



# Senate

## File No. 1028

General Assembly

January Session, 2009

**(Reprint of File Nos. 232 and 909)**

Substitute Senate Bill No. 948  
As Amended by Senate Amendment Schedule  
"A" and House Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 30, 2009

**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:

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 Section 36a-21 of the general statutes is repealed and the  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

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

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

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

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

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

43 (c) No director, officer, employee or agent of any Connecticut bank  
44 or Connecticut credit union shall disclose without the prior written  
45 consent of the commissioner any information contained in an

46 examination report about such bank or credit union, which  
47 information is not otherwise a matter of public record.

48 (d) (1) The provisions of subsections (a) and (b) of this section shall  
49 not apply to the disclosure of [(1)] any record [that is] provided to or  
50 maintained by the commissioner with the [Nationwide Mortgage  
51 Licensing System to any supervisory, governmental or law  
52 enforcement agency that is authorized to access such record on the  
53 system, provided such record shall remain the property of the  
54 Department of Banking and may not be further disclosed to any  
55 person without the consent of the commissioner, or (2) any record of a  
56 licensee that is maintained by the commissioner with such system to  
57 such licensee. No person may obtain information from the Nationwide  
58 Mortgage Licensing System that could not otherwise be obtained  
59 under state law. No information obtained from the Nationwide  
60 Mortgage Licensing System shall be admissible as evidence in, or used  
61 to initiate, a civil proceeding in this state unless such information  
62 would otherwise be admissible in such proceeding under state law.]  
63 system. Except as otherwise provided in Section 1512 of the federal  
64 S.A.F.E. Mortgage Licensing Act of 2008, any requirements under  
65 federal law or any law of this state, including this section and chapter  
66 14 and any privilege arising under federal law or any law of this state,  
67 including the rules of any federal court or court of this state that  
68 protect the disclosure of any record provided to or maintained with  
69 the system, shall continue to apply to such record after it has been  
70 disclosed to the system. Such record may be shared with all state and  
71 federal regulatory officials that have oversight authority over the  
72 mortgage industry without the loss of privilege or the loss of  
73 confidentiality protections provided by federal law or the laws of this  
74 state. For purposes of this subsection, the commissioner may enter into  
75 agreements or sharing arrangements with other governmental  
76 agencies, the Conference of State Bank Supervisors, the American  
77 Association of Residential Mortgage Regulators or associations  
78 representing governmental agencies.

79 (2) Any information or material that is protected from disclosure

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

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

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

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

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

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

105 (1) "Advance fee" means any consideration paid or given, directly or  
106 indirectly, to a mortgage lender, mortgage correspondent lender or  
107 mortgage broker required to be licensed pursuant to sections 36a-485  
108 to 36a-498a, inclusive, as amended by this act, and sections 36a-534a  
109 and 36a-534b, prior to the closing of a residential mortgage loan to any  
110 person, including, but not limited to, loan fees, points, broker's fees or

111 commissions, transaction fees or similar prepaid finance charges;

112 (2) "Advertise", [or] "advertisement" or "advertising" means the use  
113 of any announcement, statement, assertion or representation that is  
114 placed before the public in a newspaper, magazine or other  
115 publication, or in the form of a notice, circular, pamphlet, letter or  
116 poster or over any radio or television station, by means of the Internet,  
117 or by other electronic means of distributing information, by personal  
118 contact, or in any other way;

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

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

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

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

143 [(4)] (7) "First mortgage loan" means a [loan or an extension of  
144 credit, including, but not limited to, an extension of credit pursuant to  
145 a contract or an assigned contract for the sale of goods or services,  
146 made to a natural person, the proceeds of which are to be used  
147 primarily for personal, family or household purposes, and which]  
148 residential mortgage loan that is secured by a first mortgage; [upon  
149 any interest in one-to-four-family owner-occupied residential property  
150 located in this state which is not subject to any prior mortgages and  
151 includes the renewal or refinancing of an existing first mortgage loan;]

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

155 (9) "Individual" means a natural person;

156 (10) "Loan processor" or "underwriter" means an individual who  
157 performs clerical or support duties as an employee at the direction of  
158 and subject to the supervision and instruction of a person licensed or  
159 exempt from licensing under sections 36a-485 to 36a-498a, inclusive, as  
160 amended by this act, and sections 36a-534a and 36a-534b, as amended  
161 by this act. The term "clerical or support duties" includes, subsequent  
162 to the receipt of an application, (A) the receipt, collection, distribution  
163 and analysis of information common for the processing or  
164 underwriting of a residential mortgage loan, and (B) communication  
165 with a consumer to obtain the information necessary for the processing  
166 or underwriting of a loan to the extent that such communication does  
167 not include offering or negotiating loan rates or terms or counseling  
168 consumers about residential mortgage loan rates or terms;

169 [(5)] (11) "Main office" means the main address designated on the  
170 [Nationwide Mortgage Licensing System] system;

171 [(6)] (12) "Mortgage broker" means a person who, [for a fee,  
172 commission or other valuable consideration, directly or indirectly,  
173 negotiates, solicits, arranges, places or finds a mortgage loan that is to  
174 be made by a mortgage lender or mortgage correspondent lender,

175 whether or not the mortgage lender or mortgage correspondent lender  
176 are required to be licensed under sections 36a-485 to 36a-498a,  
177 inclusive] for compensation or gain or in the expectation of  
178 compensation or gain (A) takes a residential mortgage loan  
179 application, or (B) offers or negotiates terms of a residential mortgage  
180 loan, excluding an individual who is sponsored by another mortgage  
181 lender, mortgage correspondent lender or mortgage broker;

182 [(7)] (13) "Mortgage correspondent lender" means a person engaged  
183 in the business of making residential mortgage loans in such person's  
184 own name where the loans are not held by such person for more than  
185 ninety days and are funded by another person through a warehouse  
186 agreement, table funding agreement or similar agreement;

187 [(8)] (14) "Mortgage lender" means a person engaged in the business  
188 of making residential mortgage loans in such person's own name  
189 utilizing such person's own funds or by funding loans through a  
190 warehouse agreement, table funding agreement or similar agreement;

191 [(9)] "Mortgage loan" means a first mortgage loan or secondary  
192 mortgage loan;]

193 [(10)] (15) "Mortgage loan originator" means an individual who [is  
194 employed or retained by, or otherwise acts on behalf of, a mortgage  
195 lender, mortgage correspondent lender or mortgage broker licensee  
196 who, for, or with the expectation of, a fee, commission or other  
197 valuable consideration, takes an application for or negotiates, solicits,  
198 arranges or finds a mortgage loan. "Mortgage loan originator" does not  
199 include (1) an officer, if the licensee is a corporation; a general partner,  
200 if the licensee is a partnership; a member, if the licensee is a limited  
201 liability company; or a sole proprietor, if the licensee is a sole  
202 proprietorship, or (2) an individual whose responsibilities are limited  
203 to clerical and administrative tasks and who does not solicit borrowers,  
204 arrange or find mortgage loans, take applications or negotiate the  
205 terms of loans] for compensation or gain or with the expectation of  
206 compensation or gain (A) takes a residential mortgage loan application

207 or (B) offers or negotiates terms of a residential mortgage loan.  
208 "Mortgage loan originator" does not include (i) an individual engaged  
209 solely as a loan processor or underwriter except as otherwise provided  
210 in subdivision (3) of subsection (b) of section 36a-486, as amended by  
211 this act; (ii) a person who only performs real estate brokerage activities  
212 and is licensed in accordance with chapter 392, unless the person is  
213 compensated by a mortgage lender, mortgage correspondent lender,  
214 mortgage broker or other mortgage loan originator or by any agent of  
215 such mortgage lender, mortgage correspondent lender, mortgage  
216 broker or other mortgage loan originator; (iii) a person solely involved  
217 in extensions of credit relating to timeshare plans, as that term is  
218 defined in Paragraph 53D of 11 USC 101; or (iv) any individual who  
219 solely renegotiates terms for existing mortgage loans and who does not  
220 otherwise act as a mortgage loan originator, unless the United States  
221 Department of Housing and Urban Development or a court of  
222 competent jurisdiction determines that the S.A.F.E. Mortgage  
223 Licensing Act of 2008, 12 USC Section 5101 et seq., requires such  
224 individual to be licensed as a mortgage loan originator under state  
225 laws implementing said S.A.F.E. Mortgage Licensing Act;

226 [(11)] (16) "Office" means a branch office or a main office;

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

229 [(12)] (18) "Principal amount of the loan" means the gross amount  
230 the borrower is obligated to repay including any prepaid finance  
231 charge that is financed, and any other charge that is financed;

232 (19) "Real estate brokerage activity" means any activity that involves  
233 offering or providing real estate brokerage services to the public,  
234 including (A) acting as a real estate agent or real estate broker for a  
235 buyer, seller, lessor or lessee of real property; (B) bringing together  
236 parties interested in the sale, purchase, lease, rental or exchange of real  
237 property; (C) negotiating, on behalf of any party, any portion of a  
238 contract relating to the sale, purchase, lease, rental or exchange of real

239 property, other than in connection with providing financing with  
240 respect to any such transaction; (D) engaging in any activity for which  
241 a person engaged in the activity is required to be registered or licensed  
242 as a real estate agent or real estate broker under any applicable law;  
243 and (E) offering to engage in any activity, or act in any capacity,  
244 described in this subdivision;

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

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

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

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

264 [(14)] (23) "Secondary mortgage loan" means [(A) a loan or an  
265 extension of credit, including, but not limited to, an extension of credit  
266 pursuant to a contract or an assigned contract for the sale of goods or  
267 services, made to a natural person, the proceeds of which are to be  
268 used primarily for personal, family or household purposes, and] a  
269 residential mortgage loan that is secured, in whole or in part, by a  
270 mortgage, [upon any interest in one-to-four-family owner-occupied

271 residential property located in this state,] provided such property is  
272 subject to one or more prior mortgages; [, and (B) the renewal or  
273 refinancing of any existing loan or extension of credit described in  
274 subparagraph (A) of this subdivision;]

275 [(15)] (24) "Simulated check" means a document that imitates or  
276 resembles a check but is not a negotiable instrument;

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

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

285 [(16)] (27) "Table funding agreement" means an agreement wherein  
286 a person agrees to fund mortgage loans to be made in another person's  
287 name and to purchase such loans after they are made; [and]

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

290 [(17)] (29) "Warehouse agreement" means an agreement to provide  
291 credit to a person to enable the person to have funds to make  
292 residential mortgage loans and hold such loans pending sale to other  
293 persons.

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

296 (a) [The Banking Commissioner] (1) In addition to any other duties  
297 imposed upon the Banking Commissioner by law, the commissioner  
298 shall require mortgage lenders, mortgage correspondent lenders,  
299 mortgage brokers and mortgage loan originators to be licensed and  
300 registered through the system. In order to carry out this requirement,

301 the commissioner shall participate in the [Nationwide Mortgage  
302 Licensing System] system [for this state] and permit [such system] the  
303 system to process applications for mortgage lender, mortgage  
304 correspondent lender, mortgage broker and mortgage loan originator  
305 licenses in this state and receive and maintain records related to such  
306 licenses that are allowed or required to be maintained by the  
307 commissioner. For this purpose, the commissioner may establish  
308 requirements as necessary for participation in the system, including:  
309 (A) Background checks for criminal history through (i) fingerprint or  
310 other databases, (ii) civil or administrative records, or (iii) credit  
311 history or any other information as deemed necessary by the system;  
312 (B) the payment of fees to apply for or renew licenses through the  
313 system; (C) the setting or resetting of renewal or reporting dates; and  
314 (D) the requirements for amending or surrendering a license or any  
315 other such activities as the commissioner deems necessary for  
316 participation in the system. For the purpose of participating in the  
317 system, the commissioner may waive or modify, in whole or in part,  
318 by regulation or order, any requirement of sections 36a-485 to 36a-  
319 498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b,  
320 as amended by this act, and sections 9 and 19 to 21, inclusive, of this  
321 act, and to establish new requirements as reasonably necessary to  
322 participate in the system. For the purposes of implementing an orderly  
323 and efficient licensing process, the commissioner may adopt licensing  
324 regulations, in accordance with the provisions of chapter 54, and  
325 interim procedures for licensing and acceptance of applications. For  
326 previously licensed individuals, the commissioner may establish  
327 expedited review and licensing procedures.

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

333 (3) The commissioner may establish relationships or enter into  
334 contracts with the system or other entities designated by the system to

335 collect and maintain records and process transaction fees or other fees  
336 related to licensees or other persons subject to sections 36a-485 to 36a-  
337 498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b,  
338 as amended by this act, and sections 9 and 19 to 21, inclusive, of this  
339 act.

340 (4) For the purposes of sections 36a-485 to 36a-498c, inclusive, as  
341 amended by this act, sections 36a-534a and 36a-534b, as amended by  
342 this act, and sections 9 and 19 to 21, inclusive, of this act, and to reduce  
343 the points of contact that the Federal Bureau of Investigation may have  
344 to maintain for purposes of subsections (b) and (c) of section 36a-488,  
345 as amended by this act, the commissioner may use the system as a  
346 channeling agent for requesting information from and distributing  
347 information to the United States Department of Justice or any  
348 governmental agency.

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

357 (6) The commissioner shall establish a process whereby mortgage  
358 lenders, mortgage correspondent lenders, mortgage brokers and  
359 mortgage loan originators may challenge information entered into the  
360 system by the commissioner.

361 (b) (1) Each first mortgage lender license and secondary mortgage  
362 lender license in existence on June 30, 2008, shall be deemed on and  
363 after July 1, 2008, to be a mortgage lender license, as defined in section  
364 36a-485, as amended by this act; (2) each first mortgage correspondent  
365 lender license and secondary mortgage correspondent lender license in  
366 existence on June 30, 2008, shall be deemed on and after July 1, 2008, to

367 be a mortgage correspondent lender license, as defined in section 36a-  
368 485, as amended by this act; (3) each first mortgage broker license and  
369 secondary mortgage broker license in existence on June 30, 2008, shall  
370 be deemed on and after July 1, 2008, to be a mortgage broker license, as  
371 defined in section 36a-485, as amended by this act; and (4) each  
372 originator registration in existence on June 30, 2008, shall be deemed  
373 on and after July 1, 2008, to be a mortgage loan originator license, as  
374 defined in section 36a-485, as amended by this act.

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

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

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

392 (d) Notwithstanding the provisions of this section, any initial  
393 application for a license submitted on the [Nationwide Mortgage  
394 Licensing System] system between October 1, 2008, and December 31,  
395 2008, shall not be approved by the commissioner prior to January 1,  
396 2009.

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

399 At least once a year, each mortgage lender and mortgage  
400 correspondent lender, both as defined in section 36a-485, as amended  
401 by this act, and licensed under section 36a-489, as amended by this act,  
402 shall adopt a mortgage loan policy with respect to subprime mortgage  
403 loans and nontraditional mortgage loans made by such mortgage  
404 lender or such mortgage correspondent lender based on and consistent  
405 with the most current version of the Conference of State Bank  
406 Supervisors, American Association of Residential Mortgage Regulators  
407 and National Association of Consumer Credit Administrators  
408 Statement on Subprime Mortgage Lending, and the Conference of  
409 State Bank Supervisors and American Association of Residential  
410 Mortgage Regulators Guidance on Nontraditional Mortgage Product  
411 Risks. Such licensees shall comply with such policy and develop and  
412 implement internal controls that are reasonably designed to ensure  
413 such compliance. The mortgage loan policy and any residential  
414 mortgage loan, as defined in section 36a-485, as amended by this act,  
415 made pursuant to the policy shall be subject to examination concerning  
416 prudent lending practices by the [Banking Commissioner]  
417 commissioner.

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

420 (a) No person shall engage in the business of making residential  
421 mortgage loans or act as a mortgage broker in this state unless such  
422 person has first obtained the required license for its main office and  
423 each branch office where such business is conducted in accordance  
424 with the provisions of sections 36a-485 to [36a-498a] 36a-498c,  
425 inclusive, as amended by this act, sections 36a-534a and 36a-534b, as  
426 amended by this act, and sections 9 and 19 to 21, inclusive, of this act.  
427 Effective April 1, 2010, any such person who is an individual shall also  
428 obtain a mortgage loan originator license prior to conducting such  
429 business unless such individual does not engage directly in the  
430 activities of a mortgage loan originator. A person, other than a licensed  
431 mortgage loan originator acting on behalf of [the] a mortgage lender [,]  
432 or mortgage correspondent lender, [or mortgage broker, that employs

433 or retains such mortgage loan originator,] shall be deemed to be  
434 engaged in the business of making residential mortgage loans if such  
435 person advertises, causes to be advertised, solicits [,] or offers to make  
436 [or makes] residential mortgage loans, either directly or indirectly. A  
437 person, other than a licensed mortgage loan originator acting on behalf  
438 of a mortgage broker, shall be deemed to be acting as a mortgage  
439 broker if such person advertises or causes to be advertised that such  
440 person will negotiate, solicit, place or find a residential mortgage loan,  
441 either directly or indirectly. A mortgage correspondent lender shall not  
442 be deemed to be acting as a mortgage lender if such mortgage  
443 correspondent lender makes a loan utilizing its own funds in a  
444 situation where another person does not honor such person's  
445 commitment to fund the loan.

446 (b) (1) No person licensed as a mortgage lender, mortgage  
447 correspondent lender or mortgage broker shall [employ or retain]  
448 engage the services of a mortgage loan originator unless such  
449 mortgage loan originator is licensed under [sections 36a-485 to 36a-  
450 498a, inclusive] section 36a-489, as amended by this act. An individual,  
451 unless specifically exempted under subdivision (2) of this subsection,  
452 shall not engage in the business of a mortgage loan originator with  
453 respect to any dwelling, as defined in Section 103 of the Consumer  
454 Credit Protection Act, 15 USC 1602, located in this state without first  
455 obtaining and maintaining annually a license as a mortgage loan  
456 originator under section 36a-489, as amended by this act. Each licensed  
457 mortgage loan originator shall register with and maintain a valid  
458 unique identifier issued by the system. No individual may act as a  
459 mortgage loan originator [without being licensed, or act as a mortgage  
460 loan originator] for more than one person at the same time. The license  
461 of a mortgage loan originator is not effective during any period when  
462 such mortgage loan originator is not [associated with] sponsored by a  
463 licensed mortgage lender, mortgage correspondent lender or mortgage  
464 broker. Either the mortgage loan originator or the mortgage lender,  
465 mortgage correspondent lender or mortgage broker may file a  
466 notification of the termination of [employment] sponsorship of a

467 mortgage loan originator with the [Nationwide Mortgage Licensing  
468 System] system.

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

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

495 (4) An individual engaging solely in loan processor or underwriter  
496 activities shall not represent to the public, through advertising or other  
497 means of communicating or providing information, including the use  
498 of business cards, stationery, brochures, signs, rate lists or other  
499 promotional items, that such individual can or will perform any of the

500 activities of a mortgage loan originator.

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

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

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

518 (a) The following are exempt from licensing under sections 36a-485  
519 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-  
520 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,  
521 inclusive, of this act:

522 [(1)] Any bank, out-of-state bank, Connecticut credit union, federal  
523 credit union [,] or out-of-state credit union, [provided subsidiaries of  
524 such institutions other than] provided such bank or credit union is  
525 federally insured, any operating [subsidiaries] subsidiary of a federal  
526 [banks and] bank or federally-chartered out-of-state [banks are not  
527 exempt from licensure;] bank or any wholly-owned subsidiary of a  
528 Connecticut bank or a Connecticut credit union. Each wholly-owned  
529 subsidiary of a Connecticut bank or Connecticut credit union that  
530 engages in the business of making residential mortgage loans or acts as  
531 a mortgage broker in this state shall provide written notification to the

532 commissioner prior to engaging in such activity.

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

537 [(2)] (1) Persons making five or fewer residential mortgage loans  
538 within any period of twelve consecutive months, provided nothing  
539 herein shall relieve such persons from complying with all applicable  
540 laws;

541 [(3)] (2) Bona fide nonprofit corporations making residential  
542 mortgage loans to promote home ownership for the economically  
543 disadvantaged;

544 [(4)] (3) Agencies of the federal government, or any state or  
545 municipal government, or any quasi-governmental agency making  
546 residential mortgage loans under the specific authority of the laws of  
547 any state or the United States;

548 [(5)] (4) Persons licensed under sections 36a-555 to 36a-573,  
549 inclusive, as amended by this act, when making residential mortgage  
550 loans authorized by said sections;

551 [(6)] (5) Persons owning real property who take back from the buyer  
552 of such property a secondary mortgage loan in lieu of any portion of  
553 the purchase price of the property;

554 [(7)] (6) Any corporation or its affiliate [which] that makes  
555 residential mortgage loans exclusively for the benefit of its employees  
556 or agents;

557 [(8)] (7) Any corporation, licensed in accordance with section 38a-41,  
558 or its affiliate or subsidiary, [which] that makes residential mortgage  
559 loans to promote home ownership in urban areas;

560 [(9)] (8) Persons acting as fiduciaries with respect to any employee

561 pension benefit plan qualified under the Internal Revenue Code of  
562 1986, or any subsequent corresponding internal revenue code of the  
563 United States, as from time to time amended, who make residential  
564 mortgage loans solely to plan participants from plan assets; and

565 ~~[(10)]~~ (9) Persons making secondary mortgage loans to individuals  
566 related to the maker by blood or marriage.

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

569 (a) (1) The commissioner shall not issue a mortgage lender license, a  
570 mortgage correspondent lender license or a mortgage broker license to  
571 any person unless such person meets the following tangible net worth  
572 and experience requirements, as applicable: (A) The minimum tangible  
573 net worth requirement for a mortgage lender shall be two hundred  
574 fifty thousand dollars and the minimum tangible net worth  
575 requirement for a mortgage correspondent lender and a mortgage  
576 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,  
577 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a  
578 mortgage lender, mortgage correspondent lender or mortgage broker  
579 shall have, at the main office for which the license is sought, a qualified  
580 individual ~~[with]~~ and, at each branch office, a branch manager who  
581 have supervisory authority over the lending or brokerage activities  
582 who ~~[has]~~ have at least three years' experience in the mortgage  
583 business within the five years immediately preceding the date of the  
584 application for the license [, and at each branch office, the lender or  
585 broker shall have a branch manager with supervisory authority over  
586 the lending or brokerage activities who has at least three years'  
587 experience in the mortgage business within the five years immediately  
588 preceding the application for the license] and who, effective April 1,  
589 2010, have completed the prelicensing education requirement  
590 described in section 9 of this act and passed a written test that meets  
591 the test requirement described in section 9 of this act. As used in this  
592 subdivision, "experience in the mortgage business" means paid  
593 experience in the origination, processing or underwriting of residential

594 mortgage loans, the marketing of such loans in the secondary market  
595 or in the supervision of such activities, or any other relevant  
596 experience as determined by the commissioner.

597 (2) Each licensee shall maintain the net worth required by this  
598 subsection, [and shall promptly notify the commissioner if such  
599 licensee's net worth falls below the net worth required by this  
600 subsection.]

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

605 (b) The commissioner may issue a mortgage lender license, a  
606 mortgage correspondent lender license, or a mortgage broker license.  
607 Each mortgage lender licensee may also act as a mortgage  
608 correspondent lender and a mortgage broker, and each mortgage  
609 correspondent lender licensee may also act as a mortgage broker. On  
610 and after July 1, 2008, an application for a license as a mortgage lender,  
611 mortgage correspondent lender or mortgage broker office or renewal  
612 of such license shall be filed, in a form prescribed by the commissioner,  
613 with the [Nationwide Mortgage Licensing System and the] system.  
614 Each such form shall contain content as set forth by instruction or  
615 procedure of the commissioner and may be changed or updated as  
616 necessary by the commissioner in order to carry out the purpose of  
617 section 36a-21, as amended by this act, sections 36a-485 to 36a-498c,  
618 inclusive, as amended by this act, sections 36a-534a and 36a-534b, as  
619 amended by this act, and sections 9 and 19 to 22, inclusive, of this act.  
620 The applicant shall, at a minimum, furnish to the system information  
621 concerning the identity of the applicant, any control person of the  
622 applicant, the qualified individual and any branch manager, including  
623 personal history and experience in a form prescribed by the system  
624 and information related to any administrative, civil or criminal  
625 findings by any governmental jurisdiction. The following  
626 supplementary information shall be filed directly with the

627 commissioner: (1) In the case of an initial application for a license for  
628 the main office, [or renewal of such license,] a financial statement as of  
629 a date not more than twelve months prior to the filing of the  
630 application which reflects tangible net worth, and if such financial  
631 statement is unaudited, the proprietor, general partner, or duly  
632 authorized officer, trustee or member shall swear to its accuracy under  
633 oath before a notary public; (2) a bond as required by section 36a-492,  
634 as amended by this act; (3) evidence that the qualified individual or  
635 branch manager meets the experience required by subsection (a) of this  
636 section; and (4) such other information pertaining to the applicant, the  
637 applicant's background, the background of its principals, employees,  
638 and mortgage loan originators, and the applicant's activities as the  
639 commissioner may require. For the purpose of this subsection,  
640 evidence of experience of the qualified individual or branch manager  
641 shall include: (A) A statement specifying the duties and responsibilities  
642 of such person's employment, the term of employment, including  
643 month and year, and the name, address and telephone number of a  
644 supervisor, employer or, if self-employed, a business reference; and (B)  
645 if required by the commissioner, copies of W-2 forms, 1099 tax forms  
646 or, if self-employed, 1120 corporate tax returns, signed letters from the  
647 employer on the employer's letterhead verifying such person's duties  
648 and responsibilities and term of employment including month and  
649 year, and if such person is unable to provide such letters, other proof  
650 satisfactory to the commissioner that such person meets the experience  
651 requirement. The commissioner may conduct a criminal history  
652 records check of the applicant, [of each member, partner, officer or  
653 director of the applicant and of the person with supervisory authority  
654 at the office for which the license is sought, and require the applicant  
655 to submit the fingerprints of such persons as part of the application.  
656 The applicant shall submit such fingerprints for processing with the  
657 Nationwide Mortgage Licensing System, as required] any control  
658 person of the applicant and the qualified individual or branch manager  
659 with supervisory authority at the office for which the license is sought  
660 and require the applicant to submit the fingerprints of such persons  
661 and authorization of such persons for the system and the

662 commissioner to obtain an independent credit report from a consumer  
663 reporting agency, as described in Section 603(p) of the Fair Credit  
664 Reporting Act, 15 USC 1681a, as part of the application.

665 (c) [On and after July 1, 2008, an] (1) An application to license a  
666 person as a mortgage loan originator for a specified office or renewal  
667 of such license shall be filed, in a form prescribed by the commissioner,  
668 with the [Nationwide Mortgage Licensing System The applicant shall  
669 submit such fingerprints for processing with the Nationwide Mortgage  
670 Licensing System, as required.] system. Each such form shall contain  
671 content as set forth by instruction or procedure of the commissioner  
672 and may be changed or updated as necessary by the commissioner in  
673 order to carry out the purpose of sections 36a-485 to 36a-498c,  
674 inclusive, as amended by this act, sections 36a-534a and 36a-534b, as  
675 amended by this act, and sections 9 and 19 to 22, inclusive, of this act.  
676 The applicant shall, at a minimum, furnish to the system, in a form  
677 prescribed by the system, information concerning the applicant's  
678 identity, including personal history and experience and information  
679 related to any administrative, civil or criminal findings by any  
680 governmental jurisdiction. Effective April 1, 2010, each applicant for a  
681 mortgage loan originator license shall furnish to the system  
682 fingerprints for submission to the Federal Bureau of Investigation and  
683 any governmental agency or entity authorized to receive such  
684 information for a state, national and international criminal history  
685 background check. Effective the later of July 31, 2010, or thirty days  
686 after the date the system commences accepting such authorizations for  
687 processing, each applicant shall furnish authorization for the system  
688 and the commissioner to obtain an independent credit report from a  
689 consumer reporting agency, as described in Section 603(p) of the Fair  
690 Credit Reporting Act, 15 USC 1681a.

691 (2) Not later than April 1, 2010, each mortgage loan originator  
692 licensee shall furnish to the system fingerprints for submission to the  
693 Federal Bureau of Investigation and any governmental agency or  
694 entity authorized to receive such information for a state, national and  
695 international criminal history background check. By July 31, 2010, or

696 thirty days after the system commences accepting such authorizations  
697 for processing, whichever is later, each such licensee shall furnish  
698 authorization for the system and the commissioner to obtain an  
699 independent credit report obtained from a consumer reporting agency  
700 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC  
701 1681a.

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

704 [(a) If the commissioner finds, upon the filing of an application for a  
705 license as a mortgage lender, mortgage correspondent lender or  
706 mortgage broker, that the applicant meets the requirements of  
707 subsection (a) of section 36a-488, and that the financial responsibility,  
708 character, reputation, integrity and general fitness of the applicant and  
709 of the partners thereof if the applicant is a partnership, of the members  
710 if the applicant is a limited liability company or association, and of the  
711 officers, directors and principal employees if the applicant is a  
712 corporation, are such as to warrant belief that the business will be  
713 operated soundly and efficiently, in the public interest and consistent  
714 with the purposes of sections 36a-485 to 36a-498a, inclusive, and  
715 sections 36a-760a to 36a-760h, inclusive, the commissioner may  
716 thereupon issue the license. If the commissioner fails to make such  
717 findings, or if the commissioner finds that the applicant has made a  
718 material misstatement in such application, the commissioner shall not  
719 issue a license, and shall notify the applicant of the denial and the  
720 reasons for such denial. Any denial of an application by the  
721 commissioner shall, when applicable, be subject to the provisions of  
722 section 46a-80.

723 (b) Upon the filing of an application for a mortgage loan originator  
724 license, the commissioner shall license the mortgage loan originator  
725 named in the application unless the commissioner finds that such  
726 applicant or mortgage loan originator has made a material  
727 misstatement in the application or that the financial responsibility,  
728 character, reputation, integrity and general fitness of such mortgage

729 loan originator are not such as to warrant belief that granting such  
730 license would be in the public interest and consistent with the  
731 purposes of sections 36a-485 to 36a-498a, inclusive, and sections 36a-  
732 760a to 36a-760h, inclusive. If the commissioner denies an application  
733 for a mortgage loan originator license, the commissioner shall notify  
734 the applicant and the proposed mortgage loan originator of the denial  
735 and the reasons for such denial. Any denial of an application by the  
736 commissioner shall, when applicable, be subject to the provisions of  
737 section 46a-80.]

738 (a) (1) The commissioner shall not issue an initial license for a  
739 mortgage lender, mortgage correspondent lender or mortgage broker  
740 unless the commissioner, at a minimum, finds that: (A) The applicant  
741 meets the requirements of subsection (a) of section 36a-488, as  
742 amended by this act; (B) notwithstanding the provisions of section 46a-  
743 80, as amended by this act, the applicant, the control persons of the  
744 applicant and the qualified individual or branch manager with  
745 supervisory authority at the office for which the license is sought have  
746 not been convicted of, or pled guilty or nolo contendere to, a felony in  
747 a domestic, foreign or military court during the seven-year period  
748 preceding the date of the application for licensing or at any time  
749 preceding the date of application if such felony involved an act of  
750 fraud, dishonesty, a breach of trust or money laundering, provided  
751 any pardon of a conviction shall not be a conviction for purposes of  
752 this subdivision; (C) the applicant demonstrates that the financial  
753 responsibility, character and general fitness of the applicant, the  
754 control persons of the applicant and the qualified individual or branch  
755 manager having supervisory authority over the office for which the  
756 license is sought are such as to command the confidence of the  
757 community and to warrant a determination that the applicant will  
758 operate honestly, fairly and efficiently within the purposes of sections  
759 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-  
760 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,  
761 inclusive, of this act; (D) the applicant has met the surety bond  
762 requirement under section 36a-492, as amended by this act; and (E) the

763 applicant has not made a material misstatement in the application. If  
764 the commissioner fails to make such findings, the commissioner shall  
765 not issue a license, and shall notify the applicant of the denial and the  
766 reasons for such denial.

767 (2) (A) The minimum standards for license renewal for a mortgage  
768 lender, mortgage correspondent lender or mortgage broker shall  
769 include the following: (i) The applicant continues to meet the  
770 minimum standards under subdivision (1) of this subsection; (ii)  
771 effective April 1, 2010, each qualified person and branch manager has  
772 completed the preclicensing education requirement described in section  
773 9 of this act and passed a written test that meets the test requirement  
774 described in section 9 of this act, or has satisfied the annual continuing  
775 education requirements described in section (d) of section 9 of this act,  
776 as applicable; and (iii) the mortgage lender, mortgage correspondent  
777 lender or mortgage broker has paid all required fees for renewal of the  
778 license.

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

784 (b) (1) The commissioner shall not issue an initial license for a  
785 mortgage loan originator unless the commissioner, at a minimum,  
786 finds that the applicant has: (A) Never had a mortgage loan originator  
787 license revoked in any governmental jurisdiction, except that a  
788 subsequent formal vacating of such revocation shall not be deemed a  
789 revocation; (B) notwithstanding the provisions of section 46a-80, as  
790 amended by this act, not been convicted of, or pled guilty or nolo  
791 contendere to, a felony in a domestic, foreign or military court during  
792 the seven-year period preceding the date of the application for  
793 licensing or at any time preceding such date of application if such  
794 felony involved an act of fraud, dishonesty, a breach of trust, or money  
795 laundering, provided any pardon of a conviction shall not be a

796 conviction for purposes of this subdivision; (C) demonstrated financial  
797 responsibility, character and general fitness so as to command the  
798 confidence of the community and to warrant a determination that the  
799 mortgage loan originator will operate honestly, fairly and efficiently  
800 within the purpose of sections 36a-485 to 36a-498c, inclusive, as  
801 amended by this act, sections 36a-534a and 36a-534b, as amended by  
802 this act, and sections 9 and 19 to 21, inclusive, of this act; (D) effective  
803 April 1, 2010, completed the prelicensing education requirement  
804 described in section 9 of this act and passed a written test that meets  
805 the test requirement described in section 9 of this act; (E) effective July  
806 31, 2010, met the surety bond requirement under section 36a-492, as  
807 amended by this act; and (F) not made a material misstatement in the  
808 application. If the commissioner denies an application for a mortgage  
809 loan originator license, the commissioner shall notify the applicant and  
810 may notify the sponsor or any other person the commissioner deems  
811 appropriate of the denial and the reasons for such denial.

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

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

824 (3) No later than April 1, 2010, each mortgage loan originator  
825 licensee shall have completed the prelicensing education requirement  
826 described in section 9 of this act and passed a written test that meets  
827 the test requirement described in section 9 of this act, provided a  
828 mortgage loan originator licensee who was licensed as of the

829 enactment of this act shall have completed such prelicensing education  
830 requirement and passed such written test not later than October 31,  
831 2010.

832 (c) For purposes of this section, a person has shown that such  
833 person is not financially responsible when such person has shown a  
834 disregard in the management of such person's own financial condition.  
835 A determination that a person has not shown financial responsibility  
836 may include, but is not limited to: (1) Current outstanding judgments,  
837 except judgments solely as a result of medical expenses; (2) current  
838 outstanding tax liens or other government liens and filings; (3)  
839 foreclosures during the three years preceding the date of application  
840 for an initial license or renewal of a license; or (4) a pattern of seriously  
841 delinquent accounts within the past three years.

842 Sec. 9. (NEW) (*Effective July 31, 2009*) (a) (1) In order to meet the  
843 prelicensing education and testing requirement referred to in section  
844 36a-489 of the general statutes, as amended by this act, an applicant  
845 shall complete at least twenty hours of education approved in  
846 accordance with subdivision (2) of this subsection, which shall include  
847 at least (A) three hours of instruction on relevant federal law and  
848 regulations; (B) three hours of ethics, including instruction on fraud,  
849 consumer protection and fair lending issues; and (C) two hours of  
850 training related to lending standards for the nontraditional mortgage  
851 product marketplace.

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

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

861 sponsor or entity.

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

864 (5) When prelicensing education requirements described in  
865 subdivision (1) of this subsection are completed in another state, such  
866 out-of-state prelicensing education requirements shall be accepted as  
867 credit towards completion of the prelicensing education requirements  
868 of this state, provided such out-of-state prelicensing education  
869 requirements are approved by the system.

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

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

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

891 (3) Nothing in this subsection shall prohibit a test provider

892 approved by the system from providing a test at the location of the  
893 sponsor of the applicant, any subsidiary or affiliate of the sponsor of  
894 the applicant or any entity with which the applicant holds an exclusive  
895 arrangement to conduct the business of a mortgage loan originator.

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

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

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

908 (c) (1) In order to meet the annual continuing education  
909 requirements referred to in subdivision (2) of subsection (b) of section  
910 36a-489 of the general statutes, as amended by this act, a licensed  
911 mortgage loan originator shall complete at least eight hours of  
912 education approved in accordance with subdivision (2) of this  
913 subsection. Such courses shall include at least (A) three hours of  
914 instruction on relevant federal law and regulation; (B) two hours of  
915 ethics, including instruction on fraud, consumer protection and fair  
916 lending issues; and (C) two hours of training related to lending  
917 standards for the nontraditional mortgage product marketplace.

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

923 (3) Nothing in this subsection shall preclude any education course  
924 approved by the system that is provided by the sponsor of the  
925 mortgage loan originator or an entity that is affiliated with the  
926 mortgage loan originator by an agency contract, or any subsidiary or  
927 affiliate of such sponsor or entity.

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

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

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

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

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

951 (9) A person who meets the requirements of subparagraphs (A)(i)  
952 and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489  
953 of the general statutes, as amended by this act, may compensate for

954 any deficiency in continuing education requirements pursuant to  
955 regulations adopted by the commissioner.

956 (d) For purposes of this section "nontraditional mortgage product"  
957 means any mortgage product other than a thirty-year fixed rate  
958 mortgage, and "system" has the same meaning as provided in section  
959 36a-485 of the general statutes, as amended by this act.

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

962 (a) A mortgage lender, mortgage correspondent lender and  
963 mortgage broker license shall not be transferable or assignable. No  
964 licensee may use any name other than its legal name or a fictitious  
965 name approved by the commissioner, provided such licensee may not  
966 use its legal name if the commissioner disapproves use of such name.  
967 Any licensee who intends to permanently cease engaging in the  
968 business of making residential mortgage loans or acting as a mortgage  
969 broker at any time during a license period for any cause, including, but  
970 not limited to, bankruptcy, license revocation or voluntary dissolution,  
971 shall file a request to surrender [of] the license for each office at which  
972 the licensee intends to cease to do business, on the [Nationwide  
973 Mortgage Licensing System] system, not later than fifteen days after  
974 the date of such cessation, provided this requirement shall not apply  
975 when a license has been suspended pursuant to section 36a-51. No  
976 surrender shall be effective until accepted by the commissioner.

977 (b) A mortgage lender, mortgage correspondent lender or mortgage  
978 broker licensee may change the name of the licensee or address of the  
979 office specified on the most recent filing with the [Nationwide  
980 Mortgage Licensing System] system if (1) at least thirty calendar days  
981 prior to such change, the licensee files such change with the  
982 [Nationwide Mortgage Licensing System] system and provides,  
983 directly to the commissioner, a bond rider or endorsement to the  
984 surety bond on file with the commissioner that reflects the new name  
985 or address of the office, and (2) the commissioner does not disapprove

986 such change, in writing, or request further information within such  
987 thirty-day period. The licensee shall promptly file any change in the  
988 information most recently submitted in connection with the license  
989 with the [Nationwide Mortgage Licensing System] system or, if the  
990 information cannot be filed on the [Nationwide Mortgage Licensing  
991 System] system, directly notify the commissioner, in writing, of [any  
992 other] such change in the information. [provided in the most recent  
993 filing with the Nationwide Mortgage Licensing System.]

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

1000 (1) Filing for bankruptcy, or the consummation of a corporate  
1001 restructuring, of the licensee;

1002 (2) Filing of a criminal indictment against the licensee in any way  
1003 related to the lending or brokerage activities of the licensee, or  
1004 receiving notification of the filing of any criminal felony indictment or  
1005 felony conviction of any of the licensee's officers, directors, members,  
1006 partners or shareholders owning ten per cent or more of the  
1007 outstanding stock;

1008 (3) Receiving notification of the institution of license denial, cease  
1009 and desist, suspension or revocation procedures, or other formal or  
1010 informal regulatory action by any governmental agency against the  
1011 licensee and the reasons therefor;

1012 (4) Receiving notification of the initiation of any action by the  
1013 Attorney General or the attorney general of any other state and the  
1014 reasons therefor;

1015 (5) Receiving notification of a material adverse action with respect  
1016 to any existing line of credit or warehouse credit agreement;

1017 (6) Suspension or termination of the licensee's status as an approved  
1018 seller or servicer by the Federal National Mortgage Association,  
1019 Federal Home Loan Mortgage Corporation or Government National  
1020 Mortgage Association;

1021 (7) Exercise of recourse rights by investors or subsequent assignees  
1022 of residential mortgage loans if such loans for which the recourse  
1023 rights are being exercised, in the aggregate, exceed the licensee's net  
1024 worth exclusive of real property and fixed assets;

1025 (8) Receiving notification of filing for bankruptcy of any of the  
1026 licensee's officers, directors, members, partners or shareholders  
1027 owning ten per cent or more of the outstanding stock of the licensee; or

1028 [(9) Any proposed change in control in the ownership of the  
1029 licensee, or among the officers, directors, members or partners of the  
1030 licensee on a form provided by the commissioner. The commissioner  
1031 may thereupon cause such investigation to be made as he deems  
1032 necessary, as if the licensee were applying for an initial license. In the  
1033 case of a corporation, "change in control" means a change of ownership  
1034 by a person or group acting in concert to acquire ten per cent or more  
1035 of any class of voting securities, or the ability of a person or group  
1036 acting in concert to elect a majority of the directors or otherwise effect  
1037 a change in policy of the corporation.]

1038 (9) A decrease in the net worth required by subsection (a) of section  
1039 36a-488, as amended by this act.

1040 (d) Each mortgage loan originator licensee shall promptly file with  
1041 the [Nationwide Mortgage Licensing System] system or, if the  
1042 information cannot be filed on the [Nationwide Mortgage Licensing  
1043 System] system, directly notify the commissioner, in writing, of the  
1044 occurrence of any of the following developments:

1045 (1) Filing for bankruptcy of the mortgage loan originator licensee;

1046 (2) Filing of a criminal indictment against the mortgage loan

1047 originator licensee;

1048 (3) Receiving notification of the institution of license or registration  
1049 denial, cease and desist, suspension or revocation procedures, or other  
1050 formal or informal regulatory action by any governmental agency  
1051 against the mortgage loan originator licensee and the reasons therefor;  
1052 or

1053 (4) Receiving notification of the initiation of any action against the  
1054 mortgage loan originator licensee by the Attorney General or the  
1055 attorney general of any other state and the reasons therefor.

1056 (e) Each mortgage lender, mortgage correspondent lender,  
1057 mortgage broker and mortgage loan originator license shall remain in  
1058 force and effect until it has been surrendered, revoked, suspended or  
1059 expires, or is no longer effective, in accordance with the provisions of  
1060 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this  
1061 act, sections 36a-534a and 36a-534b, as amended by this act, and  
1062 sections 9 and 19 to 21, inclusive, of this act.

1063 Sec. 11. Section 36a-491 of the general statutes is repealed and the  
1064 following is substituted in lieu thereof (*Effective July 31, 2009*):

1065 (a) [(1)] The expiration date of any mortgage lender, mortgage  
1066 correspondent lender and mortgage broker license that expires on  
1067 September 30, 2008, shall be extended to the close of business on  
1068 December 31, 2008. On and after July 1, 2008, each mortgage lender,  
1069 mortgage correspondent lender, [or] mortgage broker and mortgage  
1070 loan originator license shall expire at the close of business on  
1071 December thirty-first of the year in which it is approved, unless such  
1072 license is renewed, and provided any such license that is approved on  
1073 or after November first shall expire at the close of business on  
1074 December thirty-first of the year following the year in which it is  
1075 approved. An application for renewal of a license shall be filed  
1076 between November first and December thirty-first of the year in which  
1077 the license expires, [ provided a licensee may file a renewal  
1078 application not later than March first of the following year together

1079 with a late fee of one hundred dollars. Any such filing after December  
1080 thirty-first shall be deemed timely and sufficient for purposes of  
1081 subsection (b) of section 4-182.] Each applicant for [a] an initial license  
1082 or renewal of a license as a mortgage lender or mortgage  
1083 correspondent lender shall pay to the [Nationwide Mortgage Licensing  
1084 System] system any required fees or charges and a license fee of eight  
1085 hundred dollars, and each applicant for an initial or renewal license as  
1086 a mortgage broker shall pay to the [Nationwide Mortgage Licensing  
1087 System] system any required fees or charges and a license fee of four  
1088 hundred dollars, provided each mortgage lender or mortgage  
1089 correspondent lender licensee who is a licensee on September 30, 2008,  
1090 who submits a renewal application shall, at the time of making such  
1091 application, pay to the [Nationwide Mortgage Licensing System]  
1092 system any required fees or charges and a license fee of nine hundred  
1093 dollars and each mortgage broker who was a licensee on June 30, 2008,  
1094 who submits a renewal application shall, at the time of making such  
1095 application, pay to the [Nationwide Mortgage Licensing System]  
1096 system any required fees or charges and a license fee of four hundred  
1097 fifty dollars.

1098 [(2) Each mortgage loan originator license shall expire at such time  
1099 as the license of the mortgage lender, mortgage correspondent lender  
1100 or mortgage broker that employs or retains the mortgage loan  
1101 originator expires, unless such mortgage loan originator license is  
1102 renewed. Each mortgage lender, mortgage correspondent lender or  
1103 mortgage broker applicant and each mortgage lender licensee,  
1104 mortgage correspondent lender licensee or mortgage broker licensee  
1105 that files an application] Effective November 1, 2009, each applicant for  
1106 [a] an initial license or renewal of a license as a mortgage loan  
1107 originator [license] shall pay to the [Nationwide Mortgage Licensing  
1108 System] system any required fees or charges and a license fee of [one]  
1109 three hundred dollars. [for each mortgage loan originator, provided  
1110 each mortgage lender, mortgage correspondent lender or mortgage  
1111 broker who is a licensee on September 30, 2008, who submits a renewal  
1112 application for a mortgage loan originator shall, at the time of making

1113 such application, pay to the Nationwide Mortgage Licensing System  
1114 any required fees or charges and a license fee of one hundred twenty-  
1115 five dollars. On and after January 1, 2010, each mortgage lender,  
1116 mortgage correspondent lender or mortgage broker filing an  
1117 application for a mortgage loan originator license shall pay a license  
1118 fee of one hundred dollars for each mortgage loan originator and any  
1119 required fees or charges to the Nationwide Mortgage Licensing  
1120 System.]

1121 (b) All fees paid pursuant to this section, including fees paid in  
1122 connection with an application that is denied or withdrawn prior to  
1123 the issuance of the license, shall be nonrefundable, provided [such  
1124 fees] any license fee paid by an originator for a license that is not  
1125 sponsored by a mortgage lender, mortgage correspondent lender or  
1126 mortgage broker may be refundable. No fee paid pursuant to this  
1127 section shall be prorated if the license is surrendered, revoked or  
1128 suspended prior to the expiration of the period for which it was  
1129 approved.

1130 Sec. 12. Section 36a-492 of the general statutes is repealed and the  
1131 following is substituted in lieu thereof (*Effective July 31, 2009*):

1132 (a) (1) No mortgage lender, mortgage correspondent lender or  
1133 mortgage broker license, and no renewal thereof, shall be granted  
1134 unless the applicant has filed a bond with the commissioner written by  
1135 a surety authorized to write such bonds in this state, in the sum of  
1136 forty thousand dollars, the form of which shall be approved by the  
1137 Attorney General. [, provided on and after August 1, 2009, the bond  
1138 shall be in the sum of eighty thousand dollars. Such bond shall be  
1139 conditioned upon such licensee faithfully performing any and all  
1140 written agreements or commitments with or for the benefit of  
1141 borrowers and prospective borrowers, truly and faithfully accounting  
1142 for all funds received from a borrower or prospective borrower by the  
1143 licensee in the licensee's capacity as a mortgage lender, mortgage  
1144 correspondent lender or a mortgage broker, and conducting such  
1145 mortgage business consistent with the provisions of sections 36a-485 to

1146 36a-498a, inclusive. Any borrower or prospective borrower who may  
1147 be damaged by failure to perform any written agreements or  
1148 commitments, or by the wrongful conversion of funds paid by a  
1149 borrower or prospective borrower to a licensee, may proceed on such  
1150 bond against the principal or surety thereon, or both, to recover  
1151 damages. Commencing August 1, 2009, any borrower or prospective  
1152 borrower who may be damaged by a licensee's failure to satisfy a  
1153 judgment against the licensee arising from the making or brokering of  
1154 a nonprime home loan, as defined in section 36a-760, may proceed on  
1155 such bond against the principal or surety thereon, or both, to recover  
1156 the amount of the judgment. The commissioner may proceed on such  
1157 bond against the principal or surety thereon, or both, to collect any  
1158 civil penalty imposed upon the licensee pursuant to subsection (a) of  
1159 section 36a-50 and any unpaid costs of examination of the licensee as  
1160 determined pursuant to section 36a-65. The proceeds of the bond, even  
1161 if commingled with other assets of the licensee, shall be deemed by  
1162 operation of law to be held in trust for the benefit of such claimants  
1163 against the licensee in the event of bankruptcy of the licensee and shall  
1164 be immune from attachment by creditors and judgment creditors. The  
1165 bond shall run concurrently with the period of the license granted to  
1166 the applicant, and the aggregate liability under the bond shall not  
1167 exceed the penal sum of the bond.] Effective July 31, 2010, the penal  
1168 sum of the bond shall be maintained in an amount that reflects the  
1169 dollar amount of the loans originated by the mortgage lender,  
1170 mortgage correspondent lender or mortgage broker, as determined by  
1171 the commissioner.

1172 (2) Effective July 31, 2010, each person licensed as a mortgage loan  
1173 originator shall be covered by a surety bond in accordance with this  
1174 section, provided such coverage shall be provided through the bond of  
1175 the mortgage lender, mortgage correspondent lender or mortgage  
1176 broker who sponsors such mortgage loan originator. The penal sum of  
1177 the bond shall be maintained in an amount that reflects the dollar  
1178 amount of loans originated by the mortgage loan originator, as  
1179 determined by the commissioner. The commissioner may adopt

1180 regulations in accordance with chapter 54 with respect to the  
1181 requirements for such surety bonds.

1182 (b) The bond required by subsection (a) of this section shall be  
1183 conditioned upon such licensee and, effective July 31, 2010, any  
1184 mortgage loan originator who is covered by the surety bond of a  
1185 mortgage lender, mortgage correspondent lender or mortgage broker,  
1186 faithfully performing any and all written agreements or commitments  
1187 with or for the benefit of borrowers and prospective borrowers, truly  
1188 and faithfully accounting for all funds received from a borrower or  
1189 prospective borrower by the licensee in the licensee's capacity as a  
1190 mortgage lender, mortgage correspondent lender or a mortgage broker  
1191 or, effective July 31, 2010, a mortgage loan originator, and conducting  
1192 such mortgage business consistent with the provisions of sections 36a-  
1193 485 to 36a-498c, inclusive, as amended by this act, sections 36a-534a  
1194 and 36a-534b, as amended by this act, and sections 9 and 19 to 21,  
1195 inclusive, of this act. Any borrower or prospective borrower who may  
1196 be damaged by failure to perform any written agreements or  
1197 commitments, or by the wrongful conversion of funds paid by a  
1198 borrower or prospective borrower to a licensee, may proceed on such  
1199 bond against the principal or surety thereon, or both, to recover  
1200 damages. Commencing August 1, 2009, any borrower or prospective  
1201 borrower who may be damaged by a mortgage lender, mortgage  
1202 correspondent lender, mortgage broker or mortgage loan originator  
1203 licensee's failure to satisfy a judgment against the licensee arising from  
1204 the making or brokering of a nonprime home loan, as defined in  
1205 section 36a-760, may proceed on such bond against the principal or  
1206 surety thereon, or both, to recover the amount of the judgment. The  
1207 commissioner may proceed on such bond against the principal or  
1208 surety thereon, or both, to collect any civil penalty imposed upon the  
1209 licensee pursuant to subsection (a) of section 36a-50 and any unpaid  
1210 costs of examination of the licensee as determined pursuant to section  
1211 36a-65. The proceeds of the bond, even if commingled with other  
1212 assets of the licensee, shall be deemed by operation of law to be held in  
1213 trust for the benefit of such claimants against the licensee in the event

1214 of bankruptcy of the licensee and shall be immune from attachment by  
1215 creditors and judgment creditors. The bond shall run concurrently  
1216 with the period of the license granted to the applicant, and the  
1217 aggregate liability under the bond shall not exceed the penal sum of  
1218 the bond. The licensee shall notify the commissioner of the  
1219 commencement of an action on the licensee's bond. When an action is  
1220 commenced on a licensee's bond, the commissioner may require the  
1221 filing of a new bond and immediately on recovery on any action on the  
1222 bond, the licensee shall file a new bond.

1223 [(b)] (c) The surety company shall have the right to cancel the bond  
1224 at any time by a written notice to the licensee stating the date  
1225 cancellation shall take effect. Such notice shall be sent by certified mail  
1226 to the licensee at least thirty days prior to the date of cancellation. A  
1227 surety bond shall not be cancelled unless the surety company notifies  
1228 the commissioner in writing not less than thirty days prior to the  
1229 effective date of cancellation.

1230 Sec. 13. Subsection (a) of section 36a-493 of the general statutes is  
1231 repealed and the following is substituted in lieu thereof (*Effective July*  
1232 *31, 2009*):

1233 (a) Each mortgage lender, mortgage correspondent lender and  
1234 mortgage broker licensee shall maintain adequate records of each  
1235 residential mortgage loan transaction at the office named in the license,  
1236 or, if requested by the commissioner, shall make such records available  
1237 at such office or send such records to the commissioner by registered  
1238 or certified mail, return receipt requested, or by any express delivery  
1239 carrier that provides a dated delivery receipt, not later than five  
1240 business days after requested by the commissioner to do so. Upon  
1241 request, the commissioner may grant a licensee additional time to  
1242 make such records available or send them to the commissioner. Such  
1243 records shall provide the following information: (1) A copy of any  
1244 disclosures required under part III of chapter 669; (2) whether the  
1245 licensee acted as a mortgage lender, a mortgage correspondent lender,  
1246 a mortgage broker, a mortgage lender and a mortgage broker, or a

1247 mortgage correspondent lender and a mortgage broker; (3) if the  
1248 licensee is acting as a mortgage lender or mortgage correspondent  
1249 lender, and retains the residential mortgage loan or receives payments  
1250 thereon, an adequate loan history for those loans retained or upon  
1251 which payments are received, itemizing the amount and date of each  
1252 payment and the unpaid balance at all times; (4) the purpose for which  
1253 the loan was made; (5) the original or an exact copy of the note, loan  
1254 agreement or other evidence of indebtedness and mortgage deed; (6) a  
1255 statement signed by the borrower acknowledging the receipt of such  
1256 statement which discloses the full amount of any fee, commission or  
1257 consideration paid to the mortgage lender, mortgage correspondent  
1258 lender and mortgage broker for all services in connection with the  
1259 origination and settlement of the residential mortgage loan; (7) the  
1260 name and address of the mortgage lender, mortgage correspondent  
1261 lender and the mortgage broker, if any, involved in the loan  
1262 transaction; (8) a copy of the initial and a copy of the final residential  
1263 mortgage loan application taken from the borrower; and (9) a copy of  
1264 all information used in evaluating the application.

1265 Sec. 14. Section 36a-494 of the general statutes is repealed and the  
1266 following is substituted in lieu thereof (*Effective July 31, 2009*):

1267 (a) (1) The commissioner may suspend, revoke or refuse to renew  
1268 any mortgage lender, mortgage correspondent lender or mortgage  
1269 broker license or take any other action, in accordance with the  
1270 provisions of section 36a-51, for any reason which would be sufficient  
1271 grounds for the commissioner to deny an application for such license  
1272 under sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended  
1273 by this act, sections 36a-534a and 36a-534b, as amended by this act, and  
1274 sections 9 and 19 to 21, inclusive, of this act, or if the commissioner  
1275 finds that the licensee, [or any proprietor, director, officer, member,  
1276 partner, shareholder] any control person of the licensee, the qualified  
1277 individual or branch manager with supervisory authority, trustee,  
1278 employee or agent of such licensee has done any of the following: (A)  
1279 Made any material misstatement in the application; (B) committed any  
1280 fraud, misappropriated funds or misrepresented, concealed,

1281 suppressed, intentionally omitted or otherwise intentionally failed to  
1282 disclose any of the material particulars of any residential mortgage  
1283 loan transaction, including disclosures required by subdivision (6) of  
1284 subsection (a) of section 36a-493, as amended by this act, or part III of  
1285 chapter 669 or regulations adopted pursuant thereto, to anyone  
1286 entitled to such information; (C) violated any of the provisions of this  
1287 title or of any regulations adopted pursuant thereto, or any other law  
1288 or regulation applicable to the conduct of its business; or (D) failed to  
1289 perform any agreement with a licensee or a borrower.

1290 (2) The commissioner may suspend, revoke or refuse to renew any  
1291 mortgage loan originator license or take any other action, in  
1292 accordance with the provisions of section 36a-51, for any reason which  
1293 would be sufficient grounds for the commissioner to deny an  
1294 application for such license under sections 36a-485 to [36a-498a] 36a-  
1295 498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b,  
1296 as amended by this act, and sections 9 and 19 to 21, inclusive, of this  
1297 act, or if the commissioner finds that the licensee has committed any  
1298 fraud, misappropriated funds, misrepresented, concealed, suppressed,  
1299 intentionally omitted or otherwise intentionally failed to disclose any  
1300 of the material particulars of any residential mortgage loan transaction  
1301 or has violated any of the provisions of this title or of any regulations  
1302 adopted pursuant to such title or any other law or regulation  
1303 applicable to the conduct of such licensee's business.

1304 (b) Whenever it appears to the commissioner that any person has  
1305 violated, is violating or is about to violate any of the provisions of  
1306 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this  
1307 act, sections 36a-534a and 36a-534b, as amended by this act, and  
1308 sections 9 and 19 to 21, inclusive, of this act, or any regulation adopted  
1309 pursuant thereto, or any licensee has failed to perform any agreement  
1310 with a borrower, committed any fraud, misappropriated funds or  
1311 misrepresented, concealed, suppressed, intentionally omitted or  
1312 otherwise intentionally failed to disclose any of the material particulars  
1313 of any residential mortgage loan transaction, including disclosures  
1314 required by subdivision (6) of subsection (a) of section 36a-493, as

1315 amended by this act, or part III of chapter 669 or regulations adopted  
1316 pursuant thereto, to anyone entitled to such information, the  
1317 commissioner may take action against such person or licensee in  
1318 accordance with sections 36a-50 and 36a-52.

1319 (c) (1) The commissioner may remove any individual conducting  
1320 business under sections 36a-485 to 36a-498c, inclusive, as amended by  
1321 this act, sections 36a-534a and 36a-534b, as amended by this act, and  
1322 sections 9 and 19 to 21, inclusive, of this act, from office and from  
1323 employment or retention as an independent contractor in the mortgage  
1324 business in this state whenever the commissioner finds as the result of  
1325 an investigation that such person: (A) Has violated any of said sections  
1326 or any regulation or order issued thereunder; or (B) for any reason that  
1327 would be sufficient grounds for the commissioner to deny a license  
1328 under section 36a-489, as amended by this act, by sending a notice to  
1329 such person by registered or certified mail, return receipt requested, or  
1330 by any express delivery carrier that provides a dated delivery receipt.  
1331 The notice shall be deemed received by such person on the earlier of  
1332 the date of actual receipt or seven days after mailing or sending. Any  
1333 such notice shall include: (i) A statement of the time, place and nature  
1334 of the hearing; (ii) a statement of the legal authority and jurisdiction  
1335 under which the hearing is to be held; (iii) a reference to the particular  
1336 sections of the general statutes, regulations or orders alleged to have  
1337 been violated; (iv) a short and plain statement of the matters asserted;  
1338 and (v) a statement indicating that such person may file a written  
1339 request for a hearing on the matters asserted not later than fourteen  
1340 days after receipt of the notice. If the commissioner finds that the  
1341 protection of borrowers requires immediate action, the commissioner  
1342 may suspend any such person from office and require such person to  
1343 take or refrain from taking such action as in the opinion of the  
1344 commissioner will effectuate the purposes of this subsection, by  
1345 incorporating a finding to that effect in such notice. The suspension or  
1346 prohibition shall become effective upon receipt of such notice and,  
1347 unless stayed by a court, shall remain in effect until the entry of a  
1348 permanent order or the dismissal of the matters asserted.

1349       (2) If a hearing is requested within the time specified in the notice,  
1350 the commissioner shall hold a hearing upon the matters asserted in the  
1351 notice unless such person fails to appear at the hearing. After the  
1352 hearing, if the commissioner finds that any of the grounds set forth in  
1353 subparagraph (A) or (B), of subdivision (1) of this subsection exist with  
1354 respect to such person, the commissioner may order the removal of  
1355 such person from office and from any employment in the mortgage  
1356 business in this state. If such person fails to appear at the hearing, the  
1357 commissioner may order the removal of such person from office and  
1358 from employment in the mortgage business in this state.

1359       (d) The commissioner may issue a temporary order to cease  
1360 business under a license if the commissioner determines that such  
1361 license was issued erroneously. The commissioner shall give the  
1362 licensee an opportunity for a hearing on such action in accordance  
1363 with section 36a-52. Such temporary order shall become effective upon  
1364 receipt by the licensee and, unless set aside or modified by a court,  
1365 shall remain in effect until the effective date of a permanent order or  
1366 dismissal of the matters asserted in the notice.

1367       Sec. 15. Section 36a-496 of the general statutes is repealed and the  
1368 following is substituted in lieu thereof (*Effective July 31, 2009*):

1369       No person engaged in the business of making residential mortgage  
1370 loans in this state, whether licensed in accordance with the provisions  
1371 of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or  
1372 exempt from licensing, shall accept applications or referral of  
1373 applicants from, or pay a fee to, any mortgage broker or mortgage loan  
1374 originator who is required to be licensed under said sections but was  
1375 not, as of the time of the performance of such mortgage broker's or  
1376 mortgage loan originator's services in connection with loans made or  
1377 to be made by the mortgage lender or mortgage correspondent lender,  
1378 licensed to act as such by the commissioner, if the mortgage lender or  
1379 mortgage correspondent lender has actual knowledge that the  
1380 mortgage broker or mortgage loan originator was not licensed by the  
1381 commissioner.

1382 Sec. 16. Section 36a-497 of the general statutes is repealed and the  
1383 following is substituted in lieu thereof (*Effective July 31, 2009*):

1384 No mortgage lender licensee, mortgage correspondent lender  
1385 licensee or mortgage broker licensee shall:

1386 (1) Advertise or cause to be advertised in this state, any residential  
1387 mortgage loan in which such person intends to act only as a mortgage  
1388 broker unless the advertisement includes the following statement,  
1389 clearly and conspicuously expressed: MORTGAGE BROKER ONLY,  
1390 NOT A MORTGAGE LENDER OR MORTGAGE CORRESPONDENT  
1391 LENDER; or

1392 (2) In connection with an advertisement in this state, use (A) a  
1393 simulated check; (B) a comparison between the loan payments under  
1394 the residential mortgage loan offered and the loan payments under a  
1395 hypothetical loan or extension of credit, unless the advertisement  
1396 includes, with respect to both the hypothetical loan or extension of  
1397 credit and the residential mortgage loan being offered, the interest rate,  
1398 the loan balance, the total amount of finance charges, the total number  
1399 of payments and the monthly payment amount that would be required  
1400 to pay off the outstanding loan balance shown; (C) representations  
1401 such as "verified as eligible", "eligible", "preapproved", "prequalified"  
1402 or similar words or phrases, without also disclosing, in immediate  
1403 proximity to and in similar size print, language which sets forth  
1404 prerequisites to qualify for the residential mortgage loan, including,  
1405 but not limited to, income verification, credit check, and property  
1406 appraisal or evaluation; or (D) any words or symbols in the  
1407 advertisement or on the envelope containing the advertisement that  
1408 give the appearance that the mailing was sent by a government  
1409 agency.

1410 Sec. 17. Subsections (a) to (g), inclusive, of section 36a-498 of the  
1411 general statutes are repealed and the following is substituted in lieu  
1412 thereof (*Effective July 31, 2009*):

1413 (a) Except as provided in subsection (c) of this section, every

1414 advance fee paid or given, directly or indirectly, to a mortgage lender,  
1415 mortgage correspondent lender or mortgage broker required to be  
1416 licensed pursuant to sections 36a-485 to [36a-498a] 36a-498c, inclusive,  
1417 as amended by this act, sections 36a-534a and 36a-534b, as amended by  
1418 this act, and sections 9 and 19 to 21, inclusive, of this act, shall be  
1419 refundable.

1420 (b) No mortgage loan originator required to be licensed pursuant to  
1421 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this  
1422 act, sections 36a-534a and 36a-534b, as amended by this act, and  
1423 sections 9 and 19 to 21, inclusive, of this act, shall accept payment of  
1424 any advance fee except an advance fee on behalf of a mortgage lender,  
1425 mortgage correspondent lender or mortgage broker licensee. Nothing  
1426 in this subsection shall be construed as prohibiting the mortgage  
1427 lender, mortgage correspondent lender or mortgage broker licensee  
1428 from paying a mortgage loan originator all or part of an advance fee,  
1429 provided such advance fee paid is not refundable under this section.

1430 (c) Subsection (a) of this section shall not apply if: (1) The person  
1431 providing the advance fee and the mortgage lender, mortgage  
1432 correspondent lender or mortgage broker agree in writing that the  
1433 advance fee shall not be refundable, in whole or in part; and (2) the  
1434 written agreement complies in all respects with the provisions of  
1435 subsection (d) of this section.

1436 (d) An agreement under subsection (c) of this section shall meet all  
1437 of the following requirements to be valid and enforceable: (1) The  
1438 agreement shall be dated, signed by both parties, and be executed  
1439 prior to the payment of any advance fee; (2) the agreement shall  
1440 expressly state the total advance fee required to be paid and any  
1441 amount of the advance fee that shall not be refundable; (3) the  
1442 agreement shall clearly and conspicuously state any conditions under  
1443 which the advance fee will be retained by the mortgage lender,  
1444 mortgage correspondent lender or mortgage broker; (4) the term  
1445 "nonrefundable" shall be used to describe each advance fee or portion  
1446 thereof to which the term is applicable, and shall appear in boldface

1447 type in the agreement each time it is used; and (5) the form of the  
1448 agreement shall (A) be separate from any other forms, contracts, or  
1449 applications utilized by the mortgage lender, mortgage correspondent  
1450 lender or mortgage broker, (B) contain a heading in a size equal to at  
1451 least ten-point boldface type that shall title the form "AGREEMENT  
1452 CONCERNING NONREFUNDABILITY OF ADVANCE FEE", (C)  
1453 provide for a duplicate copy which shall be given to the person paying  
1454 the advance fee at the time of payment of the advance fee, and (D)  
1455 include such other specifications as the commissioner may by  
1456 regulation prescribe.

1457 (e) An agreement under subsection (c) of this section that does not  
1458 meet the requirements of subsection (d) of this section shall be  
1459 voidable at the election of the person paying the advance fee.

1460 (f) (1) No mortgage lender, mortgage correspondent lender or  
1461 mortgage broker required to be licensed pursuant to sections 36a-485  
1462 to ~~[36a-498a]~~ 36a-498c, inclusive, as amended by this act, sections 36a-  
1463 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,  
1464 inclusive, of this act, shall enter into an agreement with or otherwise  
1465 require any person to pay the mortgage lender, mortgage  
1466 correspondent lender or mortgage broker for any fee, commission or  
1467 other valuable consideration lost as a result of such person failing to  
1468 consummate a residential mortgage loan, provided the mortgage  
1469 lender, mortgage correspondent lender or mortgage broker may collect  
1470 such fee, commission or consideration as an advance fee subject to the  
1471 requirements of this section.

1472 (2) No mortgage broker required to be licensed pursuant to sections  
1473 36a-485 to ~~[36a-498a]~~ 36a-498c, inclusive, as amended by this act,  
1474 sections 36a-534a and 36a-534b, as amended by this act, and sections 9  
1475 and 19 to 21, inclusive, of this act, shall enter into an agreement with or  
1476 otherwise require any person to pay the mortgage broker any fee,  
1477 commission or other valuable consideration for the prepayment of the  
1478 principal of a residential mortgage loan by such person before the date  
1479 on which the principal is due.

1480 (g) (1) For the purposes of this subsection:

1481 (A) "Unfair or deceptive act or practice" means (i) the failure to  
1482 clearly and conspicuously state in the initial phase of the solicitation  
1483 that the solicitor is not affiliated with the mortgage lender, mortgage  
1484 correspondent lender or mortgage broker with which the consumer  
1485 initially applied, (ii) the failure to clearly and conspicuously state in  
1486 the initial phase of the solicitation that the solicitation is based on  
1487 personal information about the consumer that was purchased, directly  
1488 or indirectly, from a consumer reporting agency without the  
1489 knowledge or permission of the mortgage lender, mortgage  
1490 correspondent lender or mortgage broker with which the consumer  
1491 initially applied, (iii) the failure in the initial solicitation to comply  
1492 with the provisions of the federal Fair Credit Reporting Act relating to  
1493 prescreening solicitations that use consumer reports, including the  
1494 requirement to make a firm offer of credit to the consumer, or (iv)  
1495 knowingly or negligently using information from a mortgage trigger  
1496 lead (I) to solicit consumers who have opted out of prescreened offers  
1497 of credit under the federal Fair Credit Reporting Act, or (II) to place  
1498 telephone calls to consumers who have placed their contact  
1499 information on a federal or state Do Not Call list; and

1500 (B) "Mortgage trigger lead" means a consumer report obtained  
1501 pursuant to Section 604 (c)(1)(B) of the federal Fair Credit Reporting  
1502 Act, 15 USC 1681b, where the issuance of the report is triggered by an  
1503 inquiry made with a consumer reporting agency in response to an  
1504 application for credit. "Mortgage trigger lead" does not include a  
1505 consumer report obtained by a mortgage lender or mortgage  
1506 correspondent lender that holds or services existing indebtedness of  
1507 the applicant who is the subject of the report.

1508 (2) No mortgage lender, mortgage correspondent lender, mortgage  
1509 broker or mortgage loan originator shall engage in an unfair or  
1510 deceptive act or practice in soliciting an application for a residential  
1511 mortgage loan when such solicitation is based, in whole or in part, on  
1512 information contained in a mortgage trigger lead. Any violation of this

1513 subsection shall be deemed an unfair or deceptive trade practice under  
1514 subsection (a) of section 42-110b.

1515 Sec. 18. Section 36a-555 of the general statutes is repealed and the  
1516 following is substituted in lieu thereof (*Effective July 31, 2009*):

1517 No person shall engage in the business of making loans of money or  
1518 credit in the amount or to the value of fifteen thousand dollars or less  
1519 for loans made under section 36a-563 or section 36a-565, and charge,  
1520 contract for or receive a greater rate of interest, charge or consideration  
1521 than twelve per cent per annum therefor, unless licensed to do so by  
1522 the commissioner pursuant to sections 36a-555 to 36a-573, inclusive, as  
1523 amended by this act. The provisions of this section shall not apply to  
1524 (1) a bank, (2) an out-of-state bank, (3) a Connecticut credit union, (4) a  
1525 federal credit union, (5) an out-of-state credit union, (6) a savings and  
1526 loan association wholly owned subsidiary service corporation, (7) a  
1527 person to the extent that such person makes loans for agricultural,  
1528 commercial, industrial or governmental use or extends credit through  
1529 an open-end credit plan, as defined in subdivision (8) of subsection (a)  
1530 of section 36a-676, for the retail purchase of consumer goods or  
1531 services, (8) a mortgage lender or mortgage correspondent lender  
1532 licensed pursuant to [sections 36a-485 to 36a-498a, inclusive,] section  
1533 36a-489, as amended by this act, when making [first] residential  
1534 mortgage loans, as defined in section 36a-485, as amended by this act,  
1535 or (9) a licensed pawnbroker.

1536 Sec. 19. (NEW) (*Effective July 31, 2009*) (a) In addition to any  
1537 authority provided under title 36a of the general statutes, the Banking  
1538 Commissioner shall have the authority to conduct investigations and  
1539 examinations as follows:

1540 (1) For purposes of initial licensing, license renewal, license  
1541 suspension, license conditioning, license revocation or termination, or  
1542 general or specific inquiry or investigation to determine compliance  
1543 with sections 36a-485 to 36a-498c, inclusive, of the general statutes, as  
1544 amended by this act, sections 36a-534a and 36a-534b of the general

1545 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,  
1546 of this act, the commissioner may access, receive and use any books,  
1547 accounts, records, files, documents, information or evidence including,  
1548 but not limited to: (A) Criminal, civil and administrative history  
1549 information; (B) personal history and experience information including  
1550 independent credit reports obtained from a consumer reporting  
1551 agency described in Section 603(p) of the federal Fair Credit Reporting  
1552 Act, 15USC1681a; and (C) any other documents, information or  
1553 evidence the commissioner deems relevant to the inquiry or  
1554 investigation regardless of the location, possession, control or custody  
1555 of such documents, information or evidence.

1556 (2) For the purposes of investigating violations or complaints arising  
1557 under sections 36a-485 to 36a-498c, inclusive, of the general statutes, as  
1558 amended by this act, section 36a-534a or 36a-534b of the general  
1559 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,  
1560 of this act, or for the purposes of examination, the commissioner may  
1561 review, investigate or examine any licensee, individual or person  
1562 subject to said sections as often as necessary in order to carry out the  
1563 purposes of said sections. The commissioner may direct, subpoena or  
1564 order the attendance of and examine under oath all persons whose  
1565 testimony may be required about the loans or the business or subject  
1566 matter of any such examination or investigation, and may direct,  
1567 subpoena or order such person to produce books, accounts, records,  
1568 files and any other documents the commissioner deems relevant to the  
1569 inquiry.

1570 (b) Each licensee, individual or person subject to sections 36a-485 to  
1571 36a-498c, inclusive, of the general statutes, as amended by this act,  
1572 sections 36a-534a and 36a-534b of the general statutes, as amended by  
1573 this act, and sections 9 and 19 to 21, inclusive, of this act, shall make or  
1574 compile reports or prepare other information as directed by the  
1575 commissioner in order to carry out the purposes of this section  
1576 including accounting compilations, information lists and data  
1577 concerning loan transactions in a format prescribed by the  
1578 commissioner or such other information the commissioner deems

1579 necessary to carry out the purposes of this section.

1580 (c) In making any examination or investigation authorized by this  
1581 section, the commissioner may control access to any documents and  
1582 records of the licensee or person under examination or investigation.  
1583 The commissioner may take possession of the documents and records  
1584 or place a person in exclusive charge of the documents and records in  
1585 the place where they are usually kept. During the period of control, no  
1586 individual or person shall remove or attempt to remove any of the  
1587 documents and records except pursuant to a court order or with the  
1588 consent of the commissioner. Unless the commissioner has reasonable  
1589 grounds to believe the documents or records of the licensee have been,  
1590 or are at risk of being, altered or destroyed for purposes of concealing  
1591 a violation of sections 36a-485 to 36a-498c, inclusive, of the general  
1592 statutes, as amended by this act, section 36a-534a or 36a-534b of the  
1593 general statutes, as amended by this act, or sections 9 or 19 to 21,  
1594 inclusive, of this act, the licensee or owner of the documents and  
1595 records shall have access to the documents or records as necessary to  
1596 conduct its ordinary business affairs.

1597 (d) In order to carry out the purposes of this section, the  
1598 commissioner may:

1599 (1) Retain attorneys, accountants or other professionals and  
1600 specialists as examiners, auditors or investigators to conduct or assist  
1601 in the conduct of examinations or investigations;

1602 (2) Enter into agreements or relationships with other government  
1603 officials or regulatory associations in order to improve efficiencies and  
1604 reduce regulatory burden by sharing resources, standardized or  
1605 uniform methods or procedures, and documents, records, information  
1606 or evidence obtained under this section;

1607 (3) Use, hire, contract or employ public or privately available  
1608 analytical systems, methods or software to examine or investigate the  
1609 licensee, individual or person subject to sections 36a-485 to 36a-498c,  
1610 inclusive, of the general statutes, as amended by this act, sections 36a-

1611 534a and 36a-534b of the general statutes, as amended by this act, and  
1612 sections 9 and 19 to 21, inclusive, of this act;

1613 (4) Accept and rely on examination or investigation reports made by  
1614 other government officials, within or without this state; and

1615 (5) Accept audit reports made by an independent certified public  
1616 accountant for the licensee, individual or person subject to sections  
1617 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by  
1618 this act, sections 36a-534a and 36a-534b of the general statutes, as  
1619 amended by this act, and sections 9 and 19 to 21, inclusive, of this act,  
1620 in the course of that part of the examination covering the same general  
1621 subject matter as the audit and may incorporate the audit report in the  
1622 report of the examination, report of investigation or other writing of  
1623 the commissioner.

1624 (e) The authority of this section shall remain in effect, whether such  
1625 licensee, individual or person subject to sections 36a-485 to 36a-498c,  
1626 inclusive, of the general statutes, as amended by this act, sections 36a-  
1627 534a and 36a-534b of the general statutes, as amended by this act, and  
1628 sections 9 and 19 to 21, inclusive, of this act, acts or claims to act under  
1629 any licensing or registration law of this state, or claims to act without  
1630 such authority.

1631 (f) No licensee, individual or person subject to investigation or  
1632 examination under this section may knowingly withhold, abstract,  
1633 remove, mutilate, destroy or secrete any books, records, computer  
1634 records or other information.

1635 Sec. 20. (NEW) (*Effective July 31, 2009*) No person or individual  
1636 subject to sections 36a-485 to 36a-498c, inclusive, of the general  
1637 statutes, as amended by this act, sections 36a-534a and 36a-534b of the  
1638 general statutes, as amended by this act, and sections 9 and 19 to 21,  
1639 inclusive, of this act, may:

1640 (1) Directly or indirectly employ any scheme, device or artifice to  
1641 defraud or mislead borrowers or lenders or to defraud any person;

- 1642       (2) Engage in any unfair or deceptive practice toward any person;
- 1643       (3) Obtain property by fraud or misrepresentation;
- 1644       (4) Solicit or enter into a contract with a borrower that provides in  
1645 substance that such person or individual may earn a fee or commission  
1646 through "best efforts" to obtain a loan even though no loan is actually  
1647 obtained for the borrower;
- 1648       (5) Solicit, advertise or enter into a contract for specific interest rates,  
1649 points or other financing terms unless the terms are actually available  
1650 at the time of soliciting, advertising or contracting;
- 1651       (6) Conduct any business as a mortgage lender, mortgage  
1652 correspondent lender, mortgage broker or mortgage loan originator  
1653 without holding a valid license as required under sections 36a-485 to  
1654 36a-498c, inclusive, of the general statutes, as amended by this act,  
1655 sections 36a-534a and 36a-534b of the general statutes, as amended by  
1656 this act, and sections 9 and 19 to 21, inclusive, of this act, or assist or  
1657 aide and abet any person in the conduct of business as a mortgage  
1658 lender, mortgage correspondent lender, mortgage broker or mortgage  
1659 loan originator without a valid license as required under said sections;
- 1660       (7) Fail to make disclosures as required by sections 36a-485 to 36a-  
1661 498c, inclusive, of the general statutes, as amended by this act, sections  
1662 36a-534a and 36a-534b of the general statutes, as amended by this act,  
1663 and sections 9 and 19 to 21, inclusive, of this act and any other  
1664 applicable state or federal law including regulations thereunder;
- 1665       (8) Fail to comply with sections 36a-485 to 36a-498c, inclusive, of the  
1666 general statutes, as amended by this act, sections 36a-534a and 36a-  
1667 534b of the general statutes, as amended by this act, and sections 9 and  
1668 19 to 21, inclusive, of this act, or rules or regulations adopted under  
1669 said sections or fail to comply with any other state or federal law,  
1670 including the rules and regulations thereunder, applicable to any  
1671 business authorized or conducted under said sections;

1672 (9) Make, in any manner, any false or deceptive statement or  
1673 representation including, with regard to the rates, points or other  
1674 financing terms or conditions for a residential mortgage loan, or  
1675 engage in bait and switch advertising;

1676 (10) Negligently make any false statement or knowingly and  
1677 wilfully make any omission of material fact in connection with any  
1678 information or reports filed with a governmental agency or the system,  
1679 as defined in section 36a-485 of the general statutes, as amended by  
1680 this act, or in connection with any investigation conducted by the  
1681 Banking Commissioner or another governmental agency;

1682 (11) Make any payment, threat or promise, directly or indirectly, to  
1683 any person for the purposes of influencing the independent judgment  
1684 of the person in connection with a residential mortgage loan as defined  
1685 in section 36a-485 of the general statutes, as amended by this act, or  
1686 make any payment threat or promise, directly or indirectly, to any  
1687 appraiser of a property, for the purposes of influencing the  
1688 independent judgment of the appraiser with respect to the value of the  
1689 property;

1690 (12) Collect, charge, attempt to collect or charge or use or propose  
1691 any agreement purporting to collect or charge any fee prohibited by  
1692 sections 36a-485 to 36a-498c, inclusive, of the general statutes, as  
1693 amended by this act, sections 36a-534a and 36a-534b of the general  
1694 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,  
1695 of this act;

1696 (13) Cause or require a borrower to obtain property insurance  
1697 coverage in an amount that exceeds the replacement cost of the  
1698 improvements as established by the property insurer; or

1699 (14) Fail to truthfully account for moneys belonging to a party to a  
1700 residential mortgage loan transaction.

1701 Sec. 21. (NEW) (*Effective July 31, 2009*) The "unique identifier", as  
1702 defined in section 36a-485 of the general statutes, as amended by this

1703 act, of any mortgage loan originator licensed under section 36a-489 of  
1704 the general statutes, as amended by this act, originating a residential  
1705 mortgage loan shall be clearly shown on all residential mortgage loan  
1706 application forms, solicitations or advertisements, including business  
1707 cards or web sites, and any other documents as established by rule,  
1708 regulation or order of the Banking Commissioner.

1709 Sec. 22. (NEW) (*Effective July 31, 2009*) If any provision or  
1710 application of sections 9 and 19 to 21, inclusive, of this act, section 36a-  
1711 21 of the general statutes, as amended by this act, sections 36a-485 to  
1712 36a-498c, inclusive, of the general statutes, as amended by this act, or  
1713 sections 36a-534a and 36a-534b of the general statutes, as amended by  
1714 this act, to any person or circumstance is held invalid by a court of this  
1715 state, the remainder of said sections or the application of such  
1716 provision to other persons or circumstances shall not be affected.

1717 Sec. 23. Subsection (a) of section 36a-498a of the general statutes is  
1718 repealed and the following is substituted in lieu thereof (*Effective July*  
1719 *31, 2009*):

1720 (a) No mortgage lender licensee or mortgage correspondent lender  
1721 licensee under section 36a-489 and no person exempt from licensure  
1722 under [subdivisions (1), (2), (5) and (6)] subsection (a) and subdivisions  
1723 (1), (4) and (5) of subsection (b) of section 36a-487, as amended by this  
1724 act, making a first mortgage loan may charge, impose or cause to be  
1725 paid, directly or indirectly, prepaid finance charges that exceed in the  
1726 aggregate, the greater of five per cent of the principal amount of the  
1727 loan or two thousand dollars. If the proceeds of the loan are used to  
1728 refinance an existing loan, the aggregate of the prepaid finance charges  
1729 for the current refinancing and any previous financings by such  
1730 licensee or exempt person or affiliate of such licensee or exempt person  
1731 within two years of the current refinancing shall not exceed the greater  
1732 of five per cent of the principal amount of the initial loan or two  
1733 thousand dollars. The provisions of this section shall not prohibit such  
1734 licensee or exempt person from charging, imposing or causing to be  
1735 paid, directly or indirectly, prepaid finance charges in addition to

1736 those permitted by this section in connection with any additional  
1737 proceeds received by the borrower in the refinancing, provided such  
1738 prepaid finance charges on the additional proceeds shall not exceed  
1739 five per cent of the additional proceeds.

1740 Sec. 24. Section 46a-80 of the general statutes is repealed and the  
1741 following is substituted in lieu thereof (*Effective October 1, 2009*):

1742 (a) Except as provided in subsection (b) of this section, [and]  
1743 subsection (b) of section 46a-81 and section 36a-489, as amended by  
1744 this act, and notwithstanding any other provisions of law to the  
1745 contrary, a person shall not be disqualified from employment by the  
1746 state of Connecticut or any of its agencies, nor shall a person be  
1747 disqualified to practice, pursue or engage in any occupation, trade,  
1748 vocation, profession or business for which a license, permit, certificate  
1749 or registration is required to be issued by the state of Connecticut or  
1750 any of its agencies solely because of a prior conviction of a crime.

1751 (b) A person may be denied employment by the state or any of its  
1752 agencies, or a person may be denied a license, permit, certificate or  
1753 registration to pursue, practice or engage in an occupation, trade,  
1754 vocation, profession or business by reason of the prior conviction of a  
1755 crime if after considering (1) the nature of the crime and its  
1756 relationship to the job for which the person has applied; (2)  
1757 information pertaining to the degree of rehabilitation of the convicted  
1758 person; and (3) the time elapsed since the conviction or release, the  
1759 state, or any of its agencies determines that the applicant is not suitable  
1760 for the position of employment sought or the specific occupation,  
1761 trade, vocation, profession or business for which the license, permit,  
1762 certificate or registration is sought.

1763 (c) If a conviction of a crime is used as a basis for rejection of an  
1764 applicant, such rejection shall be in writing and specifically state the  
1765 evidence presented and reasons for rejection. A copy of such rejection  
1766 shall be sent by registered mail to the applicant.

1767 (d) In no case may records of arrest, which are not followed by a

1768 conviction, or records of convictions, which have been erased, be used,  
1769 distributed or disseminated by the state or any of its agencies in  
1770 connection with an application for employment or for a permit, license,  
1771 certificate or registration.

1772 Sec. 25. Section 46a-81 of the general statutes is repealed and the  
1773 following is substituted in lieu thereof (*Effective October 1, 2009*):

1774 (a) [The] Except as provided in section 36a-489, as amended by this  
1775 act, the provisions of sections 46a-79 to 46a-81, inclusive, shall prevail  
1776 over any other provisions of law which purport to govern the denial of  
1777 licenses, permits, certificates, registrations, or other means to engage in  
1778 an occupation, trade, vocation, business or profession, on the grounds  
1779 of a lack of good moral character, or which purport to govern the  
1780 suspension or revocation of a license, permit, certificate or registration  
1781 on the grounds of conviction of a crime.

1782 (b) Sections 46a-79 to 46a-81, inclusive, shall not be applicable to any  
1783 law enforcement agency, provided nothing herein shall be construed  
1784 to preclude a law enforcement agency in its discretion from adopting  
1785 the policy set forth in said sections.

1786 Sec. 26. Section 36a-760j of the general statutes is repealed and the  
1787 following is substituted in lieu thereof (*Effective July 31, 2009*):

1788 [A mortgage broker] No person shall [not] influence real estate  
1789 appraisals of residential property. For the purposes of this section,  
1790 "influence residential real estate appraisals" includes, but is not limited  
1791 to: (1) Refusal, or intentional failure, to pay an appraiser for an  
1792 appraisal that reflects a fair market value estimate that is less than the  
1793 sale contract price; or (2) refusal, or intentional failure, to utilize, or  
1794 encouraging other mortgage brokers not to utilize, an appraiser based  
1795 solely on the fact that the appraiser provided an appraisal reflecting a  
1796 fair market value estimate that was less than the sale contract price.

1797 Sec. 27. Subdivision (7) of section 8-265cc of the general statutes is  
1798 repealed and the following is substituted in lieu thereof (*Effective July*

1799 1, 2009):

1800 (7) "Financial hardship due to circumstances beyond the  
1801 mortgagor's control" means [:(A) A] a significant reduction [of at least  
1802 twenty-five per cent] of aggregate family household income or increase  
1803 in expenses which reasonably cannot be or could not have been  
1804 alleviated by the liquidation of assets by the mortgagor as determined  
1805 by the Connecticut Housing Finance Authority, including, but not  
1806 limited to, a reduction resulting from (A) (i) unemployment or  
1807 underemployment of one or more of the mortgagors; (ii) a loss,  
1808 reduction or delay in receipt of such federal, state or municipal  
1809 benefits as Social Security, supplemental security income, public  
1810 assistance and government pensions; (iii) a loss, reduction or delay in  
1811 receipt of such private benefits as pension, disability, annuity or  
1812 retirement benefits; (iv) divorce or a loss of support payments; (v)  
1813 disability, illness or death of a mortgagor; [(vi) uninsured damage to  
1814 the mortgaged property which affects liveability and necessitates  
1815 costly repairs; or (vii)] or (B)(i) a significant increase in the dollar  
1816 amount of the periodic payments required by the mortgage; (ii) an  
1817 unanticipated rise in housing expenses; or (iii) expenses related to the  
1818 disability, illness or death of a member of the mortgagor's family, but  
1819 [is] does not include expenses related to the accumulation of credit or  
1820 installment debt incurred for recreational or nonessential items prior to  
1821 the occurrence of the alleged circumstances beyond the mortgagor's  
1822 control in an amount that would have caused the mortgagor's total  
1823 debt service to exceed sixty per cent of aggregate family income at that  
1824 time. [; or (B) a significant increase in the dollar amount of the periodic  
1825 payments required by the mortgage.]

1826 Sec. 28. Subsection (b) of section 8-265dd of the general statutes is  
1827 repealed and the following is substituted in lieu thereof (*Effective July*  
1828 *1, 2009*):

1829 (b) Notwithstanding any provision of the general statutes, or any  
1830 rule of law to the contrary, on and after July 1, 2008, no judgment of  
1831 strict foreclosure nor any judgment ordering a foreclosure sale shall be

1832 entered in any action instituted by the mortgagee to foreclose a  
1833 mortgage commenced on or after such date, for the foreclosure of an  
1834 eligible mortgage unless (1) notice to the mortgagor has been given by  
1835 the mortgagee in accordance with section 8-265ee, as amended by this  
1836 act, and the time for response has expired, and (2) a determination has  
1837 been made on the mortgagor's application for emergency mortgage  
1838 assistance payments in accordance with section 8-265ff, as amended by  
1839 this act, or the applicable time periods set forth in sections 8-265cc to 8-  
1840 265kk, inclusive, as amended by this act, have expired, whichever is  
1841 earlier. For purposes of this section and sections 8-265ee to 8-265kk,  
1842 inclusive, as amended by this act, an "eligible mortgage" is a mortgage  
1843 which satisfies the standards contained in subdivisions (1), (3), (8) and  
1844 (10) to (13), inclusive, of subsection [(d)] (e) of section 8-265ff, as  
1845 amended by this act.

1846 Sec. 29. Section 8-265ee of the general statutes is repealed and the  
1847 following is substituted in lieu thereof (*Effective July 1, 2009*):

1848 (a) On and after July 1, 2008, a mortgagee who desires to foreclose  
1849 upon a mortgage which satisfies the standards contained in  
1850 subdivisions (1), (3), (10), (11) and (12) of subsection [(d)] (e) of section  
1851 8-265ff, as amended by this act, shall give notice to the mortgagor by  
1852 registered, or certified mail, postage prepaid at the address of the  
1853 property which is secured by the mortgage. No such mortgagee may  
1854 commence a foreclosure of a mortgage prior to mailing such notice.  
1855 Such notice shall advise the mortgagor of his delinquency or other  
1856 default under the mortgage and shall state that the mortgagor has sixty  
1857 days from the date of such notice in which to (1) have a face-to-face  
1858 meeting, telephone or other conference acceptable to the authority  
1859 with the mortgagee or a face-to-face meeting with a consumer credit  
1860 counseling agency to attempt to resolve the delinquency or default by  
1861 restructuring the loan payment schedule or otherwise, and (2) contact  
1862 the authority, at an address and phone number contained in the notice,  
1863 to obtain information and apply for emergency mortgage assistance  
1864 payments if the mortgagor and mortgagee are unable to resolve the  
1865 delinquency or default.

1866 (b) [If] Except in cases in which the mortgagee refuses to meet with  
1867 the mortgagor, if the mortgagor fails to meet with the mortgagee or  
1868 comply with any of the time limitations specified in the notice as  
1869 provided in subsection (a) of this section, or if the mortgagor's  
1870 application is not filed by the date thirty days after the date of any  
1871 default in payment under an agreement as provided in subsection (c)  
1872 of this section or if the mortgagor's application for emergency  
1873 mortgage assistance payments is not approved by the date thirty  
1874 calendar days after the date of receipt of the mortgagor's application in  
1875 accordance with the provisions of section 8-265ff, as amended by this  
1876 act, the foreclosure of the mortgagor's mortgage may, at any time  
1877 thereafter, except as provided in subsection (e) of this section, continue  
1878 without any further restriction or requirement under the provisions of  
1879 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided  
1880 the mortgagee files an affidavit with the court stating the notice  
1881 provisions of subsection (a) of this section have been complied with  
1882 and that either the mortgagor failed to meet with the mortgagee or  
1883 failed to comply with all of the time limitations specified in the notice  
1884 as provided in subsection (a) of this section or that the mortgagor's  
1885 application for emergency assistance payments was not approved by  
1886 the date thirty calendar days after the date of receipt of the  
1887 mortgagor's application, or that a determination of ineligibility was  
1888 made.

1889 (c) If, after a face-to-face meeting, telephone or other conference  
1890 acceptable to the authority, as provided in subsection (a) of this  
1891 section, the mortgagor and the mortgagee reach an agreement to  
1892 resolve the delinquency or default and, because of financial hardship  
1893 due to circumstances beyond the mortgagor's control, the mortgagor is  
1894 unable to fulfill the obligations of the agreement, the mortgagor may  
1895 apply to the authority for emergency mortgage assistance payments  
1896 under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by  
1897 the date thirty days after the date of any default in payment under the  
1898 agreement. The mortgagee shall not be required to send any additional  
1899 notice to the mortgagor other than the notice required under

1900 subsection (a) of this section.

1901 (d) No person receiving financial relief under sections 8-265cc to 8-  
1902 265kk, inclusive, as amended by this act, may file a defense,  
1903 counterclaim or set-off to any action for foreclosure of the mortgage for  
1904 which such financial relief was provided.

1905 (e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by  
1906 this act, shall prevent a mortgagor from exercising rights that may  
1907 exist under the foreclosure mediation program and those rights may  
1908 be exercised concurrently with the rights afforded under sections 8-  
1909 265cc to 8-265kk, inclusive, as amended by this act, provided the  
1910 exercise of rights under the foreclosure mediation program shall not  
1911 cause a delay in the determination under subsection [(d)] (e) of section  
1912 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,  
1913 inclusive, as amended by this act, shall prevent a mortgagor from  
1914 applying or reapplying and being considered for emergency mortgage  
1915 assistance if such mortgagor is referred to the emergency mortgage  
1916 assistance program by the foreclosure mediation program.

1917 Sec. 30. Section 8-265ff of the general statutes is repealed and the  
1918 following is substituted in lieu thereof (*Effective October 1, 2009*):

1919 (a) Any mortgagor may apply for emergency mortgage assistance  
1920 payments under sections 2-265cc to 8-265kk, inclusive, as amended by  
1921 this act, if such mortgagor (1) has received notice of intent to foreclose  
1922 as provided in section 8-265ee, as amended by this act, or (2) (A) is  
1923 sixty days or more delinquent on a mortgage, or (B) such mortgagor  
1924 anticipates that he will be sixty days or more delinquent on a mortgage  
1925 based on financial hardship beyond such mortgagor's control,  
1926 provided the authority determines that such mortgagor will be so  
1927 delinquent. As part of the application process, the authority may refer  
1928 the applicant to a counseling agency approved by the United States  
1929 Department of Housing and Urban Development.

1930 [(a)] (b) If the mortgagor applies for emergency mortgage assistance  
1931 payments under sections 8-265cc to 8-265kk, inclusive, as amended by

1932 this act, the authority shall, no later than eight business days after the  
1933 date of receipt of such application, notify all of the mortgagees listed  
1934 on the application holding a mortgage on the mortgagor's real  
1935 property.

1936 [(b)] (c) The mortgagor shall apply for a loan on the form provided  
1937 by the authority. The mortgagor shall complete and sign the  
1938 application subject to the penalty for false statement under section 53a-  
1939 157b.

1940 [(c)] (d) The mortgagor shall provide the authority with full  
1941 disclosure of all assets and liabilities, whether singly or jointly held,  
1942 and all household income regardless of source. For purposes of this  
1943 subsection, both of the following are included as assets:

1944 (1) The sum of the household's savings and checking accounts,  
1945 market value of stocks, bonds and other securities, other capital  
1946 investments, pensions and retirement funds, personal property and  
1947 equity in real property including the subject mortgage property.  
1948 Income derived from family assets shall be considered as income.  
1949 Equity is the difference between the market value of the property and  
1950 the total outstanding principal of any loans secured by the property  
1951 and other liens.

1952 (2) Lump-sum additions to family assets such as inheritances,  
1953 capital gains, insurance payments included under health, accident,  
1954 hazard or worker's compensation policies and settlements, verdicts or  
1955 awards for personal or property losses or transfer of assets without  
1956 consideration within one year of the time of application. Pending  
1957 claims for such items must be identified by the homeowner as  
1958 contingent assets.

1959 [(d)] (e) The authority shall make a determination of eligibility for  
1960 emergency mortgage assistance payments by the date thirty calendar  
1961 days after the date of receipt of the mortgagor's application. During  
1962 said thirty-day period no judgment of strict foreclosure or any  
1963 judgment ordering foreclosure by sale shall be entered in any action

1964 for the foreclosure of any mortgage any mortgagee holds on the  
1965 mortgagor's real property. No emergency mortgage assistance  
1966 payments may be provided unless the authority finds that:

1967 (1) The real property securing the mortgage is a one-to-four family  
1968 owner-occupied residence, including, but not limited to, a single  
1969 family unit in a common interest community, is the principal residence  
1970 of the mortgagor and is located in this state;

1971 (2) Payments, including amounts required to be paid into escrow or  
1972 impound accounts as reserves for taxes and insurance payments,  
1973 including mortgage insurance, or any combination of such payments,  
1974 owed by the mortgagor under any mortgage on such real property  
1975 have been contractually delinquent and the mortgagee has indicated to  
1976 the mortgagor its intention to foreclose;

1977 (3) The mortgage is not insured by the Federal Housing  
1978 Administration under Title II of the National Housing Act, 12 USC  
1979 Section 1707 et seq.;

1980 (4) The mortgagor is a resident of this state and is suffering financial  
1981 hardship which renders the mortgagor unable to correct the  
1982 delinquency or delinquencies within a reasonable time and make full  
1983 mortgage payments. For the purposes of subdivision (8) of this  
1984 subsection, in order to determine whether the financial hardship is due  
1985 to circumstances beyond the mortgagor's control, the authority may  
1986 consider information regarding the mortgagor's employment, credit  
1987 history and current and past household income, assets, total debt  
1988 service, net worth, eligibility for other types of assistance and any  
1989 other criteria or related factors it deems necessary and relevant;

1990 (5) There is a reasonable prospect that the mortgagor will be able to  
1991 resume full mortgage payments on the original, modified or  
1992 refinanced mortgage within sixty months after the beginning of the  
1993 period in which emergency mortgage assistance payments are  
1994 provided in accordance with a written plan formulated or approved by  
1995 the authority and pay the mortgage in full in level monthly payments

1996 of principal and interest, subject only to payment changes as provided  
1997 in the mortgage, by its maturity date;

1998 (6) The mortgagor has applied to the authority for emergency  
1999 mortgage assistance payments on an application form prescribed by  
2000 the authority which includes a financial statement disclosing all assets  
2001 and liabilities of the mortgagor, whether singly or jointly held, and all  
2002 household income regardless of source;

2003 (7) Based on the financial statement, the mortgagor has insufficient  
2004 household income or net worth to correct the delinquency or  
2005 delinquencies within a reasonable period of time and make full  
2006 mortgage payments;

2007 (8) There is a reasonable prospect that the mortgagor, as determined  
2008 by the authority, will be able to repay the emergency mortgage  
2009 assistance within a reasonable amount of time under the terms of  
2010 section 8-265hh, including through a refinancing of the mortgage, and  
2011 the authority finds that, except for the current delinquency, the  
2012 mortgagor has had a favorable residential mortgage credit history for  
2013 the previous two years or period of ownership, whichever is less. For  
2014 the purposes of this subdivision, if a mortgagor has been more than  
2015 thirty days in arrears four or more times on a residential mortgage  
2016 within the previous year, the mortgagor shall be ineligible for  
2017 emergency mortgage assistance payments unless the mortgagor can  
2018 demonstrate that the prior delinquency was the result of financial  
2019 hardship due to circumstances beyond the mortgagor's control. In  
2020 making a determination under this subsection, the authority may  
2021 consider information regarding the structure of the mortgage, its  
2022 repayment schedule and any other relevant factors or criteria it deems  
2023 appropriate;

2024 (9) The mortgagee is not otherwise prevented by law from  
2025 foreclosing upon the mortgage;

2026 (10) The mortgagor has not mortgaged the real property for  
2027 commercial or business purposes;

2028 (11) The mortgagor has not previously received emergency  
2029 mortgage assistance payments from the authority, provided a  
2030 mortgagor who has previously received such payments shall be  
2031 eligible to reapply if the mortgagor has reinstated the mortgage and  
2032 the mortgagor shall not have been delinquent for at least six  
2033 consecutive months immediately following such reinstatement;

2034 (12) The mortgagor is not in default under the mortgage except for  
2035 the monetary delinquency referred to in subdivision (2) of this  
2036 subsection; and

2037 (13) The mortgagor meets such other procedural requirements as  
2038 the authority may establish.

2039 Sec. 31. Section 8-265rr of the general statutes is repealed and the  
2040 following is substituted in lieu thereof (*Effective from passage*):

2041 (a) As used in this section, "authority" means the Connecticut  
2042 Housing Finance Authority created under section 8-244.

2043 (b) The authority is authorized to continue to develop and  
2044 implement a program for home mortgage refinancing for homeowners  
2045 with fixed or adjustable rate mortgages as an additional purpose  
2046 pursuant to the provisions of subdivision (32) of section 8-250. Such  
2047 program shall be undertaken by the authority consistent with and  
2048 subject to its contractual obligations to its bondholders in an initial  
2049 amount of forty million dollars under terms and conditions  
2050 determined by the authority.

2051 Sec. 32. Subsection (d) of section 8-265gg of the general statutes is  
2052 repealed and the following is substituted in lieu thereof (*Effective*  
2053 *October 1, 2009*):

2054 (d) The authority shall establish procedures for periodic review of  
2055 the mortgagor's financial circumstances for the purpose of determining  
2056 the necessity for continuation, termination or adjustment of the  
2057 amount of emergency mortgage assistance payments or adjustment of

2058 the payments by the mortgagor pursuant to subsection (b) of this  
2059 section. Payments shall be discontinued when the authority  
2060 determines that, due to changes in the mortgagor's financial condition,  
2061 the payments are no longer necessary in accordance with the standards  
2062 contained in section 8-265ff, as amended by this act, or the expiration  
2063 of the sixty-month period of a mortgagor eligibility for such payments  
2064 under subsection [(d)] (e) of section 8-265ff, as amended by this act,  
2065 whichever is sooner, and a foreclosure of the mortgagor's mortgage  
2066 may, at any time thereafter, proceed without further restriction or  
2067 requirement under sections 8-265cc to 8-265hh, inclusive, as amended  
2068 by this act. The authority may adjust payments by the mortgagor  
2069 pursuant to subsection (b) of this section based on a review under this  
2070 subsection.

2071 Sec. 33. Subsection (a) of section 8-265hh of the general statutes is  
2072 repealed and the following is substituted in lieu thereof (*Effective*  
2073 *October 1, 2009*):

2074 (a) Upon approval of emergency mortgage assistance payments, the  
2075 authority shall enter into an agreement with the mortgagor for  
2076 repayment of all such assistance with interest as provided in this  
2077 section. The agreement shall provide for monthly payments by the  
2078 mortgagor after emergency mortgage assistance payments have ended  
2079 and shall be subject to the following provisions:

2080 [(1) If the mortgagor's total housing expense is less than or equal to  
2081 thirty-five per cent of the mortgagor's aggregate family income, the  
2082 mortgagor shall pay to the authority the difference between thirty-five  
2083 per cent of such aggregate family income and such total housing  
2084 expense, unless otherwise determined by the authority after examining  
2085 the mortgagor's financial circumstances and ability to repay the  
2086 emergency mortgage assistance payments;]

2087 [(2)] (1) If the mortgagor's total housing expense, including  
2088 projected repayments for mortgage assistance under this section, is  
2089 greater than thirty-five per cent of the mortgagor's aggregate family

2090 income, repayment of the emergency mortgage assistance payments  
2091 shall be deferred until such total housing expense, including projected  
2092 repayments for mortgage assistance under this section, is less than or  
2093 equal to thirty-five per cent of such aggregate family income;

2094 [(3)] (2) If repayment of emergency mortgage assistance payments is  
2095 not made by the date the mortgage is paid in full, the mortgagor shall  
2096 make monthly payments to the authority in an amount not less than  
2097 the monthly mortgage payment until such assistance is repaid;

2098 [(4)] (3) Interest shall accrue on all emergency mortgage assistance  
2099 payments made by the authority at a rate based upon the cost of funds  
2100 to the state periodically determined by the State Treasurer in  
2101 consultation with the authority. Interest shall start to accrue whenever  
2102 the mortgagor is required to commence repayment under this section.

2103 Sec. 34. Section 49-31l of the general statutes is repealed and the  
2104 following is substituted in lieu thereof (*Effective July 1, 2009*):

2105 (a) Prior to July 1, 2010: (1) Any action for the foreclosure of a  
2106 mortgage on residential real property with a return date during the  
2107 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to  
2108 the provisions of subsection (b) of this section, and (2) any action for  
2109 the foreclosure of a mortgage on residential real property with a return  
2110 date during the period from July 1, 2009, to June 30, 2010, inclusive,  
2111 shall be subject to the provisions of subsection (c) of this section.

2112 [(a)] (b) (1) Prior to July 1, 2010, when a mortgagee commences an  
2113 action for the foreclosure of a mortgage on residential real property  
2114 with a return date [on or after] during the period from July 1, 2008, to  
2115 June 30, 2009, inclusive, the mortgagee shall give notice to the  
2116 mortgagor of the foreclosure mediation program established in section  
2117 49-31m by attaching to the front of the foreclosure complaint that is  
2118 served on the mortgagor: [(1)] (A) A copy of the notice of the  
2119 availability of foreclosure mediation, in such form as the Chief Court  
2120 Administrator prescribes, and [(2)] (B) a foreclosure mediation request  
2121 form, in such form as the Chief Court Administrator prescribes.

2122        [(b) (1)] (2) Except as provided in subdivision [(2)] (3) of this  
2123 subsection, a mortgagor may request foreclosure mediation by  
2124 submitting the foreclosure mediation request form to the court and  
2125 filing an appearance not more than fifteen days after the return day for  
2126 the foreclosure action. Upon receipt of the foreclosure mediation  
2127 request form, the court shall notify each appearing party that a  
2128 foreclosure mediation request form has been submitted by the  
2129 mortgagor.

2130        [(2)] (3) The court may grant a mortgagor permission to submit a  
2131 foreclosure mediation request form and file an appearance after the  
2132 fifteen-day period established in subdivision [(1)] (2) of this subsection,  
2133 for good cause shown, except that no foreclosure mediation request  
2134 form may be submitted and no appearance may be filed more than  
2135 twenty-five days after the return date.

2136        [(3)] (4) No foreclosure mediation request form may be submitted to  
2137 the court on or after July 1, 2010.

2138        [(c)] (5) If at any time on or after July 1, 2008, but prior to July 1,  
2139 2010, the court determines that the notice requirement of [subsection  
2140 (a) of this section] subdivision (1) of this subsection has not been met,  
2141 the court may, upon its own motion or upon the written motion of the  
2142 mortgagor, issue an order that no judgment may enter for fifteen days  
2143 during which period the mortgagor may submit a foreclosure  
2144 mediation request form to the court.

2145        [(d)] (6) Notwithstanding any provision of the general statutes or  
2146 any rule of law to the contrary, prior to July 1, 2010, no judgment of  
2147 strict foreclosure nor any judgment ordering a foreclosure sale shall be  
2148 entered in any action subject to the provisions of this subsection and  
2149 instituted by the mortgagee to foreclose a mortgage on residential real  
2150 property unless: [(1)] (A) Notice to the mortgagor has been given by  
2151 the mortgagee in accordance with [subsection (a)] subdivision (1) of  
2152 this [section] subsection and the time for submitting a foreclosure  
2153 mediation request form has expired and no foreclosure mediation

2154 request form has been submitted, or if such notice has not been given,  
2155 the time for submitting a foreclosure mediation request form pursuant  
2156 to [subsection (b) or (c)] subdivision (2) or (3) of this [section]  
2157 subsection has expired and no foreclosure mediation request form has  
2158 been submitted, or [(2)] (B) the mediation period set forth in  
2159 subdivision (b) of section 49-31n, as amended by this act, has expired  
2160 or has otherwise terminated, whichever is earlier.

2161 [(e)] (Z) None of the mortgagor's or mortgagee's rights in the  
2162 foreclosure action shall be waived by the mortgagor's submission of a  
2163 foreclosure mediation request form to the court.

2164 (c) (1) Prior to July 1, 2010, when a mortgagee commences an action  
2165 for the foreclosure of a mortgage on residential real property with a  
2166 return date on or after July 1, 2009, the mortgagee shall give notice to  
2167 the mortgagor of the foreclosure mediation program established in  
2168 section 49-31m by attaching to the front of the writ, summons and  
2169 complaint that is served on the mortgagor: (A) A copy of the notice of  
2170 foreclosure mediation, in such form as the Chief Court Administrator  
2171 prescribes, (B) a copy of the foreclosure mediation certificate form  
2172 described in subdivision (3) of this subsection, in such form as the  
2173 Chief Court Administrator prescribes, and (C) a blank appearance  
2174 form, in such form as the Chief Court Administrator prescribes.

2175 (2) The court shall issue a notice of foreclosure mediation described  
2176 in subdivision (3) of this subsection to the mortgagor not later than  
2177 three days after the mortgagee returns the writ to the court.

2178 (3) The notice of foreclosure mediation shall instruct the mortgagor  
2179 to file the appearance and foreclosure mediation certificate forms with  
2180 the court no later than the date fifteen days from the return date for the  
2181 foreclosure action. The foreclosure mediation certificate form shall  
2182 require the mortgagor to provide sufficient information to permit the  
2183 court to confirm that the defendant in the foreclosure action is a  
2184 mortgagor, and to certify that said mortgagor has sent a copy of the  
2185 mediation certificate form to the plaintiff in the action.

2186 (4) Upon receipt of the mortgagor's appearance and foreclosure  
2187 mediation certificate forms, and provided the court confirms the  
2188 defendant in the foreclosure action is a mortgagor and that said  
2189 mortgagor has sent a copy of the mediation certificate form to the  
2190 plaintiff, the court shall schedule a date for foreclosure mediation in  
2191 accordance with subsection (c) of section 49-31n, as amended by this  
2192 act. The court shall issue notice of such mediation date to all appearing  
2193 parties not earlier than the date five business days after the return date.  
2194 If the court does not receive the appearance and foreclosure mediation  
2195 certificate forms from the mortgagor by the date fifteen days after the  
2196 return date for the foreclosure action, the court shall not schedule such  
2197 mediation.

2198 (5) Notwithstanding the provisions of this subsection, the court may  
2199 refer a foreclosure action brought by a mortgagee to the foreclosure  
2200 mediation program at any time, provided the mortgagor has filed an  
2201 appearance in said action.

2202 (6) Notwithstanding any provision of the general statutes or any  
2203 rule of law, prior to July 1, 2010, no judgment of strict foreclosure nor  
2204 any judgment ordering a foreclosure sale shall be entered in any action  
2205 subject to the provisions of this subsection and instituted by the  
2206 mortgagee to foreclose a mortgage on residential real property unless:  
2207 (A) The mediation period set forth in subdivision (c) of section 49-31n,  
2208 as amended by this act, has expired or has otherwise terminated,  
2209 whichever is earlier, or (B) the mediation program is not otherwise  
2210 required or available.

2211 (7) None of the mortgagor's or mortgagee's rights in the foreclosure  
2212 action shall be waived by participation in the foreclosure mediation  
2213 program.

2214 Sec. 35. Section 49-31n of the general statutes is repealed and the  
2215 following is substituted in lieu thereof (*Effective July 1, 2009*):

2216 (a) Prior to July 1, 2010: (1) Any action for the foreclosure of a  
2217 mortgage on residential real property with a return date during the

2218 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to  
2219 the provisions of subsection (b) of this section, and (2) any action for  
2220 the foreclosure of a mortgage on residential real property with a return  
2221 date during the period from July 1, 2009, to June 30, 2010, inclusive,  
2222 shall be subject to the provisions of subsection (c) of this section.

2223 [(a) The] (b) (1) For any action for the foreclosure of a mortgage on  
2224 residential real property with a return date during the period from  
2225 July 1, 2008, to June 30, 2009, inclusive, the mediation period under the  
2226 foreclosure mediation program established in section 49-31m shall  
2227 commence when the court sends notice to each appearing party that a  
2228 foreclosure mediation request form has been submitted by a  
2229 mortgagor to the court, which notice shall be sent not later than three  
2230 business days after the court receives a completed foreclosure  
2231 mediation request form. The mediation period shall conclude not more  
2232 than sixty days after the return day for the foreclosure action, except  
2233 that the court may, in its discretion, for good cause shown, [(1)] (A)  
2234 extend, by not more than thirty days, or shorten the mediation period  
2235 on its own motion or upon motion of any party, or [(2)] (B) extend by  
2236 not more than thirty days the mediation period upon written request  
2237 of the mediator.

2238 [(b)] (2) The first mediation session shall be held not later than  
2239 fifteen business days after the court sends notice to all parties that a  
2240 foreclosure mediation request form has been submitted to the court.  
2241 The mortgagor and mortgagee shall appear in person at each  
2242 mediation session and shall have authority to agree to a proposed  
2243 settlement, except that if the mortgagee is represented by counsel, the  
2244 mortgagee's counsel may appear in lieu of the mortgagee to represent  
2245 the mortgagee's interests at the mediation, provided such counsel has  
2246 the authority to agree to a proposed settlement and the mortgagee is  
2247 available during the mediation session by telephone or electronic  
2248 means. The court shall not award attorney's fees to any mortgagee for  
2249 time spent in a mediation session if the court finds that such  
2250 mortgagee has failed to comply with this subdivision, unless the court  
2251 finds reasonable cause for such failure.

2252 [(c)] (3) Not later than two days after the conclusion of the first  
2253 mediation session, the mediator shall determine whether the parties  
2254 will benefit from further mediation. The mediator shall file with the  
2255 court a report setting forth such determination and mail a copy of such  
2256 report to each appearing party. If the mediator reports to the court that  
2257 the parties will not benefit from further mediation, the mediation  
2258 period shall terminate automatically. If the mediator reports to the  
2259 court after the first mediation session that the parties may benefit from  
2260 further mediation, the mediation period shall continue.

2261 [(d)] (4) If the mediator has submitted a report to the court that the  
2262 parties may benefit from further mediation pursuant to [subsection (c)  
2263 of this section] subdivision (3) of this subsection, not more than two  
2264 days after the conclusion of the mediation, but no later than the  
2265 termination of the mediation period set forth in [subsection (a) of this  
2266 section] subdivision (1) of this subsection, the mediator shall file a  
2267 report with the court describing the proceedings and specifying the  
2268 issues resolved, if any, and any issues not resolved pursuant to the  
2269 mediation. The filing of the report shall terminate the mediation period  
2270 automatically. If certain issues have not been resolved pursuant to the  
2271 mediation, the mediator may refer the mortgagor to any appropriate  
2272 community-based services that are available in the judicial district, but  
2273 any such referral shall not cause a delay in the mediation process.

2274 [(e)] (5) The Chief Court Administrator shall establish policies and  
2275 procedures to implement this [section] subsection. Such policies and  
2276 procedures shall, at a minimum, provide that the mediator shall advise  
2277 the mortgagor at the first mediation session required by [subsection (b)  
2278 of this section] subdivision (2) of this subsection that: [(1)] (A) Such  
2279 mediation does not suspend the mortgagor's obligation to respond to  
2280 the foreclosure action; [in accordance with applicable rules of the  
2281 court;] and [(2)] (B) a judgment of strict foreclosure or foreclosure by  
2282 sale may cause the mortgagor to lose the residential real property to  
2283 foreclosure.

2284 [(f)] (6) In no event shall any determination issued by a mediator

2285 under this program form the basis of an appeal of any foreclosure  
2286 judgment.

2287 [(g)] (7) Foreclosure mediation request forms shall not be accepted  
2288 by the court on or after July 1, 2010, and the foreclosure mediation  
2289 program shall terminate when all mediation has concluded with  
2290 respect to any applications submitted to the court prior to July 1, 2010.

2291 [(h)] (8) At any time during the mediation period, the mediator may  
2292 refer the mortgagor to the mortgage assistance programs, except that  
2293 any such referral shall not prevent a mortgagee from proceeding to  
2294 judgment when the conditions specified in [subsection (d)] subdivision  
2295 (6) of subsection (b) of section 49-31l, as amended by this act, have  
2296 been satisfied.

2297 (c) (1) For any action for the foreclosure of a mortgage on residential  
2298 real property with a return date during the period from July 1, 2009, to  
2299 June 30, 2010, inclusive, the mediation period under the foreclosure  
2300 mediation program established in section 49-31m shall commence  
2301 when the court sends notice to each appearing party scheduling the  
2302 first foreclosure mediation session. The mediation period shall  
2303 conclude not later than the date sixty days after the return date for the  
2304 foreclosure action, except that the court may, in its discretion, for good  
2305 cause shown, (A) extend, by not more than thirty days, or shorten the  
2306 mediation period on its own motion or upon motion of any party, or  
2307 (B) extend by not more than thirty days the mediation period upon  
2308 written request of the mediator.

2309 (2) The first mediation session shall be held not later than fifteen  
2310 business days after the court sends notice to each appearing party in  
2311 accordance with subdivision (4) of subsection (c) of section 49-31l, as  
2312 amended by this act. The mortgagor and mortgagee shall appear in  
2313 person at each mediation session and shall have authority to agree to a  
2314 proposed settlement, except that if the mortgagee is represented by  
2315 counsel, the mortgagee's counsel may appear in lieu of the mortgagee  
2316 to represent the mortgagee's interests at the mediation, provided such

2317 counsel has the authority to agree to a proposed settlement and the  
2318 mortgagee is available during the mediation session by telephone or  
2319 electronic means. The court shall not award attorney's fees to any  
2320 mortgagee for time spent in a mediation session if the court finds that  
2321 such mortgagee has failed to comply with this subdivision, unless the  
2322 court finds reasonable cause for such failure.

2323 (3) Not later than two days after the conclusion of the first  
2324 mediation session, the mediator shall determine whether the parties  
2325 will benefit from further mediation. The mediator shall file with the  
2326 court a report setting forth such determination and mail a copy of such  
2327 report to each appearing party. If the mediator reports to the court that  
2328 the parties will not benefit from further mediation, the mediation  
2329 period shall terminate automatically. If the mediator reports to the  
2330 court after the first mediation session that the parties may benefit from  
2331 further mediation, the mediation period shall continue.

2332 (4) If the mediator has submitted a report to the court that the  
2333 parties may benefit from further mediation pursuant to subdivision (3)  
2334 of this subsection, not more than two days after the conclusion of the  
2335 mediation, but no later than the termination of the mediation period  
2336 set forth in subdivision (1) of this subsection, the mediator shall file a  
2337 report with the court describing the proceedings and specifying the  
2338 issues resolved, if any, and any issues not resolved pursuant to the  
2339 mediation. The filing of the report shall terminate the mediation period  
2340 automatically. If certain issues have not been resolved pursuant to the  
2341 mediation, the mediator may refer the mortgagor to any appropriate  
2342 community-based services that are available in the judicial district, but  
2343 any such referral shall not cause a delay in the mediation process.

2344 (5) The Chief Court Administrator shall establish policies and  
2345 procedures to implement this subsection. Such policies and procedures  
2346 shall, at a minimum, provide that the mediator shall advise the  
2347 mortgagor at the first mediation session required by subdivision (2) of  
2348 this subsection that: (A) Such mediation does not suspend the  
2349 mortgagor's obligation to respond to the foreclosure action; and (B) a

2350 judgment of strict foreclosure or foreclosure by sale may cause the  
2351 mortgagor to lose the residential real property to foreclosure.

2352 (6) In no event shall any determination issued by a mediator under  
2353 this program form the basis of an appeal of any foreclosure judgment.

2354 (7) The foreclosure mediation program shall terminate when all  
2355 mediation has concluded with respect to any foreclosure action with a  
2356 return date during the period from July 1, 2009, to June 30, 2010,  
2357 inclusive.

2358 (8) At any time during the mediation period, the mediator may refer  
2359 the mortgagor to the mortgage assistance programs, except that any  
2360 such referral shall not prevent a mortgagee from proceeding to  
2361 judgment when the conditions specified in subdivision (6) of  
2362 subsection (c) of section 49-31l, as amended by this act, have been  
2363 satisfied.

2364 Sec. 36. Section 49-31o of the general statutes is repealed and the  
2365 following is substituted in lieu thereof (*Effective July 1, 2009*):

2366 (a) Nothing in sections 49-31k to 49-31n, inclusive, as amended by  
2367 this act, shall require a mortgagee to modify a mortgage or change the  
2368 terms of payment of a mortgage without its consent.

2369 (b) Information submitted by the mortgagor to a mediator, either  
2370 orally or in writing, including financial documents, shall not be subject  
2371 to disclosure by the judicial branch.

2372 Sec. 37. Section 49-15 of the general statutes is repealed and the  
2373 following is substituted in lieu thereof (*Effective October 1, 2009*):

2374 (a) (1) Any judgment foreclosing the title to real estate by strict  
2375 foreclosure may, at the discretion of the court rendering the [same]  
2376 judgment, upon the written motion of any person having an interest  
2377 [therein,] in the judgment and for cause shown, be opened and  
2378 modified, notwithstanding the limitation imposed by section 52-212a,  
2379 upon such terms as to costs as the court deems reasonable, [; but]

2380 provided no such judgment shall be opened after the title has become  
2381 absolute in any encumbrancer except as provided in subdivision (2) of  
2382 this subsection.

2383 (2) Any judgment foreclosing the title to real estate by strict  
2384 foreclosure may be opened after title has become absolute in any  
2385 encumbrancer upon agreement of each party to the foreclosure action  
2386 who filed an appearance in the action and any person who acquired an  
2387 interest in the real estate after title became absolute in any  
2388 encumbrancer, provided (A) such judgment may not be opened more  
2389 than four months after the date such judgment was entered or more  
2390 than thirty days after title became absolute in any encumbrancer,  
2391 whichever is later, and (B) the rights and interests of each party,  
2392 regardless of whether the party filed an appearance in the action, and  
2393 any person who acquired an interest in the real estate after title became  
2394 absolute in any encumbrancer, are restored to the status that existed on  
2395 the date the judgment was entered.

2396 (3) If a judgment is opened pursuant to this subsection, the person  
2397 who filed the written motion pursuant to subdivision (1) of this  
2398 subsection shall record a certified copy of the court's order to open  
2399 such judgment on the land records in the town in which the real estate  
2400 is situated.

2401 (b) Upon the filing of a bankruptcy petition by a mortgagor under  
2402 Title 11 of the United States Code, any judgment against the mortgagor  
2403 foreclosing the title to real estate by strict foreclosure shall be opened  
2404 automatically without action by any party or the court, provided, the  
2405 provisions of such judgment, other than the establishment of law days,  
2406 shall not be set aside under this subsection, [~~;~~ but] provided no such  
2407 judgment shall be opened after the title has become absolute in any  
2408 encumbrancer or the mortgagee, or any person claiming under such  
2409 encumbrancer or mortgagee. The mortgagor shall file a copy of the  
2410 bankruptcy petition, or an affidavit setting forth the date the  
2411 bankruptcy petition was filed, with the clerk of the court in which the  
2412 foreclosure matter is pending. Upon the termination of the automatic

2413 stay authorized pursuant to 11 USC 362, the mortgagor shall file with  
2414 such clerk an affidavit setting forth the date the stay was terminated.

2415 Sec. 38. Subsections (a) and (b) of section 36b-62 of the general  
2416 statutes, as amended by section 2 of substitute house bill 6232 of the  
2417 current session, are repealed and the following is substituted in lieu  
2418 thereof (*Effective October 1, 2009*):

2419 (a) No person shall sell or offer a business opportunity in this state  
2420 unless such [person] business opportunity is registered under this  
2421 section or is exempt from registration under section 36b-65, as  
2422 amended by [this act] substitute house bill 6232 of the current session.

2423 (b) Prior to the sale or offer for sale of a business opportunity the  
2424 seller shall register the business opportunity with the commissioner by  
2425 filing with the commissioner:

2426 (1) A copy of the disclosure document required by section 36b-63, as  
2427 amended by [this act] substitute house bill 6232 of the current session;

2428 (2) A bond as required by section 36b-64, as amended by [this act]  
2429 substitute house bill 6232 of the current session;

2430 (3) In accordance with subsection (e) of this section, an irrevocable  
2431 consent appointing the commissioner to be such seller's attorney to  
2432 receive service of any lawful process in any noncriminal suit, action or  
2433 proceeding which arises under sections 36b-60 to 36b-80, inclusive, as  
2434 amended by [this act] substitute house bill 6232 of the current session,  
2435 or any regulation or order adopted or issued under the provisions of  
2436 said sections;

2437 (4) Information and documents in such form as the commissioner  
2438 may prescribe, including, but not limited to:

2439 (A) The official name, address and principal place of business of the  
2440 seller and of the parent firm or holding company of such seller, if any;

2441 (B) The biographical data and business experience of each of the

2442 seller's directors and officers;

2443 (C) The business experience of the seller, including the length of  
2444 time such seller has: (i) Conducted a business of the type to be  
2445 operated by the purchaser-investor, (ii) sold any business opportunity  
2446 for such business, and (iii) sold any business opportunity in any other  
2447 line of business;

2448 (D) A copy of any contracts, agreements, brochures or other  
2449 documents relating to the business opportunity;

2450 (E) A factual description of the business opportunity offered to be  
2451 sold and of the services, training and assistance that will be provided  
2452 by the seller to the purchaser-investor;

2453 (F) A statement describing any services, supplies, products, signs,  
2454 fixtures or equipment relating to the establishment or the operation of  
2455 the business opportunity that the purchaser-investor is required to  
2456 purchase, lease or rent directly or indirectly from the seller;

2457 (G) A copy of the table of contents of any operations manual to be  
2458 provided to the purchaser-investor;

2459 (H) (i) A balance sheet, income statement and statement of changes  
2460 in financial condition of the seller as of a date not more than four  
2461 months prior to the filing under this subsection, which financial  
2462 statements may be unaudited, provided, if the seller has been in  
2463 business for less than twelve months from the date of such filing, such  
2464 financial statements shall be reviewed by an independent certified  
2465 public accountant and shall include a written opinion from such  
2466 accountant stating that the accountant is not aware of any material  
2467 modifications that should be made to the financial statements in order  
2468 for them to be in conformity with generally accepted accounting  
2469 principles; (ii) a balance sheet of the seller, an income statement and  
2470 statement of changes in financial position for the most recent fiscal  
2471 year audited by an independent public accountant or an independent  
2472 certified public accountant; (iii) a balance sheet of the seller, an income

2473 statement and statement of changes in financial position for the prior  
2474 two fiscal years reviewed by an independent certified public  
2475 accountant who provides an opinion stating that such accountant is  
2476 not aware of any material modifications that should be made to the  
2477 financial statements in order for them to be in conformity with  
2478 generally accepted accounting principles; [or] and (iv) any material  
2479 changes in the financial condition of the seller occur after such  
2480 financial statements are prepared, the seller shall disclose such changes  
2481 and explain their significance to the operation of the business  
2482 opportunity. If the seller is controlled by any person who absolutely  
2483 and unconditionally guarantees to assume the duties and obligations  
2484 of the seller under the business opportunity agreement should the  
2485 seller become unable to perform, the commissioner may accept  
2486 consolidated financial statements from the seller and such person;

2487 (I) Any other information that the commissioner in the  
2488 commissioner's discretion reasonably requires;

2489 (J) A written statement signed and sworn to by the seller before a  
2490 person qualified to administer oaths that the information contained in  
2491 the documents filed pursuant to this subsection is true and correct; and

2492 (K) A nonrefundable registration fee of four hundred dollars.

2493 Sec. 39. Section 36a-537 of the general statutes, as amended by  
2494 section 6 of substitute senate bill 950 of the current session, as  
2495 amended, is repealed and the following is substituted in lieu thereof  
2496 (*Effective from passage*):

2497 The application for a license as a sales finance company shall be on a  
2498 form prescribed by the commissioner, in writing and under oath,  
2499 together with such exhibits and other pertinent information as the  
2500 commissioner may require. The application shall include (1) the  
2501 history of criminal convictions for the ten-year period prior to the date  
2502 of the application of the applicant; and the partners, if the applicant is  
2503 a partnership; the members, if the applicant is a limited liability  
2504 company or association; or the officers, directors and principal

2505 employees if the applicant is a corporation; and (2) sufficient  
2506 information pertaining to the history of criminal convictions, in a form  
2507 acceptable to the commissioner, on such applicant, partners, directors,  
2508 members, officers, [directors] and principal employees as the  
2509 commissioner deems necessary to make findings under section 36a-  
2510 541, as amended by [this act] substitute senate bill 950 of the current  
2511 session, as amended.

2512 Sec. 40. Subsection (c) of section 36a-581 of the general statutes, as  
2513 amended by section 10 of substitute senate bill 950 of the current  
2514 session, as amended, is repealed and the following is substituted in  
2515 lieu thereof (*Effective from passage*):

2516 (c) An application for a check cashing license or renewal of such  
2517 license shall be in writing, under oath and on a form provided by the  
2518 commissioner. The application shall set forth: (1) The name and  
2519 address of the applicant; (2) if the applicant is a firm or partnership,  
2520 the names and addresses of each member of the firm or partnership;  
2521 (3) if the applicant is a corporation, the names and addresses of each  
2522 officer, director, authorized agent and each shareholder owning ten  
2523 per cent or more of the outstanding stock of such corporation; (4) if the  
2524 applicant is a limited liability company, the names and addresses of  
2525 each member and authorized agent of such limited liability company;  
2526 (5) (A) the history of criminal convictions for the ten-year period prior  
2527 to the date of the application of the applicant; the members, if the  
2528 applicant is a firm or partnership; the officers, directors, authorized  
2529 agent and each shareholder owning ten per cent or more of the  
2530 outstanding stock of the applicant, if the applicant is a corporation,  
2531 and (B) sufficient information pertaining to the history of criminal  
2532 convictions in a form acceptable to the commissioner on such  
2533 applicant, members, officers, directors, authorized agent and  
2534 shareholders as the commissioner deems necessary to make the  
2535 findings under subsection (e) of [his] this section, as amended by [this  
2536 act] substitute senate bill 950 of the current session, as amended; (6)  
2537 each location where the check cashing business is to be conducted and  
2538 the type of facility that will be operated at that location; (7) the

2539 business plan, which shall include the proposed days and hours of  
2540 operation; (8) the amount of liquid assets available for each location  
2541 which shall not be less than the amount specified in subdivision (7) of  
2542 subsection (e) of this section, as amended by [this act] substitute senate  
2543 bill 950 of the current session, as amended; (9) for each limited facility,  
2544 a copy of the executed contract evidencing the proposed arrangement  
2545 between the applicant and the employer; and (10) any other  
2546 information the commissioner may require.

2547 Sec. 41. Section 29 of substitute senate bill 950 of the current session,  
2548 as amended, is repealed and the following is substituted in lieu thereof  
2549 (*Effective October 1, 2009*):

2550 (a) As used in this section and sections 30 to 33, inclusive, of [this  
2551 act] substitute senate bill 950 of the current session, as amended, (1)  
2552 "debt negotiation" means, for or with the expectation of a fee,  
2553 commission or other valuable consideration, assisting a debtor in  
2554 negotiating or attempting to negotiate on behalf of a debtor the terms  
2555 of a debtor's obligations with one or more mortgagees or creditors of  
2556 the debtor, including the negotiation of short sales of residential  
2557 property or foreclosure rescue services; (2) "debtor" means any  
2558 individual who has incurred indebtedness or owes a debt for personal,  
2559 family or household purposes; (3) "mortgagee" means the original  
2560 lender under a mortgage loan secured by residential property or its  
2561 agents, successors or assigns; (4) "mortgagor" means [the owner-  
2562 occupant of a one-to-four family residential property located in this  
2563 state] a debtor who is an owner of residential property, including, but  
2564 not limited to, a single-family unit in a common interest community,  
2565 who is also the borrower under a mortgage encumbering such  
2566 residential property; (5) "short sale" means the sale of residential  
2567 property by a mortgagor for an amount less than the outstanding  
2568 balance owed on the loan secured by such property where, prior to the  
2569 sale, the mortgagee or an assignee of the mortgagee agrees to accept  
2570 less than the outstanding loan balance in full or partial satisfaction of  
2571 the mortgage debt and the proceeds of the sale are paid to the  
2572 mortgagee or an assignee of the mortgagee; (6) "foreclosure rescue

2573 services" means services related to or promising assistance in  
2574 connection with (A) avoiding or delaying actual or anticipated  
2575 foreclosure proceedings concerning residential property, or (B) curing  
2576 or otherwise addressing a default or failure to timely pay with respect  
2577 to a mortgage loan secured by residential property, and includes, but  
2578 is not limited to, the offer, arrangement or placement of a mortgage  
2579 loan secured by residential property or other extension of credit when  
2580 those services are advertised, offered or promoted in the context of  
2581 foreclosure related services; and (7) "residential property" means one-  
2582 to-four family owner-occupied real property.

2583 (b) No person shall engage or offer to engage in debt negotiation in  
2584 this state without a license issued under this section for each location  
2585 where debt negotiation will be conducted. Any person desiring to  
2586 obtain such a license shall file with the commissioner an application  
2587 under oath, setting forth such information as the commissioner may  
2588 require. Each applicant for a license and each licensee shall notify the  
2589 commissioner of any change in the applicant's business from that  
2590 stated in the application for the license. A person is engaging in debt  
2591 negotiation in this state if such person: (1) Has a place of business  
2592 located within this state; (2) has a place of business located outside of  
2593 this state and the debtor is a resident of this state who negotiates or  
2594 agrees to the terms of the services contract in person, by mail, by  
2595 telephone or via the Internet while physically present in this state; or  
2596 (3) has [his or her] its place of business located outside of this state and  
2597 the contract concerns a debt that is secured by property located within  
2598 this state.

2599 (c) An application for an original or renewal debt negotiation license  
2600 shall be in writing on a form provided by the commissioner and shall  
2601 include (1) the history of criminal convictions for the ten-year period  
2602 prior to the date of the application of the (A) applicant, (B) partners, if  
2603 the applicant is a partnership, (C) members, if the applicant is a limited  
2604 liability company or association, or (D) officers, directors and principal  
2605 employees, if the applicant is a corporation; and (2) sufficient  
2606 information pertaining to the history of criminal convictions, in a form

2607 acceptable to the commissioner, on such applicant, partners, members,  
2608 officers, directors and principal employees as the commissioner deems  
2609 necessary to make the findings under subsection (d) of this section.

2610 (d) If the commissioner finds, upon the filing of an application for a  
2611 debt negotiation license, that: (1) The financial responsibility, character,  
2612 reputation, integrity and general fitness of the (A) applicant, (B)  
2613 partners thereof, if the applicant is a partnership, (C) members, if the  
2614 applicant is a limited liability company or association, and (D) officers,  
2615 directors and principal employees, if the applicant is a corporation, are  
2616 such as to warrant belief that the business will be operated soundly  
2617 and efficiently, in the public interest and consistent with the purposes  
2618 of sections 29 to 33, inclusive, of [this act] substitute senate bill 950 of  
2619 the current session, as amended; and (2) the applicant is solvent and no  
2620 proceeding in bankruptcy, receivership or assignment for the benefit of  
2621 creditors has been commenced against the applicant, the commissioner  
2622 may thereupon issue the applicant a debt negotiation license. Such  
2623 debt negotiation license shall not be transferable. Any change of  
2624 location of a licensee shall require prior written notice to the  
2625 commissioner. No licensee shall use any name unless such name has  
2626 been approved by the commissioner. If the commissioner fails to make  
2627 such findings, the commissioner shall not issue a license and shall  
2628 notify the applicant of the reasons for such denial. The commissioner  
2629 may deny an application if the commissioner finds that the applicant  
2630 or any partner, member, officer, director or principal employee of the  
2631 applicant has been convicted, during the ten-year period prior to the  
2632 date of application, of any misdemeanor involving any aspect of the  
2633 debt negotiation business or any felony. Any denial of an application  
2634 by the commissioner shall, when applicable, be subject to the  
2635 provisions of section 46a-80 of the general statutes. Withdrawal of an  
2636 application for a license shall become effective upon receipt by the  
2637 commissioner of a notice of intent to withdraw such application. The  
2638 commissioner may deny a license up to the date one year after the  
2639 effective date of withdrawal.

2640 (e) Each applicant for an original or renewal debt negotiation license

2641 shall, at the time of making such application, pay to the commissioner  
2642 an application fee of one thousand six hundred dollars, provided, if  
2643 such application is filed not earlier than one year before the date such  
2644 license will expire, such person shall pay a license fee of eight hundred  
2645 dollars. Each such license shall expire at the close of business on  
2646 September thirtieth of the odd-numbered year following its issuance  
2647 unless such license is renewed. Each licensee shall, on or before  
2648 September first of the year in which the license expires, file such  
2649 renewal application as the commissioner may require. Whenever an  
2650 application for a license is filed under this section by any person who  
2651 was a licensee under this section and whose license expired less than  
2652 sixty days prior to the date such application was filed, such application  
2653 shall be accompanied by a one-hundred-dollar processing fee in  
2654 addition to the application fee.

2655 (f) If the commissioner determines that a check filed with the  
2656 commissioner to pay an application fee has been dishonored, the  
2657 commissioner shall automatically suspend the license or a renewal  
2658 license that has been issued but is not yet effective. The commissioner  
2659 shall give the licensee notice of the automatic suspension pending  
2660 proceedings for revocation or refusal to renew and an opportunity for  
2661 a hearing on such actions in accordance with section 36a-51 of the  
2662 general statutes.

2663 (g) No abatement of the license fee shall be made if the license is  
2664 surrendered, revoked or suspended prior to the expiration of the  
2665 period for which it was issued. The fee required by subsection (e) of  
2666 this section shall be nonrefundable.

2667 Sec. 42. Section 1 of substitute senate bill 949 of the current session,  
2668 as amended, is repealed and the following is substituted in lieu thereof  
2669 (*Effective October 1, 2009*):

2670 (a) A person commits residential mortgage fraud when, for financial  
2671 gain and with the intent to defraud, such person: (1) Knowingly makes  
2672 any material written misstatement, misrepresentation or omission

2673 during the mortgage lending process with the intention that a  
2674 mortgage lender, mortgage correspondent lender or mortgage broker,  
2675 as defined in section 36a-485 of the general statutes, a borrower or any  
2676 other person that is involved in the mortgage lending process will rely  
2677 on such written misstatement, misrepresentation or omission; (2)  
2678 knowingly uses or facilitates the use or attempts to use or facilitate the  
2679 use of any written misstatement, misrepresentation or omission during  
2680 the mortgage lending process with the intention that a mortgage  
2681 lender, mortgage correspondent lender, as defined in section 36a-485  
2682 of the general statutes, borrower or any other person that is involved  
2683 in the mortgage lending process relies on it; (3) receives or attempts to  
2684 receive proceeds or any other funds in connection with a residential  
2685 mortgage closing that the person knew or should have known resulted  
2686 from an act or acts constituting residential mortgage fraud; or (4)  
2687 conspires with or solicits another to engage in an act or acts  
2688 constituting residential mortgage fraud.

2689 (b) (1) A person who commits a single act of residential mortgage  
2690 fraud is guilty of a class D felony.

2691 (2) A person who commits two or more acts of residential mortgage  
2692 fraud is guilty of a class C felony.

2693 (3) For purposes of this section, (A) "person" means (i) a mortgage  
2694 broker, mortgage lender, mortgage loan originator or mortgage  
2695 correspondent lender, as defined in section 36a-485 of the general  
2696 statutes, or (ii) any other individual who [makes] is a mortgagor on  
2697 more than three individual mortgage loans or who purchases or sells  
2698 more than three residential properties in a consecutive twelve-month  
2699 period; (B) "mortgage lending process" means the process through  
2700 which an individual seeks or obtains a residential mortgage loan,  
2701 including solicitation, application, origination, negotiation of terms,  
2702 underwriting, signing, closing and funding of a residential mortgage  
2703 loan and services provided incident to such mortgage loan, including  
2704 the appraisal of the residential property; and (C) "residential property"  
2705 means "residential property" as defined in section 36a-485 of the

2706 general statutes.

2707 (c) It shall be sufficient in any prosecution for residential mortgage  
2708 fraud to show that the party accused did the act with the intent to  
2709 deceive or defraud. It shall be unnecessary to show that any particular  
2710 person was harmed financially in the transaction or that the person to  
2711 whom the deliberate misstatement, misrepresentation or omission was  
2712 made relied upon the misstatement, misrepresentation or omission.  
2713 For purposes of this section, the residential mortgage fraud is  
2714 committed: (1) In the county in which the residential real property for  
2715 which the mortgage loan is being sought is located; (2) in the county in  
2716 which any act was performed in furtherance of residential mortgage  
2717 fraud; (3) in any county in which any person alleged to have engaged  
2718 in an act that constitute residential mortgage fraud had control or  
2719 possession of any proceeds of such residential mortgage fraud; (4) if a  
2720 closing occurred, in any county in which the closing occurred; or (5) in  
2721 any county in which a document containing a deliberate misstatement,  
2722 misrepresentation or omission is filed with an official registrar.

2723 Sec. 43. Section 36a-760 of the general statutes, as amended by  
2724 section 3 of substitute senate bill 949 of the current session, as  
2725 amended, is repealed and the following is substituted in lieu thereof  
2726 (*Effective October 1, 2009*):

2727 (a) As used in this section and sections 36a-760a to 36a-760j,  
2728 inclusive, as amended by [this act] substitute senate bill 949 of the  
2729 current session, as amended:

2730 (1) ["Commissioner" means the Banking Commissioner and, with  
2731 respect to any function of the commissioner, includes any person  
2732 authorized or designated by the commissioner to carry out that  
2733 function] "APR" has the same meaning as provided in section 36a-746a;

2734 (2) "CHFA loan" means a loan made, insured, purchased, subsidized  
2735 or guaranteed by the Connecticut Housing Finance Authority;

2736 (3) "FHA loan" means a loan made, insured, purchased, subsidized

2737 or guaranteed by the Federal Housing Administration;

2738 (4) "First mortgage loan" has the same meaning as provided in  
2739 section 36a-485;

2740 (5) "Lender" means any person engaged in the business of the  
2741 making of mortgage loans who is required to be licensed by the  
2742 Department of Banking under chapter 668, or their successors or  
2743 assigns, and shall also mean any bank, out-of-state bank, Connecticut  
2744 credit union, federal credit union, out-of-state credit union, or an  
2745 operating subsidiary of a federal bank or a federally chartered out-of-  
2746 state bank where such subsidiary engages in the business of making  
2747 mortgage loans, and their successors and assigns, but shall not include  
2748 any mortgage broker, as defined in this section, or any mortgage loan  
2749 originator, as defined in section 36a-485;

2750 (6) "Mortgage broker" means any person, other than a lender, who  
2751 (A) for a fee, commission or other valuable consideration, negotiates,  
2752 solicits, arranges, places or finds a mortgage, and (B) who is required  
2753 to be licensed by the Department of Banking under chapter 668, or  
2754 their successors or assigns;

2755 (7) "Nonprime home loan" means any loan or extension of credit,  
2756 excluding an open-end line of credit, and further excluding a reverse  
2757 mortgage transaction, as defined in 12 CFR 226.33, as amended from  
2758 time to time:

2759 (A) In which the borrower is a natural person;

2760 (B) The proceeds of which are to be used primarily for personal  
2761 family or household purposes;

2762 (C) In which the loan is secured by a mortgage upon any interest in  
2763 one-to-four family residential property located in this state which is, or  
2764 when the loan is made, intended to be used or occupied by the  
2765 borrower as a principal residence;

2766 (D) In which the principal amount of the loan does not exceed (i)

2767 four hundred seventeen thousand dollars for a loan originated on or  
2768 after July 1, 2008, but before July 1, 2010; and (ii) the then current  
2769 conforming loan limit, as established from time to time by the Federal  
2770 National Mortgage Association, for a loan originated on or after July 1,  
2771 2010;

2772 (E) Where the loan is not a CHFA loan; and

2773 (F) In which the conditions set forth in clauses (i) and (ii) of this  
2774 subparagraph apply, subject to any adjustments made pursuant to  
2775 clause (iii) of this subparagraph:

2776 (i) The difference, at the time of consummation, between the APR  
2777 for the loan and the conventional mortgage rate is either equal to or  
2778 greater than (I) one and three-quarters percentage points, if the loan is  
2779 a first mortgage loan, or (II) three and three-quarters percentage  
2780 points, if the loan is a secondary mortgage loan. For purposes of such  
2781 calculation, "conventional mortgage rate" means the contract interest  
2782 rate on commitments for fixed-rate mortgages published by the board  
2783 of governors of the federal reserve system in its statistical release H.15,  
2784 or any publication that may supersede it, during the week preceding  
2785 the week in which the interest rate for the loan is set.

2786 (ii) The difference, at the time of consummation, between the APR  
2787 for the loan or extension of credit and the average prime offer rate for a  
2788 comparable transaction, as of the date the interest rate is set, is greater  
2789 than one and one-half percentage points if the loan is a first mortgage  
2790 loan or three and one-half percentage points if the loan is a secondary  
2791 mortgage loan. For purposes of this subparagraph, "average prime  
2792 offer rate" has the meaning as provided in 12 CFR 226.35, as amended  
2793 from time to time.

2794 (iii) The commissioner shall have the authority, after consideration  
2795 of the relevant factors, to increase the percentages set forth in clauses  
2796 (i) and (ii) of this subparagraph. The authority of the commissioner,  
2797 and any increases or decreases made under this clause, shall expire on  
2798 August 31, 2010. For purposes of this clause, the relevant factors to be

2799 considered by the commissioner shall include, but not be limited to,  
2800 the existence and amount of increases in fees or charges in connection  
2801 with purchases of mortgages by the Federal National Mortgage  
2802 Association or the Federal Home Loan Mortgage Corporation and  
2803 increases in fees or charges imposed by mortgage insurers and the  
2804 impact, including the magnitude of the impact, that such increases  
2805 have had, or will likely have, on APRs for mortgage loans in this state.  
2806 When considering such factors, the commissioner shall focus on those  
2807 increases that are related to the deterioration in the housing market  
2808 and credit conditions. The commissioner may refrain from increasing  
2809 such percentages if it appears that lenders are increasing interest rates  
2810 or fees in bad faith or if increasing the percentages would be contrary  
2811 to the purposes of sections 36a-760 to 36a-760f, inclusive, as amended  
2812 by [this act] substitute senate bill 949 of the current session, as  
2813 amended. No increase authorized by the commissioner to a particular  
2814 percentage shall exceed one-quarter of one percentage point, and the  
2815 total of all increases to a particular percentage under this clause shall  
2816 not exceed one-half of one percentage point. No increase shall be made  
2817 unless: (I) The increase is noticed in the Banking Department Bulletin  
2818 and the Connecticut Law Journal, and (II) a public comment period of  
2819 twenty days is provided. Any increase made under this clause shall be  
2820 reduced proportionately when the need for the increase has  
2821 diminished or no longer exists. The commissioner, in the exercise of his  
2822 discretion, may authorize an increase in the percentages with respect  
2823 to all loans or just with respect to a certain class or classes of loans.

2824 (8) "Open-end line of credit" means a mortgage extended by a  
2825 lender under a plan in which: (A) The lender reasonably contemplates  
2826 repeated transactions; (B) the lender may impose a finance charge from  
2827 time to time on an outstanding unpaid balance; (C) the amount of  
2828 credit that may be extended to the consumer during the term of the  
2829 plan, up to any limit set by the lender, is generally made available to  
2830 the extent that any outstanding balance is repaid; and (D) none of the  
2831 proceeds of the open-end line of credit are used at closing to (i)  
2832 purchase the borrower's primary residence, or (ii) refinance a

2833 mortgage loan that had been used by the borrower to purchase the  
2834 borrower's primary residence;

2835 (9) "Residential property" has the same meaning as provided in  
2836 section 36a-485;

2837 (10) "Secondary mortgage loan" has the same meaning as provided  
2838 in section 36a-485.

2839 (b) The provisions of sections 36a-760a to 36a-760i, inclusive, shall  
2840 be applicable to nonprime home loans and mortgages, as appropriate,  
2841 for which applications have been received on or after August 1, 2008.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 31, 2009	36a-21
Sec. 2	July 31, 2009	36a-485
Sec. 3	July 31, 2009	36a-534b
Sec. 4	July 31, 2009	36a-498c
Sec. 5	July 31, 2009	36a-486
Sec. 6	July 31, 2009	36a-487
Sec. 7	July 31, 2009	36a-488
Sec. 8	July 31, 2009	36a-489
Sec. 9	July 31, 2009	New section
Sec. 10	July 31, 2009	36a-490
Sec. 11	July 31, 2009	36a-491
Sec. 12	July 31, 2009	36a-492
Sec. 13	July 31, 2009	36a-493(a)
Sec. 14	July 31, 2009	36a-494
Sec. 15	July 31, 2009	36a-496
Sec. 16	July 31, 2009	36a-497
Sec. 17	July 31, 2009	36a-498(a) to (g)
Sec. 18	July 31, 2009	36a-555
Sec. 19	July 31, 2009	New section
Sec. 20	July 31, 2009	New section
Sec. 21	July 31, 2009	New section
Sec. 22	July 31, 2009	New section
Sec. 23	July 31, 2009	36a-498a(a)
Sec. 24	October 1, 2009	46a-80

Sec. 25	<i>October 1, 2009</i>	46a-81
Sec. 26	<i>July 31, 2009</i>	36a-760j
Sec. 27	<i>July 1, 2009</i>	8-265cc(7)
Sec. 28	<i>July 1, 2009</i>	8-265dd(b)
Sec. 29	<i>July 1, 2009</i>	8-265ee
Sec. 30	<i>October 1, 2009</i>	8-265ff
Sec. 31	<i>from passage</i>	8-265rr
Sec. 32	<i>October 1, 2009</i>	8-265gg(d)
Sec. 33	<i>October 1, 2009</i>	8-265hh(a)
Sec. 34	<i>July 1, 2009</i>	49-31l
Sec. 35	<i>July 1, 2009</i>	49-31n
Sec. 36	<i>July 1, 2009</i>	49-31o
Sec. 37	<i>October 1, 2009</i>	49-15
Sec. 38	<i>October 1, 2009</i>	36b-62(a) and (b)
Sec. 39	<i>from passage</i>	36a-537
Sec. 40	<i>from passage</i>	36a-581(c)
Sec. 41	<i>October 1, 2009</i>	SB 950 (current session), Sec. 29
Sec. 42	<i>October 1, 2009</i>	SB 949 (current session), Sec. 1
Sec. 43	<i>October 1, 2009</i>	36a-760

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Judicial Dept.	BF - Cost	6.4 million	1.6 million
Banking Dept.	BF - Cost	100,000	11,000

Note: BF=Banking Fund

**Municipal Impact:** None

### **Explanation**

Sections 1 through 23 - The requirements of these sections can be achieved at a one-time cost to the Banking Fund of \$100,000 for consulting and data conversion. An ongoing cost of \$11,000 per year would occur for services provided by the Department of Information Technology.

Sections 27 through 33 expand eligibility requirements for the Connecticut Housing Finance Authority's (CHFA), a quasi-public agency, Emergency Mortgage Assistance Program (EMAP) and CT Families program. PA 08-176, "AAC Responsible Lending and Economic Security," appropriated \$14.0 million from the Banking Fund to CHFA for EMAP, and specified that the CT Families program be undertaken with an initial amount of \$40 million in CHFA bonds.

Any increase in the number of eligible applicants will result in additional expenditures of the existing program funding as provided by PA 08-176. As of 2/28/2009, CHFA approved 74 CT Families loans for a total of \$14.9 million. As of 3/12/2009, CHFA approved 18 EMAP loans that will provide a total of \$11,270 in monthly assistance, totaling \$135,240 for the next 12 months (homeowners must recertify each year). In addition to monthly assistance, EMAP pays mortgage

arrearrages to bring the homeowner's loan current. Twelve applicants will receive assistance totaling \$140,354 to bring their loans current.

Sections 34 through 37 make the foreclosure mediation program established under PA 08-176 mandatory for any foreclosure action on residential real property with a return date between July 1, 2009 and June 30, 2010. This policy change would triple during that period the number of mediations conducted under current law, which makes such mediation contingent upon the filing of a request for mediation.

The bill does not alter the current law provision that closes the program to new participants on and after July 1, 2010. However, since the mediation deadline is 90 days after mediation begins, the cost of the bill would continue for three months into FY 11.

The annual, incremental cost of the bill's caseload increase is estimated to be \$6.4 million including salaries, fringe benefits and other expenses.

The bill provides that the cost of the program expansion shall be borne by the Banking Fund.

The fiscal impact of the bill would cease in FY 11, as indicated above, in accordance with the current law provision that effectively terminates the program on June 30, 2010.

Sections 24 through 26 and 38 through 43 make technical and conforming changes that have no fiscal impact.

House Amendment "A" strikes the language of the bill and has the fiscal impact indicated above.

### ***The Out Years***

The annualized ongoing \$11,000 cost identified above for IT services would continue into the future subject to inflation.

The cost of the bill's provision that makes the foreclosure mediation

mandatory would cease in FY 11, as indicated above, in accordance with the current law provision that effectively terminates the program on June 30, 2010.

*Sources: CHFA staff report to Mortgage & Board of Directors, 3/19/200; Judicial Department Foreclosure Mediation Program Statistics as of 12/31/2008 included in the PowerPoint slideshow presented at the Banks Committee's 2/2/09 Informational Forum held on Foreclosure Mediation.*

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**OLR Bill Analysis****sSB 948 (File 909, as amended by House "A" and Senate "A")\******AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E. MORTGAGE LICENSING ACT.*****SUMMARY:**

This bill implements the 2008 federal Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act by imposing conditions on licensing for mortgage professionals, including education and testing. It (1) changes definitions and confidentiality and surety bond requirements, (2) expands the banking commissioner's enforcement and investigative authority, and (3) prohibits a number of actions by persons subject to the mortgage licensing laws. The bill also expands the prohibition on influencing residential real estate appraisals to everyone, rather than just mortgage brokers.

This bill changes the process for determining eligibility for the Emergency Mortgage Assistance Program (EMAP) by (1) allowing the Connecticut Housing Finance Authority (CHFA) to determine what constitutes a significant reduction in a borrower's income and (2) expanding the circumstances that constitute a financial hardship beyond a borrower's control and changing some of the conditions for repayment. It allows borrowers to apply for the program before they receive notice of intent to foreclose under certain circumstances. It specifies the circumstances under which the lender may proceed with the foreclosure. The bill expands eligibility for the CT FAMILIES refinancing program from homeowners with adjustable rate mortgages to also include those with fixed-rate mortgages.

This bill makes the foreclosure mediation program established under PA 08-176 mandatory, rather than optional, for actions with

return dates on and after July 1, 2009. To that end, the bill changes the mechanism by which borrowers are notified and mediation sessions scheduled and makes other conforming changes. The bill also sets requirements for disclosures made during the mediation.

The bill specifies that no judgment of strict foreclosure or foreclosure by sale can be entered before July 1, 2010 unless the mediation period has expired or otherwise terminated, whichever is earlier, or the mediation program is not otherwise required or available (see COMMENT).

By law, lenders must appear in person at the first mediation session and be authorized to agree to a proposed settlement. If the lender's attorney appears instead, he or she must have such authority, and the lender must be available by phone or electronic means. The bill specifies that the court cannot award attorney's fees to any lender for time spent in the first mediation session if it does not comply with this requirement, unless the court finds reasonable cause for it.

The bill also allows judgments of strict foreclosure to be opened after title has become absolute under certain circumstances.

Finally, the bill makes minor, technical, and conforming changes.

\*Senate Amendment "A" changes the definitions of control person and mortgage loan originator; specifically allows the commissioner to adopt regulations to implement the S.A.F.E. Act; adds provisions for individuals who renegotiate loans, but do not otherwise act as an originator; and changes the date by which originators must authorize access to their credit report. It adds the appraisal, mortgage assistance program, strict foreclosure, and foreclosure mediation provisions. Finally, it changes effective dates and makes other minor, technical, and conforming changes.

\*House Amendment "A" (1) eliminates a provision that specified, for actions with a return date on and after July 1, 2009, that no rule of court can preclude a mortgagee from going to judgment; (2) eliminates

prohibitions on disclosures by mediation program participants and their exceptions and replaces them with a prohibition on disclosures by the Judicial Branch; and (3) in regard to opening a strict foreclosure judgment, adds a provision requiring the rights of a person who acquired an interest in the real estate after title became absolute in any encumbrancer to be restored to prejudgment status, as the bill requires for other parties.

EFFECTIVE DATE: July 1, 2009, except (1) certain technical changes and the CT FAMILIES provision are effective on passage, and (2) the provision on opening strict foreclosure judgments and certain technical and conforming changes are effective October 1, 2009.

### **§ 1 — CONFIDENTIALITY**

By law, certain Banking Department records are not generally disclosable or subject to public inspection or discovery. These records include:

1. examination and investigation reports and information contained in or derived from such reports;
2. confidential supervisory or investigative information obtained from a state, federal, or foreign regulatory or law enforcement agency; and
3. information obtained, collected, or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Banking Department, if the records are protected from disclosure under federal or state law or, in the opinion of the commissioner, they would disclose, or would reasonably lead to the disclosure of personal, investigative, or harmful information.

However, the law allows the commissioner to disclose these records for any appropriate supervisory, government, law enforcement, or other public purpose. Such disclosures must be safeguarded, and the law allows a court to issue an order to protect information in a court

proceeding.

Current law already exempts from these requirements the disclosure of any information maintained by the commissioner with the Nationwide Mortgage Licensing System to the licensee and certain agencies authorized to access the information. The bill appears to exempt all disclosures of information to all state and federal regulatory officials and eliminates the provision allowing disclosure to the licensee. The bill does so by specifying that, except as otherwise provided in the confidentiality provisions of the federal S.A.F.E. Act, any requirements under Connecticut or federal law or any privilege arising under Connecticut or federal law that protects the disclosure of a record provided to or maintained with the system continues to apply after it has been disclosed to the system. The bill allows the record to 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 Connecticut or federal law. For these purposes, the bill allows the commissioner to enter into agreements with other government agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or associations representing government agencies. The bill specifies that any Connecticut disclosure law inconsistent with this provision is superseded.

The bill also exempts any information or material protected from disclosure as discussed above from (1) 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 (2) subpoena, discovery, or admission into evidence in any private civil action or administrative process. But a person may, at his or her discretion, waive in whole or in part a privilege held by the system concerning such information and material.

Finally, the bill provides that the confidentiality provisions do 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 public access.

## § 2 — DEFINITIONS

The bill defines the term “control person” as an individual who directly or indirectly exercises control over another person. The bill specifies that any person who (1) is a director, general partner or executive officer, (2) directly or indirectly has the right to vote 10% or more of a class of any voting security or the power to sell or direct the sale of 10% or more of any class of voting securities, (3) is a managing member of a limited liability company, or (4) in a partnership, has the right to receive upon dissolution, or has contributed 10% or more of the capital, is presumed to be a “control person.” The bill defines “control” as power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise.

The bill specifies that the term “depository institution” has the same meaning as it does in the Federal Deposit Insurance Act, and includes any Connecticut credit union, federal credit union, or out-of-state credit union.

The bill specifies that “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.

The bill defines an “immediate family member” as a spouse, child, sibling, parent, grandparent, or grandchild and includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

The bill specifies that an individual is a “natural person,” and a “person” is a natural person, corporation, company, limited liability company, partnership, or association.

The bill defines a “loan processor” or “underwriter” as an employee

who performs clerical or support duties at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under the mortgage licensing statutes. Under the bill, “clerical or support duties” include, subsequent to the receipt of an application, (1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan and (2) communication with a consumer to obtain the information necessary to process or underwrite a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

The bill eliminates the definition of “mortgage loan” (which currently just means a first or secondary mortgage loan) and simplifies the definition of first and secondary mortgage loan. It defines a “first mortgage loan” to include a residential mortgage loan secured by a first mortgage, and a “secondary mortgage” as a residential mortgage loan secured, in whole or in part, by mortgage, if the property is subject to at least one prior mortgage. The bill defines a “residential mortgage loan” as 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 the Consumer Credit Protection Act, or residential real estate upon which a dwelling is constructed or planned.

The bill replaces the definition of “residential property” with “residential real estate,” which is any real property located in Connecticut, upon which is constructed or intended to be constructed a dwelling as defined in the Consumer Credit Protection Act.

The bill defines “real estate brokerage activity” as any activity that involves offering or providing real estate brokerage services to the public, including:

1. acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

2. bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
3. 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;
4. engaging in any activity for which a person engaged in the activity is required to be licensed or registered as a real estate agent or real estate broker under any applicable law; and
5. offering to engage in any activity or act in any capacity described above.

The bill specifies that a “registered mortgage loan originator” is any individual who (1) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (2) is registered with and maintains a unique identifier through the system. A “unique identifier” is a number or other identifier assigned by protocols established by the system.

The bill changes the definition of “mortgage broker” to a person who, for compensation or gain, or in expectation of compensation or gain (1) takes a residential mortgage loan application or (2) offers or negotiates terms of a residential mortgage loan. It excludes an individual sponsored by another mortgage lender, mortgage correspondent lender, or mortgage broker. “Sponsored” means employed or retained as an independent contractor.

The bill defines “mortgage loan originator” similarly, eliminating current law’s requirement that originators act on behalf of a lender or broker. It states that an originator is an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for or with the expectation of compensation

or gain. The bill specifies that this does not include:

1. an individual engaged solely as a loan processor or underwriter, except for those acting as independent contractors;
2. a person who only performs real estate brokerage activities and is licensed under the statutes governing real estate brokers and salespersons, unless the individual is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker, or other mortgage loan originator or by one of their agents;
3. a person solely involved in extensions of credit relating to timeshare plans; or
4. any individual who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court of competent jurisdiction determines the individual needs to be licensed under the S.A.F.E. Act.

### **§ 3 — MORTGAGE LICENSING SYSTEM REQUIREMENTS**

By law, the banking commissioner must participate in the Nationwide Mortgage Licensing System and allow it to process applications for and maintain records on mortgage professionals. The bill specifies that the banking commissioner must require these individuals to be licensed and registered through the system. For this purpose, the bill allows the commissioner to establish the requirements as necessary for participating in the system, including:

1. background checks for criminal history through fingerprint or other databases, civil or administrative records, or credit history or any other information as deemed necessary by the system;
2. payment of fees to apply for or renew licenses through the system;

3. setting or resetting of license renewal or reporting dates; and
4. requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the system.

To implement an orderly and efficient licensing process, the bill allows the commissioner to adopt licensing regulations and interim procedures for licensing and acceptance of applications. For previously licensed individuals, it allows the commissioner to establish expedited review and licensing procedures.

For the purpose of participating in the system, the bill allows the commissioner to waive or modify by regulation or order, any requirement of the mortgage licensing statutes and to establish new requirements as reasonably necessary to participate in the system.

The bill requires the commissioner to report regularly to the system on violations of, and enforcement actions under, the mortgage licensing statutes and the bill's provisions on investigative authority, prohibited acts, and other relevant information. The bill also allows him to 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 the mortgage licensing statutes.

For the purposes of the bill and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain to comply with the bill's background check requirements, the bill allows the commissioner to use the system as a channeling agent for requesting information from and distributing information to any government agency or any other source. The bill also requires the commissioner to establish a process for mortgage lenders, mortgage correspondent lenders, mortgage brokers, and mortgage loan originators to challenge information the commissioner enters into the system.

Finally, the bill also requires mortgage lenders, brokers, and

originator licensees to submit to the system reports of condition that must be in the form and must contain the information the system requires.

### **§ 5 — ORIGINATOR LICENSING**

Effective April 1, 2010, the bill requires any individual (natural person) to obtain a mortgage loan originator license before conducting such business unless the individual does not engage directly in the activities of a mortgage loan originator. The license must be maintained annually and each licensed originator must register with, and maintain a valid unique identifier issued by, the system.

The law prohibits an individual from acting as an originator for more than one person at a time. Additionally, a mortgage loan originator license is not effective during any period when the originator is not associated with a lender or broker. Finally, the law allows the originator or the broker or lender to file a notification of termination of employment with the system. The bill specifies that the brokers and lenders serve as the originator's sponsor.

The bill exempts from the originator licensing requirements:

1. a registered mortgage loan originator or an employee of an institution or subsidiary who is not required to be registered under the S.A.F.E. Act, when acting for the institution or subsidiary;
2. an individual who offers or negotiates the terms of a residential mortgage loan with or on behalf of an immediate relative;
3. an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual's residence; and
4. 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 one of these entities.

The bill prohibits an individual who engages solely in loan processor or underwriter activities from representing to the public, through advertising or other means of communicating or providing information, that the individual can or will perform any of the activities of a mortgage loan originator.

Starting July 31, 2010, the bill prohibits loan processors or underwriters who are independent contractors from engaging in loan processor or underwriter activities unless they are licensed as mortgage loan originators. These individuals must also have and maintain a valid unique identifier issued by the system.

Finally, if HUD or a court of competent jurisdiction determines that the S.A.F.E. Act requires an individual who only renegotiates terms for existing mortgages and does not otherwise act as an originator to be licensed as an originator under state law, the bill allows the individual in his or her current capacity as long as the person files a license application within 60 days of the decision that it is necessary.

## **§ 6 — EXEMPTIONS FROM LICENSURE**

By law, any bank, out-of-state bank, or Connecticut or federal credit union, and their federally chartered subsidiaries are exempt from the mortgage licensing requirements. The bill also extends this exemption to Connecticut banks and credit unions' wholly-owned subsidiaries. The bill specifies that the exemption applies only if the banks are federally insured. The bill requires the Connecticut subsidiaries to provide written notification to the commissioner before engaging in such activity.

## **§ 7 — GENERAL LICENSING REQUIREMENTS**

The bill adds prelicensing education and testing to the requirements necessary to obtain a broker or lender license. The law requires the

broker or lender to have a qualified individual at the main office for which the license is sought, and a branch manager at each branch. Effective April 1, 2010, the bill requires the individuals to meet the education and testing requirements.

By law, broker, lender, and originator license applications must be filed with the system. The bill specifies that they must be filed in a commissioner-prescribed form. It requires that the form include content as set forth by the commissioner's instruction or procedure and may be changed or updated as necessary by the commissioner to carry out relevant statutes. The applicant must at least furnish to the system information on the applicant's identity, 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 government jurisdiction. The bill limits the requirement for certain supplemental information to the initial application.

The bill requires a broker or lender license applicant, 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 to submit authorizations for the system and the commissioner to obtain an independent credit report from a consumer reporting agency. Originator applicants and licensees must provide this authorization starting July 31, 2010, or 30 days after the system starts accepting the authorizations. Applicants and licensees must furnish their fingerprints to the system starting April 1, 2010.

## **§ 8 — STANDARDS FOR ISSUANCE AND RENEWAL OF LICENSES**

### ***Minimum Standards for Issuance***

The bill prohibits the commissioner from issuing an initial license for a mortgage lender or broker, unless he finds, at a minimum, that:

1. the applicant meets net worth and prelicensing education and

testing requirements;

2. regardless of the law on denial of employment based on prior conviction, 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 cannot be a conviction for purposes of this subdivision;
3. similar to current law, 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 this chapter;
4. the applicant has met the required surety bond requirement; and
5. as under current law, the applicant has not made a material misstatement in the application.

If the commissioner denies a license based on an applicant's failure to meet these requirements, he must notify the applicant of the reasons for the denial.

The commissioner cannot issue an initial license for a mortgage loan originator unless he, at a minimum, finds that the applicant has:

1. never had a mortgage loan originator license revoked in any government jurisdiction, except that a subsequent formal

vacating of such revocation must not be deemed a revocation;

2. similar to current law, has not been convicted of, or pled guilty or nolo contendere to, a felony and demonstrates financial responsibility, character, and general fitness as discussed above, regardless of the law on denial of employment based on prior conviction;
3. effective April 1, 2010, completed the prelicensing education requirement and passed a written test as required by the bill;
4. effective July 31, 2010, met the surety bond requirement; and
5. as under current law, has not made a material misstatement in the application.

With regard to originators, the bill specifies that a person has shown that he or she is not financially responsible when such person has shown a disregard in the management of such person's own financial condition. Such determination may include: (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 or renewal of a license; or (4) a pattern of seriously delinquent accounts within the previous three years.

If the commissioner denies an application for a mortgage loan originator license, he must notify the applicant in the same way he must notify a broker or lender applicant.

#### ***Minimum Standards for Renewal***

The bill provides at a minimum, in order to renew a mortgage lender or broker license, the applicant must continue to meet the minimum standards above; effective April 1, 2010, each qualified person and branch manager has completed the prelicensing education requirement and passed a written test, or has satisfied the annual continuing education requirements; and the lender or broker has paid

all fees for renewal of the license. The bill adopts similar standards for originators.

If these standards are not met, the license must expire. The bill allows the commissioner to adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system.

The bill provides that originators licensed as of the bill's enactment date have until October 31, 2010 to complete the prelicensing education requirement and pass the written test.

## **§ 9 — PRELICENSING EDUCATION, TESTING, AND CONTINUING EDUCATION**

### ***Prelicensing Education***

The bill requires a person to complete at least 24 hours of approved education with at least (1) three hours of instruction on relevant federal law and regulations; (2) three hours of ethics, including instruction on fraud, consumer protection, and fair lending issues; and (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

These courses must be reviewed and approved by the system based on reasonable standards. This must include review and approval of the course provider. Prelicensing education may be offered either in a classroom, online, or by any other means approved by the system, and courses provided by the applicant's affiliated entity or sponsor are permitted. The bill requires a person who has successfully completed prelicensing education system-approved requirements in another state to be granted reciprocity.

A person licensed prior to the bill's effective date who applies for a license renewal after that date must prove that he or she has completed all of the continuing education requirements for the year in which the license was last held.

### ***Testing***

The bill requires an individual to pass, with a score of at least 75%, a qualified written test developed by the system and administered by a system-approved test provider based on reasonable standards. The test must adequately measure the applicant's knowledge and comprehension in appropriate subject areas, including (1) ethics; (2) federal and state law and regulation pertaining to mortgage origination; and (3) federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues. The bill allows the test provider to provide a test at the location of (1) the applicant's sponsor or its subsidiary or (2) any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

The bill allows an individual to retake a test three consecutive times with each consecutive test occurring at least 30 days after the preceding test. After failing three consecutive tests, an individual has to wait at least six months before taking the test again. The bill requires a licensed mortgage lender, mortgage correspondent lender, mortgage broker, or mortgage loan originator who fails to maintain a valid license for five years or longer, not taking into account any time during which such individual is a registered mortgage loan originator, to retake the test.

### ***Continuing Education***

The bill requires a licensed originator to complete at least eight hours of education on the same topics and subject to the same conditions as the prelicensing education courses. The bill allows a licensee to only receive credit for a continuing education course in the year in which the course is taken and prohibits the licensee from taking the same approved course in the same or successive years to meet the annual requirements for continuing education. However, procedures or regulations adopted under the bill can provide otherwise. The bill allows a licensee who is an approved instructor of an approved continuing education course to receive credit toward the licensee's

own annual continuing education requirement at the rate of two hours credit for every one hour taught.

The bill requires a licensed mortgage loan originator who subsequently becomes unlicensed to complete the continuing education requirements for the last year in which the license was held prior to issuance of an initial or renewed license.

The bill allows a person who meets the minimum standards discussed above and who paid all required fees to compensate for any deficiency in continuing education requirements pursuant to regulations adopted by the commissioner.

The bill defines the term “nontraditional mortgage product” as any mortgage product other than a 30-year fixed rate mortgage.

#### **§ 10 — SURRENDER OF LICENSES**

By law, 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, must file a surrender of the license on the system. The bill instead requires him or her to file a request to surrender the license and specifies that the surrender is not effective until it has been accepted by the commissioner.

#### **§ 11 — EXPIRATION OF ORIGINATOR LICENSES AND LICENSING FEES**

By law, mortgage loan originator licenses expire when the licenses of the retaining lender or broker expire, if they are not renewed. The bill aligns the expiration date for originator licenses with broker and lender licenses, providing that they generally expire at the close of business on December 31.

The bill also sets the license fee for originators at \$300, starting November 1, 2009. Under current law, lenders and brokers must pay a \$100 initial fee and a \$125 renewal fee for each originator. As the bill eliminates these requirements, it is not clear what fee will apply

between the bill's effective date and November 1, 2009.

### **§ 12 — BONDING REQUIREMENT**

By law, the surety bond that mortgage lenders and brokers are required to obtain is scheduled to increase from \$40,000 to \$80,000 starting August 1, 2009. The bill instead requires, effective July 31, 2010, the bond to be 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. The bill provides that, effective July 31, 2010, each person licensed as a mortgage loan originator must be covered by a surety bond. The coverage must be provided through the bond of the mortgage lender or broker that sponsors the originator. The bill requires the bond's penal sum to be maintained in an amount that reflects the dollar amount of loans originated by the mortgage loan originator, as determined by the commissioner. The bill allows the commissioner to adopt regulations with respect to the requirements for the surety bonds.

The bill requires licensees to 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 must file a new bond.

### **§ 14 — ENFORCEMENT**

The bill allows the commissioner to remove an individual conducting business under the mortgage lending statutes, as amended by the bill, from office and from employment or retention as an independent contractor in the mortgage business in the state (1) whenever he finds, as a result of an investigation, that the person has violated the mortgage licensing law or any regulation or order issued thereunder or (2) for any reason that would be sufficient grounds for the commissioner to deny a license.

To do this, the bill requires the commissioner to notify the person by

registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice is deemed received by such person on the earlier of the date of actual receipt or seven days after mailing or sending. The notice must include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of the general statutes, regulations, or orders alleged to have been violated;
4. a short and plain statement of the matters asserted; and
5. a statement indicating that such person may file a written request for a hearing on the matters asserted not later than 14 days after receipt of the notice.

If the commissioner finds that the protection of borrowers requires immediate action, the bill allows him to suspend the person and require the person to take or refrain from taking action as the commissioner determines is necessary, by incorporating a finding to that effect in the notice. The suspension or prohibition becomes effective on receipt and, unless stayed by a court, remains in effect until the entry of a permanent order or the dismissal of the matters asserted. If a hearing is requested within the time specified in the notice, the commissioner must hold it on the matters asserted in the notice unless the person fails to appear at the hearing.

After the hearing, if the commissioner finds that the person has violated the laws or lacks financial responsibility, he can order the "removal of the person from office" and from any employment in the mortgage business in this state. It is unclear what is meant by "removal of the person from office." The commissioner can still do this if the person fails to appear at the hearing.

If a license was issued by mistake, the bill allows the commissioner to issue a temporary order to cease business. The commissioner must give the licensee an opportunity for a hearing. The order becomes effective upon receipt by the licensee and, unless set aside or modified by a court, remains in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

### **§ 19 — COMMISSIONER'S INVESTIGATIVE AUTHORITY**

In addition to his existing authority under the banking statutes, the bill gives the commissioner the authority to conduct investigations and examinations under certain circumstances.

First, for purposes of initial licensing; license renewal, suspension, conditioning, revocation, or termination; or general or specific inquiry or investigation to determine compliance with the mortgage licensing statutes, the bill allows the commissioner to access, receive, and use any books, accounts, records, files, documents, information, or evidence. This includes:

1. criminal, civil, and administrative history information;
2. personal history and experience, including independent credit reports obtained from a consumer reporting agency; and
3. any other documents, information, or evidence the commissioner deems relevant to the inquiry or investigation regardless of their location, possession, control, or custody.

The bill also allows the commissioner to review, investigate, or examine any mortgage lender, broker, or originator subject to the laws as often as necessary in order to carry out the law. The bill allows the commissioner to 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 matter of any examination or investigation. He may direct, subpoena, or order such person to produce books, accounts, records, files, and other documents he deems relevant to the inquiry.

The bill requires each lender, broker, and originator subject to the laws to make or compile reports or prepare other information as directed by the commissioner in order to carry out these purposes. These include accounting compilations, information lists, and data on loan transactions in a format prescribed by the commissioner or such other information the commissioner deems necessary to carry out the bill's purposes.

In conducting any examination or investigation under these provisions, the bill allows the commissioner to control access to any documents and records of the licensee or person under examination or investigation. The commissioner can take possession of the documents and records or place a person in exclusive charge of them in the place where they are usually kept. During the period of control, the bill prohibits an individual or person from removing or attempting to remove any of the documents and records except under a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the licensee's documents or records have been, or are at risk of being, altered or destroyed to conceal a violation, the licensee or owner of the documents and records must have access to them as necessary to conduct its ordinary business affairs.

In order to carry out these powers, the bill allows the commissioner to:

1. retain attorneys, accountants, or other professionals and specialists, such as examiners, auditors, or investigators to conduct or assist in examinations or investigations;
2. enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under his powers;
3. use, hire, contract, or employ public or privately available

analytical systems, methods, or software to examine or investigate the lender, broker, or originator;

4. accept and rely on examination or investigation reports made by other government officials, in or outside this state; and
5. accept audit reports made by an independent certified public accountant for the lender, broker, or originator, 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, investigation, or other document.

The bill specifies that this authority remains in effect, whether the lender, broker, or originator acts or claims to act under any Connecticut licensing or registration law, or claims to act without such authority. The bill prohibits a licensee, individual, or person subject to investigation or examination under these provisions from knowingly withholding, abstracting, removing, mutilating, destroying, or secreting any books, records, computer records, or other information.

#### **§ 20 — PROHIBITED BEHAVIORS BY PERSONS SUBJECT TO THE MORTGAGE LICENSING LAWS**

The bill prohibits any person subject to the mortgage licensing law from:

1. directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
2. engaging in any unfair or deceptive practice toward any person;
3. obtaining property by fraud or misrepresentation;
4. soliciting or entering 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. soliciting, advertising, or entering into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of solicitation, advertisement, or contracting;
6. conducting any business as lender, broker, or originator without holding a valid license, or assisting or aiding and abetting any person in the conduct of business without a valid license;
7. failing to make disclosures as required by the mortgage licensing statutes and any other applicable state or federal law;
8. failing to comply with the mortgage licensing statutes, or any other state or federal law applicable to mortgage lending;
9. making, 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 engaging in bait and switch advertising;
10. negligently making any false statement or knowingly and willfully omitting any material fact in connection with any information or reports filed with a government agency or the system or in connection with any investigation conducted by the commissioner or another government agency;
11. making 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, or making any payment threat or promise, directly or indirectly, to any appraiser of a property to influence the independent judgment of the appraiser with respect to the value of the property;
12. collecting, charging, or attempting to collect, charge, use, or propose any agreement purporting to collect or charge any fee prohibited by the mortgage licensing laws;

13. causing or requiring 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. failing to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

### **§ 21 — UNIQUE IDENTIFIER ON DOCUMENTS**

The bill requires any licensed originator originating a residential mortgage loan to clearly show his or her unique identifier 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 commissioner.

### **§ 22 — SEVERABILITY**

The bill provides that if a Connecticut court holds invalid any of its provisions or applications to any person or circumstance, the remainder of the sections or the application of the provision to other persons or circumstances is not affected.

### **§§ 27-33 — EMERGENCY MORTGAGE ASSISTANCE PROGRAM**

#### ***Financial Hardship***

Under current law, in order to be eligible for EMAP, a person must be experiencing “financial hardship due to circumstances beyond his or her control.” Current law defines this to include a significant reduction of at least 25% of aggregate family household income that reasonably cannot be or could not have been alleviated by the liquidation of assets by the borrower, including a reduction resulting from a number of specified situations. The term also includes a significant increase in the mortgage payment amount. The bill eliminates this as an independent definition of financial hardship, and instead, makes it one of several criteria that can cause a reduction in income. It also eliminates from the definition reductions specifically resulting from uninsured damage to the mortgaged property which affects liveability and necessitates costly repairs. It adds reductions

resulting from an unanticipated rise in housing expenses.

The bill allows CHFA to generally determine what amount constitutes a significant reduction and eliminates reference to the 25% threshold. It also includes in the definition a significant increase in expenses that cannot or could not have been alleviated by the liquidation of assets.

### ***Application***

The bill allows borrowers to apply for EMAP before they receive notice of intent to foreclose if they (1) are 60 days or more delinquent on their mortgage or (2) anticipate they will be 60 or more days delinquent based on financial hardship beyond their control, if CHFA agrees with them. Currently, borrowers apply when they receive information about the program with the lender's notice of intent to foreclose. The bill also allows CHFA to refer an applicant to a HUD approved counseling agency as part of the application process.

### ***Repayment***

By law, when determining EMAP eligibility, one of the things that CHFA must consider is whether there is a reasonable prospect that the mortgagor will be able to resume full mortgage payments within a certain time period. The bill specifies that these payments can be on the original, modified, or refinanced mortgage.

By law, upon approval of EMAP payments, the authority must enter into an agreement with the mortgagor for repayment with interest. Under current law, if the mortgagor's total housing expense is 35% or less than his or her aggregate family income, he or she must pay CHFA the difference between 35% and the total housing expense, unless CHFA determines otherwise after examining the mortgagor's financial circumstances and ability to repay. The bill eliminates this provision.

In situations where the amount is greater than 35%, repayment is deferred until the total housing expense is 35% or less of the aggregate

family income. The bill specifies that the total housing expense includes projected repayments for mortgage assistance.

### ***Proceeding with Foreclosure***

By law, before foreclosing on certain mortgages, a lender has to notify the borrower about the default and that they have 60 days in which to meet with the lender or consumer credit counseling agency and contact CHFA to get information about and apply for EMAP if the default is unable to be resolved. If the borrower fails to (1) meet with the lender or (2) act within the designated time period, or if the EMAP application is denied or is not timely filed, the foreclosure can continue without any further interruption. The bill specifies that this does not apply if the lender refuses to meet with the borrower. Additionally, the bill provides that nothing in the EMAP statutes prevents a person from applying or reapplying and being considered for EMAP if the person is referred to the program by the foreclosure mediation program.

## **§§ 34-36 — FORECLOSURE MEDIATION PROGRAM**

### ***Mediation Notice***

By law, the lender has to inform the borrower about the foreclosure mediation program by attaching a notice of its availability and a mediation request form to the front of the foreclosure complaint. Because the bill makes mediation automatic for actions with a return date on and after July 1, 2009, for those actions, it requires lenders to attach instead (1) a notice of foreclosure mediation; (2) a foreclosure mediation certificate; and (3) a blank appearance form, all in a chief court administrator-prescribed form.

The foreclosure mediation certificate must require the borrower to provide enough information to allow the court to confirm that the defendant in the foreclosure action is actually an owner-occupant of a one-to-four family residential real property located in Connecticut and also the borrower under a mortgage encumbering the real property, which is the primary residence. The bill also specifies that the notice and certificate should be attached to the front of the writ summons, which typically appears in front of the complaint.

Generally, when a lender serves a borrower in the foreclosure action, it must return the writ to the court. After the lender returns the writ, the bill gives the court three days to issue a notice of foreclosure mediation to the borrower. The notice must tell the borrower to file the appearance form and foreclosure mediation certificate with the court no more than 15 days after the foreclosure action return date (the date by which the lender must respond to the foreclosure action). When the court receives the forms from an eligible borrower, the court must schedule a foreclosure mediation date and notify all appearing parties no earlier than five business days after the return date. If the forms are not returned by the deadline, the court cannot schedule mediation. However, the bill allows the court to refer people meeting the requirements to the program any time they appear in a foreclosure action.

By law, the mediation period starts when notice is sent to each appearing party, which has to be within three business days of the court's receipt of the mediation request. For actions with a return date on or after July 1, 2009, the 3 day requirement is eliminated.

### ***Confidentiality***

The bill provides that information submitted by the mortgagor to a mediator, either orally or in writing, including financial documents, is not subject to disclosure by the Judicial Branch.

### **§ 37 — OPENING A STRICT FORECLOSURE JUDGMENT**

By law, a judgment foreclosing the title to real estate by strict foreclosure cannot be opened after title has become absolute in any encumbrancer. The bill allows such judgments to be opened upon agreement of each party who has filed an appearance in a foreclosure action and any person who acquired an interest in the real estate after title became absolute in any encumbrancer, with tow conditions:

1. the judgment cannot be opened more than four months after a judgment of strict foreclosure was entered or more than 30 days after title has become absolute in any encumbrancer, whichever

is later and

2. all rights and interests of (a) all appearing and nonappearing parties and (b) 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 of judgment.

If a judgment is opened, the person who filed the written motion must record a certified copy of the court's order to open the judgment on the land records in the town in which the real estate is situated.

## **COMMENT**

### ***Foreclosure Judgments Entered After July 1, 2010***

By law, and under the bill, mediations are allowed to begin up until June 30, 2010 (and therefore continue after that date). However, it appears that this provision allows actions that continue after June 30, 2010 to go to judgment without meeting the bill's requirements.

## **BACKGROUND**

### ***Public Law 110-289***

P. L. 110-289 encourages participation in the Nationwide Mortgage Licensing and Registry (NMLSR) system created in 2004 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. It requires licensing of all "loan originators," which it defines as individuals who (1) take a residential mortgage loan application and (2) offer or negotiate terms of a residential mortgage loan for compensation or gain.

The act establishes requirements for loan originator licensing or registration, including fingerprint and background checks; 20 hours of pre-licensing education; a written test; and eight hours of continuing education annually. It also prevents the issuance of a license to certain applicants.

The act requires the HUD to establish a backup licensing system for a state if, after one year (or two years for biennial legislatures), a state

does not (1) participate in the Nationwide Mortgage Licensing System or (2) have a system in place that addresses certain requirements. The HUD secretary can extend this period by up to two years. The Act also requires federal bank regulators to establish a parallel registration system for FDIC-insured banks.

**Legislative History**

On April 22, the Senate referred the bill to the Appropriations Committee, which reported a substitute bill, adding the funding mechanism.

**Related Bills**

sSB 619 (File 911), favorably reported by Banks Committee, makes some of the same changes to the foreclosure mediation program.

sHB 6481 (File 200), favorable reported by the Banks Committee, makes some of the same changes to the mortgage assistance programs.

**COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute  
Yea 16 Nay 0 (03/10/2009)

Appropriations Committee

Joint Favorable Substitute  
Yea 51 Nay 0 (04/27/2009)