senate Bill No. 948**

mortgage loan originator license shall furnish to the system fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check. Effective the later of July 31, 2010, or thirty days after the date the system commences accepting such authorizations for processing, each applicant shall furnish authorization for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a.

(2) Not later than April 1, 2010, each mortgage loan originator licensee shall furnish to the system fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check. By July 31, 2010, or thirty days after the system commences accepting such authorizations for processing, whichever is later, each such licensee shall furnish authorization for the system and the commissioner to obtain an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a.

Sec. 8. Section 36a-489 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

[(a) If the commissioner finds, upon the filing of an application for a license as a mortgage lender, mortgage correspondent lender or mortgage broker, that the applicant meets the requirements of subsection (a) of section 36a-488, 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

**Substitute Senate Bill No. 948**

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, and sections 36a-760a to 36a-760h, inclusive, the commissioner may thereupon issue 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 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 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, and sections 36a-760a to 36a-760h, inclusive. If the commissioner denies an application for a mortgage loan originator license, the commissioner shall notify 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) (1) The commissioner shall not issue an initial license for a mortgage lender, mortgage correspondent lender or mortgage broker unless the commissioner, at a minimum, finds that: (A) The applicant meets the requirements of subsection (a) of section 36a-488, as amended by this act; (B) notwithstanding the provisions of section 46a-

***Substitute Senate Bill No. 948***

80, as amended by this act, the applicant, the control persons of the applicant and the qualified individual or branch manager with supervisory authority at the office for which the license is sought have not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the seven-year period preceding the date of the application for licensing or at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering, provided any pardon of a conviction shall not be a conviction for purposes of this subdivision; (C) the applicant demonstrates that the financial responsibility, character and general fitness of the applicant, the control persons of the applicant and the qualified individual or branch manager having supervisory authority over the office for which the license is sought are such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act; (D) the applicant has met the surety bond requirement under section 36a-492, as amended by this act; and (E) the applicant has not made a material misstatement in the application. If the commissioner fails to make such findings, the commissioner shall not issue a license, and shall notify the applicant of the denial and the reasons for such denial.

(2) (A) The minimum standards for license renewal for a mortgage lender, mortgage correspondent lender or mortgage broker shall include the following: (i) The applicant continues to meet the minimum standards under subdivision (1) of this subsection; (ii) effective April 1, 2010, each qualified person and branch manager has completed the prelicensing education requirement described in section 9 of this act and passed a written test that meets the test requirement described in section 9 of this act, or has satisfied the annual continuing

***Substitute Senate Bill No. 948***

education requirements described in section (d) of section 9 of this act, as applicable; and (iii) the mortgage lender, mortgage correspondent lender or mortgage broker has paid all required fees for renewal of the license.

(B) The license of a mortgage lender, mortgage correspondent lender or mortgage broker failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system.

(b) (1) The commissioner shall not issue an initial license for a mortgage loan originator unless the commissioner, at a minimum, finds that the applicant has: (A) Never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacating of such revocation shall not be deemed a revocation; (B) notwithstanding the provisions of section 46a-80, as amended by this act, not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the seven-year period preceding the date of the application for licensing or at any time preceding such date of application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering, provided any pardon of a conviction shall not be a conviction for purposes of this subdivision; (C) demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly and efficiently within the purpose of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act; (D) effective April 1, 2010, completed the prelicensing education requirement described in section 9 of this act and passed a written test that meets the test requirement described in section 9 of this act; (E) effective July

***Substitute Senate Bill No. 948***

31, 2010, met the surety bond requirement under section 36a-492, as amended by this act; and (F) not made a material misstatement in the application. If the commissioner denies an application for a mortgage loan originator license, the commissioner shall notify the applicant and may notify the sponsor or any other person the commissioner deems appropriate of the denial and the reasons for such denial.

(2) (A) The minimum standards for license renewal for a mortgage loan originator shall include the following: (i) The mortgage loan originator continues to meet the minimum standards for license issuance under subdivision (1) of this subsection; (ii) the mortgage loan originator has satisfied the annual continuing education requirements described in subsection (d) of section 9 of this act; and (iii) the mortgage loan originator has paid all required fees for renewal of the license.

(B) The license of a mortgage loan originator that fails to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system.

(3) No later than April 1, 2010, each mortgage loan originator licensee shall have completed the prelicensing education requirement described in section 9 of this act and passed a written test that meets the test requirement described in section 9 of this act, provided a mortgage loan originator licensee who was licensed as of the enactment of this act shall have completed such prelicensing education requirement and passed such written test not later than October 31, 2010.

(c) For purposes of this section, a person has shown that such person is not financially responsible when such person has shown a disregard in the management of such person's own financial condition. A determination that a person has not shown financial responsibility

**Substitute Senate Bill No. 948**

may include, but is not limited to: (1) Current outstanding judgments, except judgments solely as a result of medical expenses; (2) current outstanding tax liens or other government liens and filings; (3) foreclosures during the three years preceding the date of application for an initial license or renewal of a license; or (4) a pattern of seriously delinquent accounts within the past three years.

Sec. 9. (NEW) (*Effective July 31, 2009*) (a) (1) In order to meet the prelicensing education and testing requirement referred to in section 36a-489 of the general statutes, as amended by this act, an applicant shall complete at least twenty hours of education approved in accordance with subdivision (2) of this subsection, which shall include at least (A) three hours of instruction on relevant federal law and regulations; (B) three hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and (C) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) For purposes of subdivision (1) of this subsection, prelicensing education courses shall be reviewed and approved by the system based upon reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

(3) Nothing in this subsection shall preclude any prelicensing education course, as approved by the system, that is provided by the sponsor of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such sponsor or entity.

(4) Prelicensing education may be offered either in a classroom, online or by any other means approved by the system.

(5) When prelicensing education requirements described in

**Substitute Senate Bill No. 948**

subdivision (1) of this subsection are completed in another state, such out-of-state prelicensing education requirements shall be accepted as credit towards completion of the prelicensing education requirements of this state, provided such out-of-state prelicensing education requirements are approved by the system.

(6) A person previously licensed under section 36a-489 of the general statutes, as amended by this act, subsequent to the applicable effective date of the prelicensing and testing requirements referred to in section 36a-489 of the general statutes, as amended by this act, applying to be licensed again shall prove that such person has completed all of the continuing education requirements for the year in which the license was last held.

(b) (1) In order to meet the written test requirement referred to in section 36a-489 of the general statutes, as amended by this act, an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the system and administered by a test provider approved by the system based upon reasonable standards.

(2) A written test shall not be treated as a qualified written test for purposes of subdivision (1) of this subsection unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including ethics, federal law and regulation pertaining to mortgage origination, state law and regulation pertaining to mortgage origination, and federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(3) Nothing in this subsection shall prohibit a test provider approved by the system from providing a test at the location of the sponsor of the applicant, any subsidiary or affiliate of the sponsor of the applicant or any entity with which the applicant holds an exclusive

**Substitute Senate Bill No. 948**

arrangement to conduct the business of a mortgage loan originator.

(4) (A) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five per cent correct answers to questions.

(B) An individual may retake a test three consecutive times with each consecutive taking occurring at least thirty days after the preceding test. After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(C) A licensed mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator who fails to maintain a valid license for a period of five years or longer, not taking into account any time during which such individual is a registered mortgage loan originator, shall retake the test.

(c) (1) In order to meet the annual continuing education requirements referred to in subdivision (2) of subsection (b) of section 36a-489 of the general statutes, as amended by this act, a licensed mortgage loan originator shall complete at least eight hours of education approved in accordance with subdivision (2) of this subsection. Such courses shall include at least (A) three hours of instruction on relevant federal law and regulation; (B) two hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and (C) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) For purposes of subdivision (1) of this subsection, continuing education courses shall be reviewed and approved by the system based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(3) Nothing in this subsection shall preclude any education course

**Substitute Senate Bill No. 948**

approved by the system that is provided by the sponsor of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such sponsor or entity.

(4) Continuing education may be offered either in a classroom, online or by any other means approved by the system.

(5) Except as otherwise provided in procedures adopted under subparagraph (B) of subdivision (2) of subsection (b) of section 36a-489 of the general statutes, as amended by this act, or in regulations adopted under subdivision (9) of this subsection, a licensed mortgage loan originator may only receive credit for a continuing education course in the year in which the course is taken, and may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(6) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensee's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

(7) When education requirements described in subdivision (1) of subsection (a) of this section are completed in another state, such out-of-state education requirements shall be accepted as credit towards completion of the education requirements of this state, provided such out-of-state education requirements are approved by the system.

(8) A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of an initial or renewed license.

(9) A person who meets the requirements of subparagraphs (A)(i) and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489

**Substitute Senate Bill No. 948**

of the general statutes, as amended by this act, may compensate for any deficiency in continuing education requirements pursuant to regulations adopted by the commissioner.

(d) For purposes of this section "nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage, and "system" has the same meaning as provided in section 36a-485 of the general statutes, as amended by this act.

Sec. 10. Section 36a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) A mortgage lender, mortgage correspondent lender and mortgage broker license shall not be transferable or assignable. No licensee may use any name other than its legal name or a fictitious name 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 residential 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 request to surrender [of] the license for each office at which the licensee intends to cease to do business, on the [Nationwide Mortgage Licensing System] system, not later than fifteen days after the date of such cessation, provided this requirement shall not apply when a license has been suspended pursuant to section 36a-51. No surrender shall be effective until accepted by the commissioner.

(b) A mortgage lender, mortgage correspondent lender or mortgage broker licensee may change the name of the licensee or address of the office specified on the most recent filing with the [Nationwide Mortgage Licensing System] system if (1) at least thirty calendar days prior to such change, the licensee files such change with the [Nationwide Mortgage Licensing System] system and provides,

**Substitute Senate Bill No. 948**

directly to the commissioner, a bond rider or endorsement to the surety bond on file with the commissioner that reflects the new name or address of the office, and (2) the commissioner does not disapprove such change, in writing, or request further information within such thirty-day period. The licensee shall promptly file any change in the information most recently submitted in connection with the license with the [Nationwide Mortgage Licensing System] system or, if the information cannot be filed on the [Nationwide Mortgage Licensing System] system, directly notify the commissioner, in writing, of [any other] such change in the information. [provided in the 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] system or, if the information cannot be filed on the [Nationwide Mortgage Licensing System] 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;

**Substitute Senate Bill No. 948**

(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 Mortgage Association;

(7) Exercise of recourse rights by investors or subsequent assignees of residential 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.]

(9) A decrease in the net worth required by subsection (a) of section 36a-488, as amended by this act.

**Substitute Senate Bill No. 948**

(d) Each mortgage loan originator licensee shall promptly file with the [Nationwide Mortgage Licensing System] system or, if the information cannot be filed on the [Nationwide Mortgage Licensing System] 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 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.

(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] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act.

Sec. 11. Section 36a-491 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) [(1)] 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

**Substitute Senate Bill No. 948**

December 31, 2008. On and after July 1, 2008, each mortgage lender, mortgage correspondent lender, [or] mortgage broker and mortgage loan originator 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 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] an initial license or renewal of a license as a mortgage lender or mortgage correspondent lender shall pay to the [Nationwide Mortgage Licensing System] 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] 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] 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] 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

**Substitute Senate Bill No. 948**

or mortgage broker that employs or retains the mortgage loan originator expires, unless such mortgage loan originator license is renewed. Each 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] Effective November 1, 2009, each applicant for [a] an initial license or renewal of a license as a mortgage loan originator [license] shall pay to the [Nationwide Mortgage Licensing System] system any required fees or charges and a license fee of [one] three 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.]

(b) All fees 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] any license fee 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. 12. Section 36a-492 of the general statutes is repealed and the

**Substitute Senate Bill No. 948**

following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) (1) No mortgage lender, mortgage correspondent lender or 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 mortgage broker, and conducting such mortgage business consistent with the provisions of sections 36a-485 to 36a-498a, inclusive. 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 36a-760, 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. 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

***Substitute Senate Bill No. 948***

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 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.] Effective July 31, 2010, the penal sum of the bond shall be maintained in an amount that reflects the dollar amount of the loans originated by the mortgage lender, mortgage correspondent lender or mortgage broker, as determined by the commissioner.

(2) Effective July 31, 2010, each person licensed as a mortgage loan originator shall be covered by a surety bond in accordance with this section, provided such coverage shall be provided through the bond of the mortgage lender, mortgage correspondent lender or mortgage broker who sponsors such mortgage loan originator. The penal sum of the bond shall be maintained in an amount that reflects the dollar amount of loans originated by the mortgage loan originator, as determined by the commissioner. The commissioner may adopt regulations in accordance with chapter 54 with respect to the requirements for such surety bonds.

(b) The bond required by subsection (a) of this section shall be conditioned upon such licensee and, effective July 31, 2010, any mortgage loan originator who is covered by the surety bond of a mortgage lender, mortgage correspondent lender or mortgage broker, 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 mortgage broker or, effective July 31, 2010, a mortgage loan originator, and conducting such mortgage business consistent with the provisions of sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a

***Substitute Senate Bill No. 948***

and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of 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 mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator 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 36a-760, 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. 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 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. The licensee shall notify the commissioner of the commencement of an action on the licensee's bond. When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond and immediately on recovery on any action on the bond, the licensee shall file a new bond.

[(b)] (c) 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

**Substitute Senate Bill No. 948**

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.

Sec. 13. Subsection (a) of section 36a-493 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) Each mortgage lender, mortgage correspondent lender and mortgage broker licensee shall maintain adequate records of each residential mortgage loan transaction at the office named in the license, or, if requested by the commissioner, shall make such records available at such 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 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 mortgage broker, 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 residential 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 borrower acknowledging the receipt of such statement which discloses the full amount of any fee, commission or

**Substitute Senate Bill No. 948**

consideration paid to the mortgage lender, mortgage correspondent lender and mortgage broker for all services in connection with the origination and settlement of the residential mortgage loan; (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 residential mortgage loan application taken from the borrower; and (9) a copy of all information used in evaluating the application.

Sec. 14. Section 36a-494 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) (1) The commissioner may suspend, revoke or refuse to renew any mortgage lender, mortgage correspondent lender or mortgage broker license or take any other action, in accordance with the provisions of section 36a-51, 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] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, or if the commissioner finds that the licensee, [or any proprietor, director, officer, member, partner, shareholder] any control person of the licensee, the qualified individual or branch manager with supervisory authority, trustee, employee or agent of such licensee has done any of the following: (A) Made any material 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 residential mortgage loan transaction, including disclosures required by subdivision (6) of subsection (a) of section 36a-493, 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

**Substitute Senate Bill No. 948**

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, 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] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of 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 residential 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] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of 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, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any residential mortgage loan transaction, including disclosures required by subdivision (6) of subsection (a) of section 36a-493, 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.

***Substitute Senate Bill No. 948***

(c) (1) The commissioner may remove any individual conducting business under sections 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, from office and from employment or retention as an independent contractor in the mortgage business in this state whenever the commissioner finds as the result of an investigation that such person: (A) Has violated any of said sections or any regulation or order issued thereunder; or (B) for any reason that would be sufficient grounds for the commissioner to deny a license under section 36a-489, as amended by this act, by sending a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by such person on the earlier of the date of actual receipt or seven days after mailing or sending. Any such notice shall include: (i) A statement of the time, place and nature of the hearing; (ii) a statement of the legal authority and jurisdiction under which the hearing is to be held; (iii) a reference to the particular sections of the general statutes, regulations or orders alleged to have been violated; (iv) a short and plain statement of the matters asserted; and (v) a statement indicating that such person may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice. If the commissioner finds that the protection of borrowers requires immediate action, the commissioner may suspend any such person from office and require such person to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this subsection, by incorporating a finding to that effect in such notice. The suspension or prohibition shall become effective upon receipt of such notice and, unless stayed by a court, shall remain in effect until the entry of a permanent order or the dismissal of the matters asserted.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the

**Substitute Senate Bill No. 948**

notice unless such person fails to appear at the hearing. After the hearing, if the commissioner finds that any of the grounds set forth in subparagraph (A) or (B), of subdivision (1) of this subsection exist with respect to such person, the commissioner may order the removal of such person from office and from any employment in the mortgage business in this state. If such person fails to appear at the hearing, the commissioner may order the removal of such person from office and from employment in the mortgage business in this state.

(d) The commissioner may issue a temporary order to cease business under a license if the commissioner determines that such license was issued erroneously. The commissioner shall give the licensee an opportunity for a hearing on such action in accordance with section 36a-52. Such temporary order shall become effective upon receipt by the licensee and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Sec. 15. Section 36a-496 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

No person engaged in the business of making residential 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 mortgage broker or mortgage loan originator who is required to be licensed under said sections but 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 mortgage broker or mortgage loan originator was not licensed by the commissioner.

**Substitute Senate Bill No. 948**

Sec. 16. Section 36a-497 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

No mortgage lender licensee, mortgage correspondent lender licensee or mortgage broker licensee shall:

(1) Advertise or cause to be advertised in this state, any residential mortgage loan in which such person intends to act only as a 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 residential 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 residential 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 residential 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. 17. Subsections (a) to (g), inclusive, of section 36a-498 of the general statutes are repealed and the following is substituted in lieu

**Substitute Senate Bill No. 948**

thereof (*Effective July 31, 2009*):

(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 mortgage broker required to be licensed pursuant to sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, shall be refundable.

(b) No mortgage loan originator required to be licensed pursuant to sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, shall accept payment of any advance fee except an advance fee on behalf of a mortgage lender, mortgage correspondent lender or mortgage broker licensee. Nothing in this subsection shall be construed as prohibiting the mortgage lender, mortgage correspondent lender or mortgage broker licensee from paying 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 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

**Substitute Senate Bill No. 948**

agreement shall clearly and conspicuously state any conditions under which the advance fee will be retained by the 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 mortgage lender, mortgage correspondent lender or mortgage broker, (B) contain a heading in a 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 mortgage broker required to be licensed pursuant to sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, shall enter into an agreement with or otherwise require any person to pay the mortgage lender, mortgage correspondent lender or mortgage broker for any fee, commission or other valuable consideration lost as a result of such person failing to consummate a residential mortgage loan, provided the mortgage lender, mortgage correspondent lender or mortgage broker may collect such fee, commission or consideration as an advance fee subject to the requirements of this section.

(2) No mortgage broker required to be licensed pursuant to sections

**Substitute Senate Bill No. 948**

36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, shall enter into an agreement with or otherwise require any person to pay the mortgage broker any fee, commission or other valuable consideration for the prepayment of the principal of a residential 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 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

**Substitute Senate Bill No. 948**

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, 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 residential 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.

Sec. 18. Section 36a-555 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

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 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, as amended by this act. 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,] section 36a-489, as amended by this act, when making [first] residential mortgage loans, as defined in section 36a-485, as amended by this act,

**Substitute Senate Bill No. 948**

or (9) a licensed pawnbroker.

Sec. 19. (NEW) (*Effective July 31, 2009*) (a) In addition to any authority provided under title 36a of the general statutes, the Banking Commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to: (A) Criminal, civil and administrative history information; (B) personal history and experience information including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act, 15USC1681a; and (C) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

(2) For the purposes of investigating violations or complaints arising under sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, section 36a-534a or 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, or for the purposes of examination, the commissioner may review, investigate or examine any licensee, individual or person subject to said sections as often as necessary in order to carry out the purposes of said sections. The commissioner may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject

***Substitute Senate Bill No. 948***

matter of any such examination or investigation, and may direct, subpoena or order such person to produce books, accounts, records, files and any other documents the commissioner deems relevant to the inquiry.

(b) Each licensee, individual or person subject to sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including accounting compilations, information lists and data concerning loan transactions in a format prescribed by the commissioner or such other information the commissioner deems necessary to carry out the purposes of this section.

(c) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, section 36a-534a or 36a-534b of the general statutes, as amended by this act, or sections 9 or 19 to 21, inclusive, of this act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

**Substitute Senate Bill No. 948**

(d) In order to carry out the purposes of this section, the commissioner may:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the licensee, individual or person subject to sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act;

(4) Accept and rely on examination or investigation reports made by other government officials, within or without this state; and

(5) Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

(e) The authority of this section shall remain in effect, whether such licensee, individual or person subject to sections 36a-485 to 36a-498c,

**Substitute Senate Bill No. 948**

inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(f) No licensee, individual or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

Sec. 20. (NEW) (*Effective July 31, 2009*) No person or individual subject to sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, may:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that such person or individual may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

(6) Conduct any business as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator

***Substitute Senate Bill No. 948***

without holding a valid license as required under sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, or assist or aide and abet any person in the conduct of business as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator without a valid license as required under said sections;

(7) Fail to make disclosures as required by sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act and any other applicable state or federal law including regulations thereunder;

(8) Fail to comply with sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act, or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections;

(9) Make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

(10) Negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, as defined in section 36a-485 of the general statutes, as amended by this act, or in connection with any investigation conducted by the Banking Commissioner or another governmental agency;

**Substitute Senate Bill No. 948**

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan as defined in section 36a-485 of the general statutes, as amended by this act, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, sections 36a-534a and 36a-534b of the general statutes, as amended by this act, and sections 9 and 19 to 21, inclusive, of this act;

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction.

Sec. 21. (NEW) (*Effective July 31, 2009*) The "unique identifier", as defined in section 36a-485 of the general statutes, as amended by this act, of any mortgage loan originator licensed under section 36a-489 of the general statutes, as amended by this act, originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or web sites, and any other documents as established by rule, regulation or order of the Banking Commissioner.

Sec. 22. (NEW) (*Effective July 31, 2009*) If any provision or application of sections 9 and 19 to 21, inclusive, of this act, section 36a-

**Substitute Senate Bill No. 948**

21 of the general statutes, as amended by this act, sections 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by this act, or sections 36a-534a and 36a-534b of the general statutes, as amended by this act, to any person or circumstance is held invalid by a court of this state, the remainder of said sections or the application of such provision to other persons or circumstances shall not be affected.

Sec. 23. Subsection (a) of section 36a-498a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

(a) No mortgage lender licensee or mortgage correspondent lender licensee under section 36a-489 and no person exempt from licensure under [subdivisions (1), (2), (5) and (6)] subsection (a) and subdivisions (1), (4) and (5) of subsection (b) of section 36a-487, as amended by this act, making a first mortgage loan 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.

Sec. 24. Section 46a-80 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

***Substitute Senate Bill No. 948***

(a) Except as provided in subsection (b) of this section, [and] subsection (b) of section 46a-81 and section 36a-489, as amended by this act, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state of Connecticut or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state of Connecticut or any of its agencies solely because of a prior conviction of a crime.

(b) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state, or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought.

(c) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(d) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certificate or registration.

**Substitute Senate Bill No. 948**

Sec. 25. Section 46a-81 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) [The] Except as provided in section 36a-489, as amended by this act, the provisions of sections 46a-79 to 46a-81, inclusive, shall prevail over any other provisions of law which purport to govern the denial of licenses, permits, certificates, registrations, or other means to engage in an occupation, trade, vocation, business or profession, on the grounds of a lack of good moral character, or which purport to govern the suspension or revocation of a license, permit, certificate or registration on the grounds of conviction of a crime.

(b) Sections 46a-79 to 46a-81, inclusive, shall not be applicable to any law enforcement agency, provided nothing herein shall be construed to preclude a law enforcement agency in its discretion from adopting the policy set forth in said sections.

Sec. 26. Section 36a-760j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 31, 2009*):

[A mortgage broker] No person 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 sale contract price.

Sec. 27. Subdivision (7) of section 8-265cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(7) "Financial hardship due to circumstances beyond the

**Substitute Senate Bill No. 948**

mortgagor's control" means [:(A) A] a significant reduction [of at least twenty-five per cent] of aggregate family household income or increase in expenses which reasonably cannot be or could not have been alleviated by the liquidation of assets by the mortgagor as determined by the Connecticut Housing Finance Authority, including, but not limited to, a reduction resulting from (A) (i) unemployment or underemployment of one or more of the mortgagors; (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; (iii) a loss, reduction or delay in receipt of such private benefits as pension, disability, annuity or retirement benefits; (iv) divorce or a loss of support payments; (v) disability, illness or death of a mortgagor; [(vi) uninsured damage to the mortgaged property which affects liveability and necessitates costly repairs; or (vii)] or (B) (i) a significant increase in the dollar amount of the periodic payments required by the mortgage; (ii) an unanticipated rise in housing expenses; or (iii) expenses related to the disability, illness or death of a member of the mortgagor's family, but [is] does not include expenses related to the accumulation of credit or 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.]

Sec. 28. Subsection (b) of section 8-265dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(b) Notwithstanding any provision of the general statutes, or any rule of law to the contrary, on and after July 1, 2008, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be

**Substitute Senate Bill No. 948**

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 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)] (e) of section 8-265ff, as amended by this act.

Sec. 29. Section 8-265ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) On and after July 1, 2008, a mortgagee who desires to foreclose upon a mortgage which satisfies the standards contained in subdivisions (1), (3), (10), (11) and (12) of subsection [(d)] (e) 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 sixty days from the date of such notice in which to (1) have a face-to-face meeting, 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) contact the authority, at an address and phone number contained in the notice,

**Substitute Senate Bill No. 948**

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] Except in cases in which the mortgagee refuses to meet with the mortgagor, 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 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 by the date thirty calendar days 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, except as provided in subsection (e) of this section, 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 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 by the date thirty calendar days 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, 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

**Substitute Senate Bill No. 948**

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, as amended by this act, by the date thirty days 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)] (e) of section 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by this act, shall prevent a mortgagor from applying or reapplying and being considered for emergency mortgage assistance if such mortgagor is referred to the emergency mortgage assistance program by the foreclosure mediation program.

Sec. 30. Section 8-265ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Any mortgagor may apply for emergency mortgage assistance payments under sections 2-265cc to 8-265kk, inclusive, as amended by this act, if such mortgagor (1) has received notice of intent to foreclose as provided in section 8-265ee, as amended by this act, or (2) (A) is sixty days or more delinquent on a mortgage, or (B) such mortgagor

***Substitute Senate Bill No. 948***

anticipates that he will be sixty days or more delinquent on a mortgage based on financial hardship beyond such mortgagor's control, provided the authority determines that such mortgagor will be so delinquent. As part of the application process, the authority may refer the applicant to a counseling agency approved by the United States Department of Housing and Urban Development.

[(a)] (b) 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, 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)] (c) 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)] (d) 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,

**Substitute Senate Bill No. 948**

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.

[(d)] (e) The authority shall make a determination of eligibility for emergency mortgage assistance payments 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 one-to-four family owner-occupied residence, including, but not limited to, a single family 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 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

***Substitute Senate Bill No. 948***

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 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 on the original, modified or refinanced mortgage within 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, including through a refinancing of the mortgage, and the authority finds that, except for the current delinquency, the

**Substitute Senate Bill No. 948**

mortgagor has had a favorable residential mortgage credit history for the previous 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 four or more times on a residential mortgage within the previous year, the mortgagor shall be ineligible for emergency mortgage assistance payments unless the mortgagor can demonstrate that the 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. 31. Section 8-265rr of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

**Substitute Senate Bill No. 948**

(a) As used in this section, "authority" means the Connecticut Housing Finance Authority created under section 8-244.

(b) The authority is authorized to continue to develop and implement a program for home mortgage refinancing for homeowners with fixed or adjustable rate mortgages as an additional purpose pursuant to the provisions of subdivision (32) of section 8-250. 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. 32. Subsection (d) of section 8-265gg of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(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 sixty-month period of a mortgagor eligibility for such payments under subsection [(d)] (e) 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.

**Substitute Senate Bill No. 948**

Sec. 33. Subsection (a) of section 8-265hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Upon approval of emergency mortgage assistance payments, the authority shall enter into an agreement with the mortgagor for repayment of all such assistance with interest as provided in this section. The agreement shall provide for monthly payments by the mortgagor after emergency mortgage assistance payments have ended and shall be subject to the following provisions:

[(1) If the mortgagor's total housing expense is less than or equal to thirty-five per cent of the mortgagor's aggregate family income, the mortgagor shall pay to the authority the difference between thirty-five per cent of such aggregate family income and such total housing expense, unless otherwise determined by the authority after examining the mortgagor's financial circumstances and ability to repay the emergency mortgage assistance payments;]

[(2)] (1) If the mortgagor's total housing expense, including projected repayments for mortgage assistance under this section, is greater than thirty-five per cent of the mortgagor's aggregate family income, repayment of the emergency mortgage assistance payments shall be deferred until such total housing expense, including projected repayments for mortgage assistance under this section, is less than or equal to thirty-five per cent of such aggregate family income;

[(3)] (2) If repayment of emergency mortgage assistance payments is not made by the date the mortgage is paid in full, the mortgagor shall make monthly payments to the authority in an amount not less than the monthly mortgage payment until such assistance is repaid;

[(4)] (3) Interest shall accrue on all emergency mortgage assistance payments made by the authority at a rate based upon the cost of funds

**Substitute Senate Bill No. 948**

to the state periodically determined by the State Treasurer in consultation with the authority. Interest shall start to accrue whenever the mortgagor is required to commence repayment under this section.

Sec. 34. Section 49-31l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Prior to July 1, 2010: (1) Any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to the provisions of subsection (b) of this section, and (2) any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2009, to June 30, 2010, inclusive, shall be subject to the provisions of subsection (c) of this section.

~~[(a)]~~ (b) (1) 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]~~ during the period from July 1, 2008, to June 30, 2009, inclusive, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 49-31m by attaching to the front of the foreclosure complaint that is served on the mortgagor: ~~[(1)]~~ (A) A copy of the notice of the availability of foreclosure mediation, in such form as the Chief Court Administrator prescribes, and ~~[(2)]~~ (B) a foreclosure mediation request form, in such form as the Chief Court Administrator prescribes.

~~[(b) (1)]~~ (2) Except as provided in subdivision ~~[(2)]~~ (3) 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.

**Substitute Senate Bill No. 948**

[(2)] (3) 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)] (2) 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)] (4) No foreclosure mediation request form may be submitted to the court on or after July 1, 2010.

[(c)] (5) 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] subdivision (1) of this subsection has not been met, the court may, upon its own motion or upon 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)] (6) 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 subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property unless: [(1)] (A) Notice to the mortgagor has been given by the mortgagee in accordance with [subsection (a)] subdivision (1) of this [section] subsection 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)] subdivision (2) or (3) of this [section] subsection has expired and no foreclosure mediation request form has been submitted, or [(2)] (B) the mediation period set forth in subdivision (b) of section 49-31n, as amended by this act, has expired or has otherwise terminated, whichever is earlier.

**Substitute Senate Bill No. 948**

[(e)] (7) 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.

(c) (1) 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, 2009, the mortgagee shall give notice to the mortgagor of the foreclosure mediation program established in section 49-31m by attaching to the front of the writ, summons and complaint that is served on the mortgagor: (A) A copy of the notice of foreclosure mediation, in such form as the Chief Court Administrator prescribes, (B) a copy of the foreclosure mediation certificate form described in subdivision (3) of this subsection, in such form as the Chief Court Administrator prescribes, and (C) a blank appearance form, in such form as the Chief Court Administrator prescribes.

(2) The court shall issue a notice of foreclosure mediation described in subdivision (3) of this subsection to the mortgagor not later than three days after the mortgagee returns the writ to the court.

(3) The notice of foreclosure mediation shall instruct the mortgagor to file the appearance and foreclosure mediation certificate forms with the court no later than the date fifteen days from the return date for the foreclosure action. The foreclosure mediation certificate form shall require the mortgagor to provide sufficient information to permit the court to confirm that the defendant in the foreclosure action is a mortgagor, and to certify that said mortgagor has sent a copy of the mediation certificate form to the plaintiff in the action.

(4) Upon receipt of the mortgagor's appearance and foreclosure mediation certificate forms, and provided the court confirms the defendant in the foreclosure action is a mortgagor and that said mortgagor has sent a copy of the mediation certificate form to the plaintiff, the court shall schedule a date for foreclosure mediation in

***Substitute Senate Bill No. 948***

accordance with subsection (c) of section 49-31n, as amended by this act. The court shall issue notice of such mediation date to all appearing parties not earlier than the date five business days after the return date. If the court does not receive the appearance and foreclosure mediation certificate forms from the mortgagor by the date fifteen days after the return date for the foreclosure action, the court shall not schedule such mediation.

(5) Notwithstanding the provisions of this subsection, the court may refer a foreclosure action brought by a mortgagee to the foreclosure mediation program at any time, provided the mortgagor has filed an appearance in said action.

(6) Notwithstanding any provision of the general statutes or any rule of law, prior to July 1, 2010, no judgment of strict foreclosure nor any judgment ordering a foreclosure sale shall be entered in any action subject to the provisions of this subsection and instituted by the mortgagee to foreclose a mortgage on residential real property unless: (A) The mediation period set forth in subdivision (c) of section 49-31n, as amended by this act, has expired or has otherwise terminated, whichever is earlier, or (B) the mediation program is not otherwise required or available.

(7) None of the mortgagor's or mortgagee's rights in the foreclosure action shall be waived by participation in the foreclosure mediation program.

Sec. 35. Section 49-31n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Prior to July 1, 2010: (1) Any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to the provisions of subsection (b) of this section, and (2) any action for

**Substitute Senate Bill No. 948**

the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2009, to June 30, 2010, inclusive, shall be subject to the provisions of subsection (c) of this section.

[(a) The] (b) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2008, to June 30, 2009, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m 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, [(1)] (A) extend, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or [(2)] (B) extend by not more than thirty days the mediation period upon written request of the mediator.

[(b)] (2) The first mediation session shall be held not later than fifteen 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. The court shall not award attorney's fees to any mortgagee for time spent in a mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court

**Substitute Senate Bill No. 948**

finds reasonable cause for such failure.

[(c)] (3) 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 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)] (4) 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] subdivision (3) of this subsection, 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] subdivision (1) of this subsection, 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)] (5) The Chief Court Administrator shall establish policies and procedures to implement this [section] subsection. 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] subdivision (2) of this subsection that: [(1)] (A) 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)] (B) a judgment of strict foreclosure or foreclosure by

**Substitute Senate Bill No. 948**

sale may cause the mortgagor to lose the residential real property to foreclosure.

[(f)] (6) In no event shall any determination issued by a mediator under this program form the basis of an appeal of any foreclosure judgment.

[(g)] (7) Foreclosure mediation request forms shall not be accepted by the court on or after July 1, 2010, and the foreclosure mediation program shall terminate when all mediation has concluded with respect to any applications submitted to the court prior to July 1, 2010.

[(h)] (8) 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)] subdivision (6) of subsection (b) of section 49-31l, as amended by this act, have been satisfied.

(c) (1) For any action for the foreclosure of a mortgage on residential real property with a return date during the period from July 1, 2009, to June 30, 2010, inclusive, the mediation period under the foreclosure mediation program established in section 49-31m shall commence when the court sends notice to each appearing party scheduling the first foreclosure mediation session. The mediation period shall conclude not later than the date sixty days after the return date for the foreclosure action, except that the court may, in its discretion, for good cause shown, (A) extend, by not more than thirty days, or shorten the mediation period on its own motion or upon motion of any party, or (B) extend by not more than thirty days the mediation period upon written request of the mediator.

(2) The first mediation session shall be held not later than fifteen business days after the court sends notice to each appearing party in

***Substitute Senate Bill No. 948***

accordance with subdivision (4) of subsection (c) of section 49-31l, as amended by this act. 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. The court shall not award attorney's fees to any mortgagee for time spent in a mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

(3) 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 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.

(4) If the mediator has submitted a report to the court that the parties may benefit from further mediation pursuant to subdivision (3) of this subsection, not more than two days after the conclusion of the mediation, but no later than the termination of the mediation period set forth in subdivision (1) of this subsection, 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

***Substitute Senate Bill No. 948***

community-based services that are available in the judicial district, but any such referral shall not cause a delay in the mediation process.

(5) The Chief Court Administrator shall establish policies and procedures to implement this subsection. Such policies and procedures shall, at a minimum, provide that the mediator shall advise the mortgagor at the first mediation session required by subdivision (2) of this subsection that: (A) Such mediation does not suspend the mortgagor's obligation to respond to the foreclosure action; and (B) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the residential real property to foreclosure.

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

(7) The foreclosure mediation program shall terminate when all mediation has concluded with respect to any foreclosure action with a return date during the period from July 1, 2009, to June 30, 2010, inclusive.

(8) 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 subdivision (6) of subsection (c) of section 49-31l, as amended by this act, have been satisfied.

Sec. 36. Section 49-31o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Nothing in sections 49-31k to 49-31n, inclusive, as amended by this act, shall require a mortgagee to modify a mortgage or change the terms of payment of a mortgage without its consent.

(b) Information submitted by the mortgagor to a mediator, either

**Substitute Senate Bill No. 948**

orally or in writing, including financial documents, shall not be subject to disclosure by the judicial branch.

Sec. 37. Section 49-15 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) (1) Any judgment foreclosing the title to real estate by strict foreclosure may, at the discretion of the court rendering the [same] judgment, upon the written motion of any person having an interest [therein,] in the judgment and for cause shown, be opened and modified, notwithstanding the limitation imposed by section 52-212a, upon such terms as to costs as the court deems reasonable, [; but] provided no such judgment shall be opened after the title has become absolute in any encumbrancer except as provided in subdivision (2) of this subsection.

(2) Any judgment foreclosing the title to real estate by strict foreclosure may be opened after title has become absolute in any encumbrancer upon agreement of each party to the foreclosure action who filed an appearance in the action and any person who acquired an interest in the real estate after title became absolute in any encumbrancer, provided (A) such judgment may not be opened more than four months after the date such judgment was entered or more than thirty days after title became absolute in any encumbrancer, whichever is later, and (B) the rights and interests of each party, regardless of whether the party filed an appearance in the action, and any person who acquired an interest in the real estate after title became absolute in any encumbrancer, are restored to the status that existed on the date the judgment was entered.

(3) If a judgment is opened pursuant to this subsection, the person who filed the written motion pursuant to subdivision (1) of this subsection shall record a certified copy of the court's order to open such judgment on the land records in the town in which the real estate

**Substitute Senate Bill No. 948**

is situated.

(b) Upon the filing of a bankruptcy petition by a mortgagor under Title 11 of the United States Code, any judgment against the mortgagor foreclosing the title to real estate by strict foreclosure shall be opened automatically without action by any party or the court, provided, the provisions of such judgment, other than the establishment of law days, shall not be set aside under this subsection, [~~;~~ but] provided no such judgment shall be opened after the title has become absolute in any encumbrancer or the mortgagee, or any person claiming under such encumbrancer or mortgagee. The mortgagor shall file a copy of the bankruptcy petition, or an affidavit setting forth the date the bankruptcy petition was filed, with the clerk of the court in which the foreclosure matter is pending. Upon the termination of the automatic stay authorized pursuant to 11 USC 362, the mortgagor shall file with such clerk an affidavit setting forth the date the stay was terminated.

Sec. 38. Subsections (a) and (b) of section 36b-62 of the general statutes, as amended by section 2 of public act 09-160, are repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No person shall sell or offer a business opportunity in this state unless such [person] business opportunity is registered under this section or is exempt from registration under section 36b-65, as amended by [this act] public act 09-160.

(b) Prior to the sale or offer for sale of a business opportunity the seller shall register the business opportunity with the commissioner by filing with the commissioner:

(1) A copy of the disclosure document required by section 36b-63, as amended by [this act] public act 09-160;

(2) A bond as required by section 36b-64, as amended by [this act] public act 09-160;

**Substitute Senate Bill No. 948**

(3) In accordance with subsection (e) of this section, an irrevocable consent appointing the commissioner to be such seller's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding which arises under sections 36b-60 to 36b-80, inclusive, as amended by [this act] public act 09-160, or any regulation or order adopted or issued under the provisions of said sections;

(4) Information and documents in such form as the commissioner may prescribe, including, but not limited to:

(A) The official name, address and principal place of business of the seller and of the parent firm or holding company of such seller, if any;

(B) The biographical data and business experience of each of the seller's directors and officers;

(C) The business experience of the seller, including the length of time such seller has: (i) Conducted a business of the type to be operated by the purchaser-investor, (ii) sold any business opportunity for such business, and (iii) sold any business opportunity in any other line of business;

(D) A copy of any contracts, agreements, brochures or other documents relating to the business opportunity;

(E) A factual description of the business opportunity offered to be sold and of the services, training and assistance that will be provided by the seller to the purchaser-investor;

(F) A statement describing any services, supplies, products, signs, fixtures or equipment relating to the establishment or the operation of the business opportunity that the purchaser-investor is required to purchase, lease or rent directly or indirectly from the seller;

(G) A copy of the table of contents of any operations manual to be

***Substitute Senate Bill No. 948***

provided to the purchaser-investor;

(H) (i) A balance sheet, income statement and statement of changes in financial condition of the seller as of a date not more than four months prior to the filing under this subsection, which financial statements may be unaudited, provided, if the seller has been in business for less than twelve months from the date of such filing, such financial statements shall be reviewed by an independent certified public accountant and shall include a written opinion from such accountant stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles; (ii) a balance sheet of the seller, an income statement and statement of changes in financial position for the most recent fiscal year audited by an independent public accountant or an independent certified public accountant; (iii) a balance sheet of the seller, an income statement and statement of changes in financial position for the prior two fiscal years reviewed by an independent certified public accountant who provides an opinion stating that such accountant is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles; [or] and (iv) any material changes in the financial condition of the seller occur after such financial statements are prepared, the seller shall disclose such changes and explain their significance to the operation of the business opportunity. If the seller is controlled by any person who absolutely and unconditionally guarantees to assume the duties and obligations of the seller under the business opportunity agreement should the seller become unable to perform, the commissioner may accept consolidated financial statements from the seller and such person;

(I) Any other information that the commissioner in the commissioner's discretion reasonably requires;

**Substitute Senate Bill No. 948**

(J) A written statement signed and sworn to by the seller before a person qualified to administer oaths that the information contained in the documents filed pursuant to this subsection is true and correct; and

(K) A nonrefundable registration fee of four hundred dollars.

Sec. 39. Section 36a-537 of the general statutes, as amended by section 6 of public act 09-208, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The application for a license as a sales finance company shall be on a form prescribed by the commissioner, in writing and under oath, together with such exhibits and other pertinent information as the commissioner may require. The application shall include (1) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant; and the partners, if the applicant is a partnership; the members, if the applicant is a limited liability company or association; or the officers, directors and principal employees if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, directors, members, officers, [directors] and principal employees as the commissioner deems necessary to make findings under section 36a-541, as amended by [this act] public act 09-208.

Sec. 40. Subsection (c) of section 36a-581 of the general statutes, as amended by section 10 of public act 09-208, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) An application for a check cashing license or renewal of such license shall be in writing, under oath and on a form provided by the commissioner. The application shall set forth: (1) The name and address of the applicant; (2) if the applicant is a firm or partnership, the names and addresses of each member of the firm or partnership;

**Substitute Senate Bill No. 948**

(3) if the applicant is a corporation, the names and addresses of each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation; (4) if the applicant is a limited liability company, the names and addresses of each member and authorized agent of such limited liability company; (5) (A) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant; the members, if the applicant is a firm or partnership; the officers, directors, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of the applicant, if the applicant is a corporation, and (B) sufficient information pertaining to the history of criminal convictions in a form acceptable to the commissioner on such applicant, members, officers, directors, authorized agent and shareholders as the commissioner deems necessary to make the findings under subsection (e) of [his] this section, as amended by [this act] public act 09-208; (6) each location where the check cashing business is to be conducted and the type of facility that will be operated at that location; (7) the business plan, which shall include the proposed days and hours of operation; (8) the amount of liquid assets available for each location which shall not be less than the amount specified in subdivision (7) of subsection (e) of this section, as amended by [this act] public act 09-208; (9) for each limited facility, a copy of the executed contract evidencing the proposed arrangement between the applicant and the employer; and (10) any other information the commissioner may require.

Sec. 41. Section 29 of public act 09-208, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) As used in this section and sections 30 to 33, inclusive, of [this act] public act 09-208, (1) "debt negotiation" means, for or with the expectation of a fee, commission or other valuable consideration, assisting a debtor in negotiating or attempting to negotiate on behalf of

**Substitute Senate Bill No. 948**

a debtor the terms of a debtor's obligations with one or more mortgagees or creditors of the debtor, including the negotiation of short sales of residential property or foreclosure rescue services; (2) "debtor" means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes; (3) "mortgagee" means the original lender under a mortgage loan secured by residential property or its agents, successors or assigns; (4) "mortgagor" means [the owner-occupant of a one-to-four family residential property located in this state] a debtor who is an owner of residential property, including, but not limited to, a single-family unit in a common interest community, who is also the borrower under a mortgage encumbering such residential property; (5) "short sale" means the sale of residential property by a mortgagor for an amount less than the outstanding balance owed on the loan secured by such property where, prior to the sale, the mortgagee or an assignee of the mortgagee agrees to accept less than the outstanding loan balance in full or partial satisfaction of the mortgage debt and the proceeds of the sale are paid to the mortgagee or an assignee of the mortgagee; (6) "foreclosure rescue services" means services related to or promising assistance in connection with (A) avoiding or delaying actual or anticipated foreclosure proceedings concerning residential property, or (B) curing or otherwise addressing a default or failure to timely pay with respect to a mortgage loan secured by residential property, and includes, but is not limited to, the offer, arrangement or placement of a mortgage loan secured by residential property or other extension of credit when those services are advertised, offered or promoted in the context of foreclosure related services; and (7) "residential property" means one-to-four family owner-occupied real property.

(b) No person shall engage or offer to engage in debt negotiation in this state without a license issued under this section for each location where debt negotiation will be conducted. Any person desiring to obtain such a license shall file with the commissioner an application

**Substitute Senate Bill No. 948**

under oath, setting forth such information as the commissioner may require. Each applicant for a license and each licensee shall notify the commissioner of any change in the applicant's business from that stated in the application for the license. A person is engaging in debt negotiation in this state if such person: (1) Has a place of business located within this state; (2) has a place of business located outside of this state and the debtor is a resident of this state who negotiates or agrees to the terms of the services contract in person, by mail, by telephone or via the Internet while physically present in this state; or (3) has [his or her] its place of business located outside of this state and the contract concerns a debt that is secured by property located within this state.

(c) An application for an original or renewal debt negotiation license shall be in writing on a form provided by the commissioner and shall include (1) the history of criminal convictions for the ten-year period prior to the date of the application of the (A) applicant, (B) partners, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, or (D) officers, directors and principal employees, if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (d) of this section.

(d) If the commissioner finds, upon the filing of an application for a debt negotiation license, that: (1) The financial responsibility, character, reputation, integrity and general fitness of the (A) applicant, (B) partners thereof, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, and (D) 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

***Substitute Senate Bill No. 948***

of sections 29 to 33, inclusive, of [this act] public act 09-208; and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a debt negotiation license. Such debt negotiation license shall not be transferable. Any change of location of a licensee shall require prior written notice to the commissioner. No licensee shall use any name unless such name has been approved by the commissioner. If the commissioner fails to make such findings, the commissioner shall not issue a license and shall notify the applicant of the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the debt negotiation business or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80 of the general statutes. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) Each applicant for an original or renewal debt negotiation license shall, at the time of making such application, pay to the commissioner an application fee of one thousand six hundred dollars, provided, if such application is filed not earlier than one year before the date such license will expire, such person shall pay a license fee of eight hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed. Each licensee shall, on or before September first of the year in which the license expires, file such renewal application as the commissioner may require. Whenever an application for a license is filed under this section by any person who

**Substitute Senate Bill No. 948**

was a licensee under this section and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

(f) If the commissioner determines that a check filed with the commissioner to pay an application fee has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. 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 of the general statutes.

(g) 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. The fee required by subsection (e) of this section shall be nonrefundable.

Sec. 42. Section 1 of public act 09-207 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) A person commits residential mortgage fraud when, for financial gain and with the intent to defraud, such person: (1) Knowingly makes any material written misstatement, misrepresentation or omission during the mortgage lending process with the intention that a mortgage lender, mortgage correspondent lender or mortgage broker, as defined in section 36a-485 of the general statutes, a borrower or any other person that is involved in the mortgage lending process will rely on such written misstatement, misrepresentation or omission; (2) knowingly uses or facilitates the use or attempts to use or facilitate the use of any written misstatement, misrepresentation or omission during the mortgage lending process with the intention that a mortgage lender, mortgage correspondent lender, as defined in section 36a-485

**Substitute Senate Bill No. 948**

of the general statutes, borrower or any other person that is involved in the mortgage lending process relies on it; (3) receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew or should have known resulted from an act or acts constituting residential mortgage fraud; or (4) conspires with or solicits another to engage in an act or acts constituting residential mortgage fraud.

(b) (1) A person who commits a single act of residential mortgage fraud is guilty of a class D felony.

(2) A person who commits two or more acts of residential mortgage fraud is guilty of a class C felony.

(3) For purposes of this section, (A) "person" means (i) a mortgage broker, mortgage lender, mortgage loan originator or mortgage correspondent lender, as defined in section 36a-485 of the general statutes, or (ii) any other individual who [makes] is a mortgagor on more than three individual mortgage loans or who purchases or sells more than three residential properties in a consecutive twelve-month period; (B) "mortgage lending process" means the process through which an individual seeks or obtains a residential mortgage loan, including solicitation, application, origination, negotiation of terms, underwriting, signing, closing and funding of a residential mortgage loan and services provided incident to such mortgage loan, including the appraisal of the residential property; and (C) "residential property" means "residential property" as defined in section 36a-485 of the general statutes.

(c) It shall be sufficient in any prosecution for residential mortgage fraud to show that the party accused did the act with the intent to deceive or defraud. It shall be unnecessary to show that any particular person was harmed financially in the transaction or that the person to whom the deliberate misstatement, misrepresentation or omission was

**Substitute Senate Bill No. 948**

made relied upon the misstatement, misrepresentation or omission. For purposes of this section, the residential mortgage fraud is committed: (1) In the county in which the residential real property for which the mortgage loan is being sought is located; (2) in the county in which any act was performed in furtherance of residential mortgage fraud; (3) in any county in which any person alleged to have engaged in an act that constitute residential mortgage fraud had control or possession of any proceeds of such residential mortgage fraud; (4) if a closing occurred, in any county in which the closing occurred; or (5) in any county in which a document containing a deliberate misstatement, misrepresentation or omission is filed with an official registrar.

Sec. 43. Section 36a-760 of the general statutes, as amended by section 3 of public act 09-207, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) As used in this section and sections 36a-760a to 36a-760j, inclusive, as amended by [this act] public act 09-207:

(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] "APR" has the same meaning as provided in section 36a-746a;

(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;

(5) "Lender" means any person engaged in the business of the making of mortgage loans who is required to be licensed by the

**Substitute Senate Bill No. 948**

Department of Banking under chapter 668, 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;

(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, 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;

(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,

**Substitute Senate Bill No. 948**

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, at the time of consummation, 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 secondary mortgage loan. For purposes of such calculation, "conventional mortgage rate" means the 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 preceding the week in which the interest rate for the loan is set.

(ii) The difference, at the time of consummation, between the APR for the loan or extension of credit and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than one and one-half percentage points if the loan is a first mortgage loan or three and one-half percentage points if the loan is a secondary mortgage loan. For purposes of this subparagraph, "average prime offer rate" has the meaning as provided in 12 CFR 226.35, as amended from time to time.

(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, 2010. For purposes of this clause, the relevant factors to be considered by the commissioner shall include, but not be limited to,

**Substitute Senate Bill No. 948**

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 36a-760 to 36a-760f, inclusive, as amended by [this act] public act 09-207. 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 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)

***Substitute Senate Bill No. 948***

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;

(10) "Secondary mortgage loan" has the same meaning as provided in section 36a-485.

(b) The provisions of sections 36a-760a to 36a-760i, inclusive, shall be applicable to nonprime home loans and mortgages, as appropriate, for which applications have been received on or after August 1, 2008.

Approved July 9, 2009