



General Assembly

January Session, 2009

**Raised Bill No. 948**

LCO No. 3445

\*03445\_\_\_\_\_BA\_\*

Referred to Committee on Banks

Introduced by:

(BA)

**AN ACT CONCERNING THE DEPARTMENT OF BANKING'S  
PROPOSAL TO IMPLEMENT THE S.A.F.E. MORTGAGE LICENSING  
ACT.**

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 Section 36a-21 of the general statutes is repealed and the  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 from passage*):

3 (a) Notwithstanding any provision of state law and except as  
4 provided in [subsection] subsections (b) and (d) of this section 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 Except as otherwise provided in Section 1512 of the federal S.A.F.E.  
64 Mortgage Licensing Act of 2008, any requirements under federal law  
65 or any law of this state, including this section and chapter 14 and any  
66 privilege arising under federal law or any law of this state, including  
67 the rules of any federal court or court of this state that protect the  
68 disclosure of any record provided to or maintained with the system,  
69 shall continue to apply to such record after it has been disclosed to the  
70 system. Such record may be shared with all state and federal  
71 regulatory officials that have oversight authority over the mortgage  
72 industry without the loss of privilege or the loss of confidentiality  
73 protections provided by federal law or the laws of this state. For  
74 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 from passage*):

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

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

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

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

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

124 (5) "Federal banking agencies" means the Board of Governors of the  
125 Federal Reserve System, the Comptroller of the Currency, the Director  
126 of the Office of Thrift Supervision, the National Credit Union  
127 Administration and the Federal Deposit Insurance Corporation;

128 [(4)] (6) "First mortgage loan" means a [loan or an extension of  
129 credit, including, but not limited to, an extension of credit pursuant to  
130 a contract or an assigned contract for the sale of goods or services,  
131 made to a natural person, the proceeds of which are to be used  
132 primarily for personal, family or household purposes, and which]  
133 residential mortgage loan that is secured by a first mortgage; [upon  
134 any interest in one-to-four-family owner-occupied residential property  
135 located in this state which is not subject to any prior mortgages and  
136 includes the renewal or refinancing of an existing first mortgage loan;]

137 [(5)] (7) "Main office" means the main address designated on the  
138 [Nationwide Mortgage Licensing] system;

139 [(6)] (8) "Mortgage broker" means a person who, for a fee,

140 commission or other valuable consideration, directly or indirectly,  
141 negotiates, solicits, arranges, places or finds a residential mortgage  
142 loan that is to be made by a mortgage lender or mortgage  
143 correspondent lender, whether or not the mortgage lender or mortgage  
144 correspondent lender are required to be licensed under sections 36a-  
145 485 to 36a-498a, inclusive, as amended by this act;

146 [(7)] (9) "Mortgage correspondent lender" means a person engaged  
147 in the business of making mortgage loans in such person's own name  
148 where the loans are not held by such person for more than ninety days  
149 and are funded by another person through a warehouse agreement,  
150 table funding agreement or similar agreement;

151 [(8)] (10) "Mortgage lender" means a person engaged in the business  
152 of making mortgage residential loans in such person's own name  
153 utilizing such person's own funds or by funding loans through a  
154 warehouse agreement, table funding agreement or similar agreement;

155 [(9) "Mortgage loan" means a first mortgage loan or secondary  
156 mortgage loan;]

157 [(10)] (11) "Mortgage loan originator" means an individual [who is  
158 employed or retained by, or otherwise acts on behalf of, a mortgage  
159 lender, mortgage correspondent lender or mortgage broker licensee  
160 who, for, or with the expectation of, a fee, commission or other  
161 valuable consideration, takes an application for or negotiates, solicits,  
162 arranges or finds a mortgage loan. "Mortgage loan originator" does not  
163 include (1) an officer, if the licensee is a corporation; a general partner,  
164 if the licensee is a partnership; a member, if the licensee is a limited  
165 liability company; or a sole proprietor, if the licensee is a sole  
166 proprietorship, or (2) an individual whose responsibilities are limited  
167 to clerical and administrative tasks and who does not solicit borrowers,  
168 arrange or find mortgage loans, take applications or negotiate the  
169 terms of loans] who takes a residential mortgage loan application or  
170 offers or negotiates terms of a residential mortgage loan for  
171 compensation or gain. "Mortgage loan originator" does not include (A)

172 any person who does not otherwise come within the definition of  
173 mortgage loan originator and who performs purely administrative or  
174 clerical tasks on behalf of a mortgage loan originator; (B) a person who  
175 only performs real estate brokerage activities and is licensed in  
176 accordance with chapter 392, unless the individual is compensated by  
177 a mortgage lender, mortgage correspondent lender, mortgage broker  
178 or other mortgage loan originator or by any agent of such mortgage  
179 lender, mortgage correspondent lender, mortgage broker or other  
180 mortgage loan originator; or (C) a person solely involved in extensions  
181 of credit relating to timeshare plans, as that term is defined in  
182 Paragraph 53D of 11 USC 101. For purposes of this subdivision,  
183 "administrative or clerical tasks" means the receipt, collection and  
184 distribution of information common for the processing or  
185 underwriting of a loan in the mortgage industry and communication  
186 with a consumer to obtain information necessary for the processing or  
187 underwriting of a residential mortgage loan;

188 [(11)] (12) "Office" means a branch office or a main office;

189 (13) "Person" means an individual, corporation, company, limited  
190 liability company, partnership or association;

191 [(12)] (14) "Principal amount of the loan" means the gross amount  
192 the borrower is obligated to repay including any prepaid finance  
193 charge that is financed, and any other charge that is financed;

194 (15) "Real estate brokerage activity" means any activity that involves  
195 offering or providing real estate brokerage services to the public,  
196 including (A) acting as a real estate agent or real estate broker for a  
197 buyer, seller, lessor or lessee of real property; (B) bringing together  
198 parties interested in the sale, purchase, lease, rental or exchange of real  
199 property; (C) negotiating, on behalf of any party, any portion of a  
200 contract relating to the sale, purchase, lease, rental or exchange of real  
201 property, other than in connection with providing financing with  
202 respect to any such transaction; (D) engaging in any activity for which  
203 a person engaged in the activity is required to be licensed as a real

204 estate agent or real estate broker under any applicable law; and (E)  
205 offering to engage in any activity, or act in any capacity, described in  
206 this subdivision;

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

214 (17) "Residential mortgage loan" means any loan primarily for  
215 personal, family or household use that is secured by a mortgage, deed  
216 of trust or other equivalent consensual security interest on a dwelling  
217 as defined in Section 103 of the Consumer Credit Protection Act, 15  
218 USC 1602, or residential real estate located in this state upon which is  
219 constructed or intended to be constructed a dwelling, as so defined;

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

222 [(14)] (18) "Secondary mortgage loan" means [(A) a loan or an  
223 extension of credit, including, but not limited to, an extension of credit  
224 pursuant to a contract or an assigned contract for the sale of goods or  
225 services, made to a natural person, the proceeds of which are to be  
226 used primarily for personal, family or household purposes, and] a  
227 residential mortgage loan that is secured, in whole or in part, by a  
228 mortgage, [upon any interest in one-to-four-family owner-occupied  
229 residential property located in this state,] provided such property is  
230 subject to one or more prior mortgages; [, and (B) the renewal or  
231 refinancing of any existing loan or extension of credit described in  
232 subparagraph (A) of this subdivision;]

233 [(15)] (19) "Simulated check" means a document that imitates or  
234 resembles a check but is not a negotiable instrument;

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

241 [(16)] (21) "Table funding agreement" means an agreement wherein  
242 a person agrees to fund mortgage loans to be made in another person's  
243 name and to purchase such loans after they are made; [and]

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

246 [(17)] (23) "Warehouse agreement" means an agreement to provide  
247 credit to a person to enable the person to have funds to make  
248 residential mortgage loans and hold such loans pending sale to other  
249 persons.

250 Sec. 3. Section 36a-534b of the general statutes is repealed and the  
251 following is substituted in lieu thereof (*Effective from passage*):

252 (a) [The Banking Commissioner] (1) In addition to any other duties  
253 imposed upon the Banking Commissioner by law, the commissioner  
254 shall require mortgage lenders, mortgage correspondent lenders,  
255 mortgage brokers and mortgage loan originators to be licensed and  
256 registered through the system. In order to carry out this requirement,  
257 the commissioner shall participate in the [Nationwide Mortgage  
258 Licensing] system [for this state] and permit [such system] the system  
259 to process applications for mortgage lender, mortgage correspondent  
260 lender, mortgage broker and mortgage loan originator licenses in this  
261 state and receive and maintain records related to such licenses that are  
262 allowed or required to be maintained by the commissioner. For this  
263 purpose, the commissioner may establish, by order or regulation, the  
264 requirements and procedures necessary for participation in the system,  
265 including, but not limited to: (A) Applicant background checks for

266 criminal history through (i) fingerprint or other databases, (ii) civil or  
267 administrative records, or (iii) credit history or any other information  
268 as deemed necessary by the system; (B) fees to apply for or renew  
269 licenses through the system; (C) license renewal or reporting dates;  
270 and (D) the process for amending or surrendering a license or any  
271 other such activities as the commissioner deems necessary for  
272 participation in the system. For the purpose of participating in the  
273 system, the commissioner may waive or modify, in whole or in part,  
274 by regulation or order, any requirement of sections 36a-485 to 36a-  
275 498a, inclusive, as amended by this act, and to establish new  
276 requirements as reasonably necessary to participate in the system.

277 (2) The commissioner shall report regularly to the system violations  
278 of and enforcement actions under sections 36a-485 to 36a-498a,  
279 inclusive, as amended by this act, sections 19 and 20 of this act and  
280 other relevant information.

281 (3) The commissioner may establish relationships or enter into  
282 contracts with the system or other entities designated by the system to  
283 collect and maintain records and process transaction fees or other fees  
284 related to licensees or other persons subject to sections 36a-485 to 36a-  
285 498a, inclusive, as amended by this act.

286 (4) For the purposes of sections 36a-485 to 36a-498a, inclusive, as  
287 amended by this act, and to reduce the points of contact that the  
288 Federal Bureau of Investigation may have to maintain under the  
289 federal S.A.F.E. Mortgage Licensing Act, the commissioner may use  
290 the system as a channeling agent for requesting information from and  
291 distributing information to the United States Department of Justice or  
292 any governmental agency.

293 (5) For the purposes of sections 36a-485 to 36a-498a, inclusive, as  
294 amended by this act, and to reduce the points of contact that the  
295 commissioner may have to maintain, the commissioner may use the  
296 system as a channeling agent for requesting and distributing  
297 information to and from any source, as directed by the commissioner.

298 (6) The commissioner shall establish a process whereby mortgage  
299 lenders, mortgage correspondent lenders, mortgage brokers and  
300 mortgage loan originators may challenge information entered into the  
301 system by the commissioner.

302 (b) (1) Each first mortgage lender license and secondary mortgage  
303 lender license in existence on June 30, 2008, shall be deemed on and  
304 after July 1, 2008, to be a mortgage lender license, as defined in section  
305 36a-485, as amended by this act; (2) each first mortgage correspondent  
306 lender license and secondary mortgage correspondent lender license in  
307 existence on June 30, 2008, shall be deemed on and after July 1, 2008, to  
308 be a mortgage correspondent lender license, as defined in section 36a-  
309 485, as amended by this act; (3) each first mortgage broker license and  
310 secondary mortgage broker license in existence on June 30, 2008, shall  
311 be deemed on and after July 1, 2008, to be a mortgage broker license, as  
312 defined in section 36a-485, as amended by this act; and (4) each  
313 originator registration in existence on June 30, 2008, shall be deemed  
314 on and after July 1, 2008, to be a mortgage loan originator license, as  
315 defined in section 36a-485, as amended by this act.

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

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

325 (3) Any person making any filing or submission of any information  
326 on the [Nationwide Mortgage Licensing] system shall do so in  
327 accordance with the procedures and requirements of [such system] the  
328 system and pay the applicable fees or charges to [such system] the  
329 system. Each mortgage lender, mortgage correspondent lender,

330 mortgage broker and mortgage loan originator licensee shall submit to  
331 the system reports of condition that shall be in such form and shall  
332 contain such information as the system may require.

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

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

339 Sec. 4. Section 36a-498c of the general statutes is repealed and the  
340 following is substituted in lieu thereof (*Effective from passage*):

341 At least once a year, each mortgage lender and mortgage  
342 correspondent lender, both as defined in section 36a-485, as amended  
343 by this act, and licensed under section 36a-489, as amended by this act,  
344 shall adopt a mortgage loan policy with respect to subprime mortgage  
345 loans and nontraditional mortgage loans made by such mortgage  
346 lender or such mortgage correspondent lender based on and consistent  
347 with the most current version of the Conference of State Bank  
348 Supervisors, American Association of Residential Mortgage Regulators  
349 and National Association of Consumer Credit Administrators  
350 Statement on Subprime Mortgage Lending, and the Conference of  
351 State Bank Supervisors and American Association of Residential  
352 Mortgage Regulators Guidance on Nontraditional Mortgage Product  
353 Risks. Such licensees shall comply with such policy and develop and  
354 implement internal controls that are reasonably designed to ensure  
355 such compliance. The mortgage loan policy and any residential  
356 mortgage loan, as defined in section 36a-485, as amended by this act,  
357 made pursuant to the policy shall be subject to examination concerning  
358 prudent lending practices by the [Banking Commissioner]  
359 commissioner.

360 Sec. 5. Section 36a-486 of the general statutes is repealed and the

361 following is substituted in lieu thereof (*Effective from passage*):

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

378 (b) (1) No person licensed as a mortgage lender, mortgage  
379 correspondent lender or mortgage broker shall employ or retain a  
380 mortgage loan originator unless such mortgage loan originator is  
381 licensed under sections 36a-485 to 36a-498a, inclusive, as amended by  
382 this act. Unless specifically exempted under subdivisions (2), (3) and  
383 (4) of this subsection, an individual may not engage in the business of  
384 a mortgage loan originator without being licensed as a mortgage loan  
385 originator under sections 36a-485 to 36a-498a, inclusive, as amended  
386 by this act. Each licensed mortgage loan originator shall register with  
387 and maintain a valid unique identifier issued by the system. No  
388 individual may act as a mortgage loan originator [without being  
389 licensed, or act as a mortgage loan originator] for more than one  
390 person. The license of a mortgage loan originator is not effective  
391 during any period when such mortgage loan originator is not  
392 associated with a licensed mortgage lender, mortgage correspondent  
393 lender or mortgage broker. Either the mortgage loan originator or the

394 mortgage lender, mortgage correspondent lender or mortgage broker  
395 may file a notification of the termination of employment of a mortgage  
396 loan originator with the [Nationwide Mortgage Licensing] system.

397 (2) Registered mortgage loan originators, when acting for an entity  
398 described in subdivision (16) of section 36a-485, as amended by this  
399 act, are exempt from sections 36a-485 to 36a-498a, inclusive, as  
400 amended by this act, section 9 of this act, and sections 19 to 21,  
401 inclusive, of this act.

402 (3) An individual licensed as a mortgage lender, mortgage  
403 correspondent lender or mortgage broker shall not be required to  
404 obtain or maintain a license as a mortgage loan originator.

405 (4) An individual engaging solely in loan processor or underwriter  
406 activities who does not represent to the public through advertising,  
407 other means of communication or by providing information, including  
408 the use of business cards, stationery, brochures, signs, rate lists or  
409 other promotional items, that such individual can or will perform any  
410 of the activities of a mortgage loan originator shall not be required to  
411 obtain and maintain a license under sections 36a-485 to 36a-498a,  
412 inclusive, as amended by this act. For purposes of this subdivision: (A)  
413 "Loan processor or underwriter" means an individual who performs  
414 clerical or support duties as an employee at the direction of and subject  
415 to the supervision and instruction of a person licensed, or exempt from  
416 licensing, under sections 36a-485 to 36a-498a, inclusive, as amended by  
417 this act; and (B) "clerical or support duties" may include (i) the receipt,  
418 collection, distribution and analysis of information common for the  
419 processing or underwriting of a residential mortgage loan; and (ii)  
420 communicating with a consumer to obtain the information necessary  
421 for the processing or underwriting of a loan, to the extent that such  
422 communication does not include offering or negotiating loan rates or  
423 terms, or counseling consumers about residential mortgage loan rates  
424 or terms.

425 (5) An independent contractor may not engage in residential

426 mortgage loan origination activities as a loan processor or underwriter  
427 unless such independent contractor obtains and maintains a license as  
428 a mortgage loan originator under sections 36a-485 to 36a-498a,  
429 inclusive, as amended by this act. Each independent contractor loan  
430 processor or underwriter licensed as a mortgage loan originator shall  
431 have and maintain a valid unique identifier issued by the system.

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

435 Sec. 6. Section 36a-487 of the general statutes is repealed and the  
436 following is substituted in lieu thereof (*Effective from passage*):

437 The following are exempt from licensing as a mortgage lender and  
438 mortgage correspondent lender under sections 36a-485 to 36a-498a,  
439 inclusive, as amended by this act:

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

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

448 (3) Bona fide nonprofit corporations making residential mortgage  
449 loans to promote home ownership for the economically  
450 disadvantaged;

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

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

458 (6) Persons owning real property who take back from the buyer of  
459 such property a secondary mortgage loan in lieu of any portion of the  
460 purchase price of the property;

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

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

466 (9) Persons acting as fiduciaries with respect to any employee  
467 pension benefit plan qualified under the Internal Revenue Code of  
468 1986, or any subsequent corresponding internal revenue code of the  
469 United States, as from time to time amended, who make residential  
470 mortgage loans solely to plan participants from plan assets; and

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

473 Sec. 7. Section 36a-488 of the general statutes is repealed and the  
474 following is substituted in lieu thereof (*Effective from passage*):

475 (a) (1) The commissioner shall not issue a mortgage lender license, a  
476 mortgage correspondent lender license or a mortgage broker license to  
477 any person unless such person meets the following tangible net worth  
478 and experience requirements, as applicable: (A) The minimum tangible  
479 net worth requirement for a mortgage lender shall be two hundred  
480 fifty thousand dollars and the minimum tangible net worth  
481 requirement for a mortgage correspondent lender and a mortgage  
482 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,  
483 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a  
484 mortgage lender, mortgage correspondent lender or mortgage broker

485 shall have, at the main office for which the license is sought, a qualified  
486 individual with supervisory authority over the lending or brokerage  
487 activities who has at least three years' experience in the mortgage  
488 business within the five years immediately preceding the application  
489 for the license, and at each branch office, the lender or broker shall  
490 have a branch manager with supervisory authority over the lending or  
491 brokerage activities who has at least three years' experience in the  
492 mortgage business within the five years immediately preceding the  
493 application for the license. As used in this subdivision, "experience in  
494 the mortgage business" means paid experience in the origination,  
495 processing or underwriting of mortgage loans, the marketing of such  
496 loans in the secondary market or in the supervision of such activities,  
497 or any other relevant experience as determined by the commissioner.

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

502 (b) The commissioner may issue a mortgage lender license, a  
503 mortgage correspondent lender license, or a mortgage broker license.  
504 Each mortgage lender licensee may also act as a mortgage  
505 correspondent lender and a mortgage broker, and each mortgage  
506 correspondent lender licensee may also act as a mortgage broker. On  
507 and after July 1, 2008, an application for a license as a mortgage lender,  
508 mortgage correspondent lender or mortgage broker office or renewal  
509 of such license shall be filed with the [Nationwide Mortgage Licensing]  
510 system and the following supplementary information shall be filed  
511 directly with the commissioner: (1) In the case of an initial application  
512 for a license for the main office, [or renewal of such license,] a financial  
513 statement as of a date not more than twelve months prior to the filing  
514 of the application which reflects tangible net worth, and if such  
515 financial statement is unaudited, the proprietor, general partner, or  
516 duly authorized officer, trustee or member shall swear to its accuracy  
517 under oath before a notary public; (2) a bond as required by section

518 36a-492, as amended by this act; (3) the history of criminal convictions  
519 for the ten-year period prior to the date of application of the applicant,  
520 the partners, if the applicant is a partnership, the members, if the  
521 applicant is a limited liability company or association, or the officers  
522 and directors, if the applicant is a corporation, and the person with  
523 supervisory authority at the office for which the license is being  
524 sought; (4) evidence that the qualified individual or branch manager  
525 meets the experience required by subsection (a) of this section; and  
526 [(4)] (5) such other information pertaining to the applicant, the  
527 applicant's background, the background of its principals, employees,  
528 and mortgage loan originators, and the applicant's activities as the  
529 commissioner may require. For the purpose of this subsection,  
530 evidence of experience of the qualified individual or branch manager  
531 shall include: (A) A statement specifying the duties and responsibilities  
532 of such person's employment, the term of employment, including  
533 month and year, and the name, address and telephone number of a  
534 supervisor, employer or, if self-employed, a business reference; and (B)  
535 if required by the commissioner, copies of W-2 forms, 1099 tax forms  
536 or, if self-employed, 1120 corporate tax returns, signed letters from the  
537 employer on the employer's letterhead verifying such person's duties  
538 and responsibilities and term of employment including month and  
539 year, and if such person is unable to provide such letters, other proof  
540 satisfactory to the commissioner that such person meets the experience  
541 requirement. The commissioner may conduct a criminal history  
542 records check of the applicant, of each member, partner, officer or  
543 director of the applicant and of the person with supervisory authority  
544 at the office for which the license is sought, and require the applicant  
545 to submit the fingerprints of such persons as part of the application.  
546 The applicant shall submit such fingerprints for processing with the  
547 [Nationwide Mortgage Licensing] system, as required.

548 (c) [On and after July 1, 2008, an] An application to license a person  
549 as a mortgage loan originator for a specified office or renewal of such  
550 license shall be filed, in a form prescribed by the commissioner, with  
551 the [Nationwide Mortgage Licensing] system. [The applicant shall

552 submit such fingerprints for processing with the Nationwide Mortgage  
553 Licensing system, as required.] Each such form shall contain content as  
554 set forth by instruction or procedure of the commissioner and may be  
555 changed or updated as necessary by the commissioner in order to  
556 carry out the purpose of sections 36a-485 to 36a-498a, inclusive, as  
557 amended by this act, section 9 of this act, and sections 19 to 21,  
558 inclusive, of this act. In connection with any such application, the  
559 prospective mortgage loan originator or mortgage loan originator  
560 shall, at a minimum, furnish to the system information concerning the  
561 prospective mortgage loan originator's or mortgage loan originator's  
562 identity, including: (1) Fingerprints for submission to the Federal  
563 Bureau of Investigation, and any governmental agency or entity  
564 authorized to receive such information for a state, national and  
565 international criminal history background check; (2) personal history  
566 and experience in a form prescribed by the system, including the  
567 submission of authorization for the system and the commissioner to  
568 obtain an independent credit report obtained from a consumer  
569 reporting agency, as defined in Section 603(p) of the Fair Credit  
570 Reporting Act, 15 USC 1681a; and (3) information related to any  
571 administrative, civil or criminal findings by any governmental  
572 jurisdiction.

573 Sec. 8. Section 36a-489 of the general statutes is repealed and the  
574 following is substituted in lieu thereof (*Effective from passage*):

575 (a) [If the commissioner finds, upon] (1) Upon the filing of an  
576 application for a license as a mortgage lender, mortgage correspondent  
577 lender or mortgage broker, the commissioner may not issue a license  
578 unless the commissioner, at a minimum, finds that: [the] (A) The  
579 applicant meets the requirements of subsection (a) of section 36a-488,  
580 [and that the financial responsibility, character, reputation, integrity  
581 and general fitness of] as amended by this act; (B) the applicant has  
582 never had a mortgage lender, mortgage correspondent lender or  
583 mortgage broker license revoked in any governmental jurisdiction; (C)  
584 notwithstanding the provisions of section 46a-80, the applicant and [of]

585 the partners [thereof] if the applicant is a partnership, [of] the members  
586 if the applicant is a limited liability company or association, and [of]  
587 the officers, directors and principal employees if the applicant is a  
588 corporation [, are such as to warrant belief that the business will be  
589 operated soundly and efficiently, in the public interest and consistent  
590 with the purposes of sections 36a-485 to 36a-498a, inclusive, and  
591 sections 36a-760a to 36a-760h, inclusive, the commissioner may  
592 thereupon issue the license] have not been convicted of, or pled guilty  
593 or nolo contendere to, a felony in a domestic, foreign or military court  
594 during the seven-year period preceding the date of the application for  
595 licensing and registration, or at any time preceding such date of  
596 application, if such felony involved an act of fraud, dishonesty or a  
597 breach of trust, or money laundering, provided any conviction  
598 expunged from the record shall not be considered a conviction for  
599 purposes of this subdivision; (D) the applicant demonstrates financial  
600 responsibility, character and general fitness such as to command the  
601 confidence of the community and to warrant a determination that the  
602 mortgage lender, mortgage correspondent lender or mortgage broker  
603 will operate honestly, fairly and efficiently within the purposes of  
604 sections 36a-485 to 36a-498a, inclusive, as amended by this act; (E) in  
605 the case of an application for a license as a mortgage lender, mortgage  
606 correspondent lender or mortgage broker who is a sole proprietor and  
607 is not licensed as a mortgage loan originator, the applicant has  
608 completed the prelicensing education requirement described in section  
609 9 of this act and passed a written test that meets the test requirement  
610 described in section 9 of this act; (F) the applicant has met the surety  
611 bond requirement under section 36a-492, as amended by this act; and  
612 (G) the applicant has not made a material misstatement in the  
613 application. If the commissioner fails to make such findings, [or if the  
614 commissioner finds that the applicant has made a material  
615 misstatement in such application,] the commissioner shall not issue a  
616 license, and shall notify the applicant of the denial and the reasons for  
617 such denial. [Any denial of an application by the commissioner shall,  
618 when applicable, be subject to the provisions of section 46a-80.]

619 (2) The minimum standards for license renewal for a mortgage  
620 lender, mortgage correspondent lender or mortgage broker shall  
621 include the following: (A) The applicant continues to meet the  
622 minimum standards under subdivision (1) of this subsection, and (B)  
623 an applicant who is a sole proprietor and is not licensed as a mortgage  
624 loan originator has satisfied the annual continuing education  
625 requirements described in subsection (d) of section 9 of this act.

626 (b) (1) Upon the filing of an application for a mortgage loan  
627 originator license, the commissioner [shall license the mortgage loan  
628 originator named in the application unless the commissioner finds that  
629 such applicant or mortgage loan originator has made a material  
630 misstatement in the application or that the financial responsibility,  
631 character, reputation, integrity and general fitness of such mortgage  
632 loan originator are not such as to warrant belief that granting such  
633 license would be in the public interest and consistent with the  
634 purposes of sections 36a-485 to 36a-498a, inclusive, and sections 36a-  
635 760a to 36a-760h, inclusive] may not issue a mortgage loan originator  
636 license unless the commissioner, at a minimum, finds that the  
637 applicant has: (A) Never had a mortgage loan originator license  
638 revoked in any governmental jurisdiction; (B) notwithstanding the  
639 provisions of section 46a-80, not been convicted of, or pled guilty or  
640 nolo contendere to, a felony in a domestic, foreign or military court  
641 during the seven-year period preceding the date of the application for  
642 licensing and registration, or at any time preceding such date of  
643 application, if such felony involved an act of fraud, dishonesty or a  
644 breach of trust, or money laundering, provided any conviction  
645 expunged from the applicant's record shall not be considered a  
646 conviction for purposes of this subdivision; (C) demonstrated financial  
647 responsibility, character and general fitness such as to command the  
648 confidence of the community and to warrant a determination that the  
649 mortgage loan originator will operate honestly, fairly and efficiently  
650 within the purposes of section 9 of this act, and sections 19 to 21,  
651 inclusive, of this act and sections 36a-485 to 36a-498a, inclusive, as  
652 amended by this act; (D) completed the prelicensing education

653 requirement described in section 9 of this act and passed a written test  
654 that meets the test requirement described in section 9 of this act; (E)  
655 met the surety bond requirement under section 36a-492, as amended  
656 by this act; and (F) not made a material misstatement in the  
657 application. If the commissioner denies an application for a mortgage  
658 loan originator license, the commissioner shall notify the applicant  
659 [and the proposed mortgage loan originator] of the denial and the  
660 reasons for such denial. [Any denial of an application by the  
661 commissioner shall, when applicable, be subject to the provisions of  
662 section 46a-80.]

663 (2) The minimum standards for license renewal for a mortgage loan  
664 originator shall include the following: (A) The mortgage loan  
665 originator continues to meet the minimum standards for license  
666 issuance under subdivision (1) of this subsection, and (B) the mortgage  
667 loan originator has satisfied the annual continuing education  
668 requirements described in subsection (d) of section 9 of this act.

669 Sec. 9. (NEW) (*Effective from passage*) (a) (1) In order to meet the  
670 prelicensing education and testing requirement under section 36a-489  
671 of the general statutes, as amended by this act, a person shall complete  
672 at least twenty hours of education approved in accordance with  
673 subdivision (2) of this subsection, which shall include at least (i) three  
674 hours of instruction on relevant federal law and regulations; (ii) three  
675 hours of ethics, including instruction on fraud, consumer protection  
676 and fair lending issues; and (iii) two hours of training related to  
677 lending standards for the nontraditional mortgage product  
678 marketplace.

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

684 (3) Nothing in this subsection shall preclude any prelicensing

685 education course, as approved by the system, that is provided by the  
686 employer of the applicant or an entity which is affiliated with the  
687 applicant by an agency contract, or any subsidiary or affiliate of such  
688 employer or entity.

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

691 (5) A person who has successfully completed prelicensing education  
692 requirements listed in subdivision (1) of this subsection in another  
693 state shall be granted credit towards completion of the prelicensing  
694 requirements in this state, provided such out-of-state prelicensing  
695 education requirements are approved by the system.

696 (b) (1) In order to meet the written test requirement under section  
697 36a-489 of the general statutes, as amended by this act, an individual  
698 shall pass, in accordance with the standards established under this  
699 subsection, a qualified written test developed by the system and  
700 administered by a test provider approved by the system based upon  
701 reasonable standards.

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

710 (3) Nothing in this subsection shall prohibit a test provider  
711 approved by the system from providing a test at the location of the  
712 employer of the applicant, any subsidiary or affiliate of the employer  
713 of the applicant or any entity with which the applicant holds an  
714 exclusive arrangement to conduct the business of a mortgage loan  
715 originator.

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

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

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

728 (d) (1) In order to meet the annual continuing education  
729 requirements under subdivision (2) of subsection (b) of section 36a-489  
730 of the general statutes, as amended by this act, a licensed mortgage  
731 lender, mortgage correspondent lender, mortgage broker or mortgage  
732 loan originator shall complete at least eight hours of education  
733 approved in accordance with subdivision (2) of this subsection. Such  
734 courses shall include at least (i) three hours of instruction on relevant  
735 federal law and regulation; (ii) two hours of ethics, including  
736 instruction on fraud, consumer protection and fair lending issues; and  
737 (iii) two hours of training related to lending standards for the  
738 nontraditional mortgage product marketplace.

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

744 (3) Nothing in this subsection shall preclude any education course  
745 approved by the system that is provided by the employer of the  
746 licensee or an entity which is affiliated with the licensee by an agency

747 contract, or any subsidiary or affiliate of such employer or entity.

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

750 (5) A licensee may only receive credit for a continuing education  
751 course in the year in which the course is taken, and may not take the  
752 same approved course in the same or successive years to meet the  
753 annual requirements for continuing education.

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

758 (7) A person who has successfully completed the education  
759 requirements listed in subdivision (1) of this subsection in another  
760 state shall be granted credit towards completion of the education  
761 requirements in this state, provided such out-of-state education  
762 requirements are approved by the system.

763 (e) For purposes of this section "nontraditional mortgage product"  
764 means any mortgage product other than a thirty-year fixed rate  
765 mortgage, and "system" has the same meaning as provided in section  
766 36a-485 of the general statutes, as amended by this act.

767 Sec. 10. Section 36a-490 of the general statutes is repealed and the  
768 following is substituted in lieu thereof (*Effective from passage*):

769 (a) A mortgage lender, mortgage correspondent lender and  
770 mortgage broker license shall not be transferable or assignable. No  
771 licensee may use any name other than its legal name or a fictitious  
772 name approved by the commissioner, provided such licensee may not  
773 use its legal name if the commissioner disapproves use of such name.  
774 Any licensee who intends to permanently cease engaging in the  
775 business of making residential mortgage loans or acting as a mortgage  
776 broker at any time during a license period for any cause, including, but

777 not limited to, bankruptcy, license revocation or voluntary dissolution,  
778 shall file a surrender of the license for each office at which the licensee  
779 intends to cease to do business, on the [Nationwide Mortgage  
780 Licensing] system, not later than fifteen days after such cessation,  
781 provided this requirement shall not apply when a license has been  
782 suspended pursuant to section 36a-51.

783 (b) A mortgage lender, mortgage correspondent lender or mortgage  
784 broker licensee may change the name of the licensee or address of the  
785 office specified on the most recent filing with the [Nationwide  
786 Mortgage Licensing] system if (1) at least thirty calendar days prior to  
787 such change, the licensee files such change with the [Nationwide  
788 Mortgage Licensing] system and provides, directly to the  
789 commissioner, a bond rider or endorsement to the surety bond on file  
790 with the commissioner that reflects the new name or address of the  
791 office, and (2) the commissioner does not disapprove such change, in  
792 writing, or request further information within such thirty-day period.  
793 The licensee shall promptly file with the [Nationwide Mortgage  
794 Licensing] system or, if the information cannot be filed on the  
795 [Nationwide Mortgage Licensing] system, directly notify the  
796 commissioner, in writing, of any other change in the information  
797 provided in the most recent filing with the [Nationwide Mortgage  
798 Licensing] system.

799 (c) The mortgage lender, mortgage correspondent lender or  
800 mortgage broker licensee shall promptly file with the [Nationwide  
801 Mortgage Licensing] system or, if the information cannot be filed on  
802 the [Nationwide Mortgage Licensing] system, directly notify the  
803 commissioner, in writing, of the occurrence of any of the following  
804 developments:

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

807 (2) Filing of a criminal indictment against the licensee in any way  
808 related to the lending or brokerage activities of the licensee, or

809 receiving notification of the filing of any criminal felony indictment or  
810 felony conviction of any of the licensee's officers, directors, members,  
811 partners or shareholders owning ten per cent or more of the  
812 outstanding stock;

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

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

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

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

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

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

833 (9) Any proposed change in control in the ownership of the licensee,  
834 or among the officers, directors, members or partners of the licensee on  
835 a form provided by the commissioner. The commissioner may  
836 thereupon cause such investigation to be made as he deems necessary,  
837 as if the licensee were applying for an initial license. In the case of a  
838 corporation, "change in control" means a change of ownership by a

839 person or group acting in concert to acquire ten per cent or more of  
840 any class of voting securities, or the ability of a person or group acting  
841 in concert to elect a majority of the directors or otherwise effect a  
842 change in policy of the corporation.

843 (d) Each mortgage loan originator licensee shall promptly file with  
844 the [Nationwide Mortgage Licensing] system or, if the information  
845 cannot be filed on the [Nationwide Mortgage Licensing] system,  
846 directly notify the commissioner, in writing, of the occurrence of any of  
847 the following developments:

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

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

851 (3) Receiving notification of the institution of license or registration  
852 denial, cease and desist, suspension or revocation procedures, or other  
853 formal or informal regulatory action by any governmental agency  
854 against the mortgage loan originator licensee and the reasons therefor;  
855 or

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

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

864 Sec. 11. Section 36a-491 of the general statutes is repealed and the  
865 following is substituted in lieu thereof (*Effective from passage*):

866 (a) (1) The expiration date of any mortgage lender, mortgage  
867 correspondent lender and mortgage broker license that expires on

868 September 30, 2008, shall be extended to the close of business on  
869 December 31, 2008. On and after July 1, 2008, each mortgage lender,  
870 mortgage correspondent lender or mortgage broker license shall expire  
871 at the close of business on December thirty-first of the year in which it  
872 is approved, unless such license is renewed, and provided any such  
873 license that is approved on or after November first shall expire at the  
874 close of business on December thirty-first of the year following the  
875 year in which it is approved. An application for renewal of a license  
876 shall be filed between November first and December thirty-first of the  
877 year in which the license expires, provided a licensee may file a  
878 renewal application not later than March first of the following year  
879 together with a late fee of one hundred dollars. Any such filing after  
880 December thirty-first shall be deemed timely and sufficient for  
881 purposes of subsection (b) of section 4-182. Each applicant for a license  
882 or renewal of a license as a mortgage lender or mortgage  
883 correspondent lender shall pay to the [Nationwide Mortgage  
884 Licensing] system any required fees or charges and a license fee of  
885 eight hundred dollars, and each applicant for an initial or renewal  
886 license as a mortgage broker shall pay to the [Nationwide Mortgage  
887 Licensing] system any required fees or charges and a license fee of four  
888 hundred dollars, provided each mortgage lender or mortgage  
889 correspondent lender licensee who is a licensee on September 30, 2008,  
890 who submits a renewal application shall, at the time of making such  
891 application, pay to the [Nationwide Mortgage Licensing] system any  
892 required fees or charges and a license fee of nine hundred dollars and  
893 each mortgage broker who was a licensee on June 30, 2008, who  
894 submits a renewal application shall, at the time of making such  
895 application, pay to the [Nationwide Mortgage Licensing] system any  
896 required fees or charges and a license fee of four hundred fifty dollars.

897 (2) Each mortgage loan originator license shall expire at such time as  
898 the license of the mortgage lender, mortgage correspondent lender or  
899 mortgage broker that employs or retains the mortgage loan originator  
900 expires, unless such mortgage loan originator license is renewed. Each  
901 mortgage lender, mortgage correspondent lender or mortgage broker

902 applicant and each mortgage lender licensee, mortgage correspondent  
903 lender licensee or mortgage broker licensee that files an application for  
904 a mortgage loan originator license shall pay to the [Nationwide  
905 Mortgage Licensing] system any required fees or charges and a license  
906 fee of one hundred dollars for each mortgage loan originator, provided  
907 each mortgage lender, mortgage correspondent lender or mortgage  
908 broker who is a licensee on September 30, 2008, who submits a renewal  
909 application for a mortgage loan originator shall, at the time of making  
910 such application, pay to the [Nationwide Mortgage Licensing] system  
911 any required fees or charges and a license fee of one hundred twenty-  
912 five dollars. On and after January 1, 2010, each mortgage lender,  
913 mortgage correspondent lender or mortgage broker filing an  
914 application for a mortgage loan originator license shall pay a license  
915 fee of one hundred dollars for each mortgage loan originator and any  
916 required fees or charges to the [Nationwide Mortgage Licensing]  
917 system.

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

926 Sec. 12. Section 36a-492 of the general statutes is repealed and the  
927 following is substituted in lieu thereof (*Effective from passage*):

928 (a) No mortgage lender, mortgage correspondent lender, [or]  
929 mortgage broker or mortgage loan originator license, and no renewal  
930 thereof, shall be granted unless the applicant or prospective mortgage  
931 loan originator has filed a bond with the commissioner written by a  
932 surety authorized to write such bonds in this state, [in the sum of forty  
933 thousand dollars,] the form of which shall be approved by the

934 Attorney General. [, provided on and after August 1, 2009, the bond  
935 shall be in the sum of eighty thousand dollars.] If a mortgage loan  
936 originator is an employee or exclusive agent of a mortgage lender,  
937 mortgage correspondent lender or mortgage broker, the surety bond of  
938 such mortgage lender, mortgage correspondent lender or mortgage  
939 broker may be used in lieu of the mortgage loan originator's surety  
940 bond requirement. The minimum amount of the bond shall be one  
941 hundred thousand dollars and the maximum shall be five hundred  
942 thousand dollars. The amount of the surety bond for initial applicants  
943 shall be one hundred thousand dollars. The amount of the surety bond  
944 shall be based on the aggregate annual dollar amount of loans closed  
945 by the licensee in this state in the preceding calendar year as reflected  
946 in the annual report filed by the licensee. For an aggregate annual  
947 dollar amount of loans closed less than fifty million dollars, the  
948 amount of the surety bond shall be one hundred thousand dollars, for  
949 an aggregate annual dollar amount of loans closed of at least fifty  
950 million dollars but less than two hundred fifty million dollars, the  
951 amount of the bond shall be two hundred fifty thousand dollars, and  
952 for an aggregate annual dollar amount of loans closed of two hundred  
953 fifty million dollars and greater, the amount of the bond shall be five  
954 hundred thousand dollars. Such bond shall be conditioned upon such  
955 licensee and any mortgage loan originator who is using the surety  
956 bond of a mortgage lender, mortgage correspondent lender or  
957 mortgage broker faithfully performing any and all written agreements  
958 or commitments with or for the benefit of borrowers and prospective  
959 borrowers, truly and faithfully accounting for all funds received from a  
960 borrower or prospective borrower by the licensee in the licensee's  
961 capacity as a mortgage lender, mortgage correspondent lender, [or a]  
962 mortgage broker or mortgage loan originator, and conducting such  
963 mortgage business consistent with the provisions of sections 36a-485 to  
964 36a-498a, inclusive, as amended by this act. Any borrower or  
965 prospective borrower who may be damaged by failure to perform any  
966 written agreements or commitments, or by the wrongful conversion of  
967 funds paid by a borrower or prospective borrower to a licensee, may

968 proceed on such bond against the principal or surety thereon, or both,  
969 to recover damages. Commencing August 1, 2009, any borrower or  
970 prospective borrower who may be damaged by a licensee's failure to  
971 satisfy a judgment against the licensee arising from the making or  
972 brokering of a nonprime home loan, as defined in section 36a-760, may  
973 proceed on such bond against the principal or surety thereon, or both,  
974 to recover the amount of the judgment. The commissioner may  
975 proceed on such bond against the principal or surety thereon, or both,  
976 to collect any civil penalty imposed upon the licensee pursuant to  
977 subsection (a) of section 36a-50 and any unpaid costs of examination of  
978 the licensee as determined pursuant to section 36a-65. The proceeds of  
979 the bond, even if commingled with other assets of the licensee, shall be  
980 deemed by operation of law to be held in trust for the benefit of such  
981 claimants against the licensee in the event of bankruptcy of the licensee  
982 and shall be immune from attachment by creditors and judgment  
983 creditors. The bond shall run concurrently with the period of the  
984 license granted to the applicant, and the aggregate liability under the  
985 bond shall not exceed the penal sum of the bond. When an action is  
986 commenced on a licensee's bond, the commissioner may require the  
987 filing of a new bond and immediately upon recovery on any action on  
988 the bond, the commissioner shall require the licensee to file a new  
989 bond.

990 (b) The surety company shall have the right to cancel the bond at  
991 any time by a written notice to the licensee stating the date cancellation  
992 shall take effect. Such notice shall be sent by certified mail to the  
993 licensee at least thirty days prior to the date of cancellation. A surety  
994 bond shall not be cancelled unless the surety company notifies the  
995 commissioner in writing not less than thirty days prior to the effective  
996 date of cancellation.

997 Sec. 13. Subsection (a) of section 36a-493 of the general statutes is  
998 repealed and the following is substituted in lieu thereof (*Effective from*  
999 *passage*):

1000 (a) Each mortgage lender, mortgage correspondent lender and  
1001 mortgage broker licensee shall maintain adequate records of each  
1002 residential mortgage loan transaction at the office named in the license,  
1003 or, if requested by the commissioner, shall make such records available  
1004 at such office or send such records to the commissioner by registered  
1005 or certified mail, return receipt requested, or by any express delivery  
1006 carrier that provides a dated delivery receipt, not later than five  
1007 business days after requested by the commissioner to do so. Upon  
1008 request, the commissioner may grant a licensee additional time to  
1009 make such records available or send them to the commissioner. Such  
1010 records shall provide the following information: (1) A copy of any  
1011 disclosures required under part III of chapter 669; (2) whether the  
1012 licensee acted as a mortgage lender, a mortgage correspondent lender,  
1013 a mortgage broker, a mortgage lender and a mortgage broker, or a  
1014 mortgage correspondent lender and a mortgage broker; (3) if the  
1015 licensee is acting as a mortgage lender or mortgage correspondent  
1016 lender, and retains the residential mortgage loan or receives payments  
1017 thereon, an adequate loan history for those loans retained or upon  
1018 which payments are received, itemizing the amount and date of each  
1019 payment and the unpaid balance at all times; (4) the purpose for which  
1020 the loan was made; (5) the original or an exact copy of the note, loan  
1021 agreement or other evidence of indebtedness and mortgage deed; (6) a  
1022 statement signed by the borrower acknowledging the receipt of such  
1023 statement which discloses the full amount of any fee, commission or  
1024 consideration paid to the mortgage lender, mortgage correspondent  
1025 lender and mortgage broker for all services in connection with the  
1026 origination and settlement of the residential mortgage loan; (7) the  
1027 name and address of the mortgage lender, mortgage correspondent  
1028 lender and the mortgage broker, if any, involved in the loan  
1029 transaction; (8) a copy of the initial and a copy of the final residential  
1030 mortgage loan application taken from the borrower; and (9) a copy of  
1031 all information used in evaluating the application.

1032 Sec. 14. Section 36a-494 of the general statutes is repealed and the  
1033 following is substituted in lieu thereof (*Effective from passage*):

1034 (a) (1) The commissioner may suspend, revoke or refuse to renew  
1035 any mortgage lender, mortgage correspondent lender or mortgage  
1036 broker license or take any other action, in accordance with the  
1037 provisions of section 36a-51, for any reason which would be sufficient  
1038 grounds for the commissioner to deny an application for such license  
1039 under sections 36a-485 to 36a-498a, inclusive, as amended by this act,  
1040 or if the commissioner finds that the licensee or any proprietor,  
1041 director, officer, member, partner, shareholder, trustee, employee or  
1042 agent of such licensee has done any of the following: (A) Made any  
1043 material misstatement in the application; (B) committed any fraud,  
1044 misappropriated funds or misrepresented, concealed, suppressed,  
1045 intentionally omitted or otherwise intentionally failed to disclose any  
1046 of the material particulars of any residential mortgage loan transaction,  
1047 including disclosures required by subdivision (6) of subsection (a) of  
1048 section 36a-493, as amended by this act, or part III of chapter 669 or  
1049 regulations adopted pursuant thereto, to anyone entitled to such  
1050 information; (C) violated any of the provisions of this title or of any  
1051 regulations adopted pursuant thereto, or any other law or regulation  
1052 applicable to the conduct of its business; or (D) failed to perform any  
1053 agreement with a licensee or a borrower.

1054 (2) The commissioner may suspend, revoke or refuse to renew any  
1055 mortgage loan originator license or take any other action, in  
1056 accordance with the provisions of section 36a-51, for any reason which  
1057 would be sufficient grounds for the commissioner to deny an  
1058 application for such license under sections 36a-485 to 36a-498a,  
1059 inclusive, as amended by this act, or if the commissioner finds that the  
1060 licensee has committed any fraud, misappropriated funds,  
1061 misrepresented, concealed, suppressed, intentionally omitted or  
1062 otherwise intentionally failed to disclose any of the material particulars  
1063 of any residential mortgage loan transaction or has violated any of the  
1064 provisions of this title or of any regulations adopted pursuant to such  
1065 title or any other law or regulation applicable to the conduct of such  
1066 licensee's business.

1067 (b) Whenever it appears to the commissioner that any person has  
1068 violated, is violating or is about to violate any of the provisions of  
1069 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any  
1070 regulation adopted pursuant thereto, or any licensee has failed to  
1071 perform any agreement with a borrower, committed any fraud,  
1072 misappropriated funds or misrepresented, concealed, suppressed,  
1073 intentionally omitted or otherwise intentionally failed to disclose any  
1074 of the material particulars of any residential mortgage loan transaction,  
1075 including disclosures required by subdivision (6) of subsection (a) of  
1076 section 36a-493, as amended by this act, or part III of chapter 669 or  
1077 regulations adopted pursuant thereto, to anyone entitled to such  
1078 information, the commissioner may take action against such person or  
1079 licensee in accordance with sections 36a-50 and 36a-52.

1080 (c) (1) Whenever the commissioner finds as the result of an  
1081 investigation that any person conducting business under sections 36a-  
1082 485 to 36a-498a, inclusive, as amended by this act: (A) Has violated  
1083 said sections or any regulation or order issued thereunder; (B) has been  
1084 convicted of a felony that would preclude licensing under said  
1085 sections; or (C) no longer demonstrates the financial responsibility,  
1086 character and general fitness to command the confidence of the  
1087 community and to warrant a determination that the person subject to  
1088 said sections will operate honestly, fairly and efficiently, the  
1089 commissioner may send notice to such person by registered or certified  
1090 mail, return receipt requested, or by any express delivery carrier that  
1091 provides a dated delivery receipt. The notice shall be deemed received  
1092 by such person on the earlier of the date of actual receipt or seven days  
1093 after mailing or sending. Any such notice shall include: (i) A statement  
1094 of the time, place and nature of the hearing; (ii) a statement of the legal  
1095 authority and jurisdiction under which the hearing is to be held; (iii) a  
1096 reference to the particular sections of the general statutes, regulations  
1097 or orders alleged to have been violated; (iv) a short and plain  
1098 statement of the matters asserted; and (v) a statement indicating that  
1099 such person may file a written request for a hearing on the matters  
1100 asserted not later than fourteen days after receipt of the notice. If the

1101 commissioner finds that the protection of borrowers requires  
1102 immediate action, the commissioner may suspend any such person  
1103 from office and require such person to take or refrain from taking such  
1104 action as in the opinion of the commissioner will effectuate the  
1105 purposes of this subsection, by incorporating a finding to that effect in  
1106 such notice. The suspension or prohibition shall become effective upon  
1107 receipt of such notice and, unless stayed by a court, shall remain in  
1108 effect until the entry of a permanent order or the dismissal of the  
1109 matters asserted.

1110 (2) If a hearing is requested within the time specified in the notice,  
1111 the commissioner shall hold a hearing upon the matters asserted in the  
1112 notice unless such person fails to appear at the hearing. After the  
1113 hearing, if the commissioner finds that any of the grounds set forth in  
1114 subparagraphs (A) to (C), inclusive, of subdivision (1) of this  
1115 subsection exist with respect to such person, the commissioner may  
1116 order the removal of such person from office and from any  
1117 employment in the mortgage business in this state. If such person fails  
1118 to appear at the hearing, the commissioner may order the removal of  
1119 such person from office and from employment in the mortgage  
1120 business in this state.

1121 Sec. 15. Section 36a-496 of the general statutes is repealed and the  
1122 following is substituted in lieu thereof (*Effective from passage*):

1123 No person engaged in the business of making residential mortgage  
1124 loans in this state, whether licensed in accordance with the provisions  
1125 of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or  
1126 exempt from licensing, shall accept applications or referral of  
1127 applicants from, or pay a fee to, any mortgage broker or mortgage loan  
1128 originator who is required to be licensed under said sections but was  
1129 not, as of the time of the performance of such mortgage broker's or  
1130 mortgage loan originator's services in connection with loans made or  
1131 to be made by the mortgage lender or mortgage correspondent lender,  
1132 licensed to act as such by the commissioner, if the mortgage lender or

1133 mortgage correspondent lender has actual knowledge that the  
1134 mortgage broker or mortgage loan originator was not licensed by the  
1135 commissioner.

1136 Sec. 16. Section 36a-497 of the general statutes is repealed and the  
1137 following is substituted in lieu thereof (*Effective from passage*):

1138 No mortgage lender licensee, mortgage correspondent lender  
1139 licensee or mortgage broker licensee shall:

1140 (1) Advertise or cause to be advertised in this state, any residential  
1141 mortgage loan in which such person intends to act only as a mortgage  
1142 broker unless the advertisement includes the following statement,  
1143 clearly and conspicuously expressed: MORTGAGE BROKER ONLY,  
1144 NOT A MORTGAGE LENDER OR MORTGAGE CORRESPONDENT  
1145 LENDER; or

1146 (2) In connection with an advertisement in this state, use (A) a  
1147 simulated check; (B) a comparison between the loan payments under  
1148 the residential mortgage loan offered and the loan payments under a  
1149 hypothetical loan or extension of credit, unless the advertisement  
1150 includes, with respect to both the hypothetical loan or extension of  
1151 credit and the residential mortgage loan being offered, the interest rate,  
1152 the loan balance, the total amount of finance charges, the total number  
1153 of payments and the monthly payment amount that would be required  
1154 to pay off the outstanding loan balance shown; (C) representations  
1155 such as "verified as eligible", "eligible", "preapproved", "prequalified"  
1156 or similar words or phrases, without also disclosing, in immediate  
1157 proximity to and in similar size print, language which sets forth  
1158 prerequisites to qualify for the residential mortgage loan, including,  
1159 but not limited to, income verification, credit check, and property  
1160 appraisal or evaluation; or (D) any words or symbols in the  
1161 advertisement or on the envelope containing the advertisement that  
1162 give the appearance that the mailing was sent by a government  
1163 agency.

1164 Sec. 17. Subsections (a) to (g), inclusive, of section 36a-498 of the  
1165 general statutes are repealed and the following is substituted in lieu  
1166 thereof (*Effective from passage*):

1167 (a) Except as provided in subsection (c) of this section, every  
1168 advance fee paid or given, directly or indirectly, to a mortgage lender,  
1169 mortgage correspondent lender or mortgage broker required to be  
1170 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as  
1171 amended by this act, shall be refundable.

1172 (b) No mortgage loan originator required to be licensed pursuant to  
1173 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall  
1174 accept payment of any advance fee except an advance fee on behalf of  
1175 a mortgage lender, mortgage correspondent lender or mortgage broker  
1176 licensee. Nothing in this subsection shall be construed as prohibiting  
1177 the mortgage lender, mortgage correspondent lender or mortgage  
1178 broker licensee from paying a mortgage loan originator all or part of  
1179 an advance fee, provided such advance fee paid is not refundable  
1180 under this section.

1181 (c) Subsection (a) of this section shall not apply if: (1) The person  
1182 providing the advance fee and the mortgage lender, mortgage  
1183 correspondent lender or mortgage broker agree in writing that the  
1184 advance fee shall not be refundable, in whole or in part; and (2) the  
1185 written agreement complies in all respects with the provisions of  
1186 subsection (d) of this section.

1187 (d) An agreement under subsection (c) of this section shall meet all  
1188 of the following requirements to be valid and enforceable: (1) The  
1189 agreement shall be dated, signed by both parties, and be executed  
1190 prior to the payment of any advance fee; (2) the agreement shall  
1191 expressly state the total advance fee required to be paid and any  
1192 amount of the advance fee that shall not be refundable; (3) the  
1193 agreement shall clearly and conspicuously state any conditions under  
1194 which the advance fee will be retained by the mortgage lender,  
1195 mortgage correspondent lender or mortgage broker; (4) the term

1196 "nonrefundable" shall be used to describe each advance fee or portion  
1197 thereof to which the term is applicable, and shall appear in boldface  
1198 type in the agreement each time it is used; and (5) the form of the  
1199 agreement shall (A) be separate from any other forms, contracts, or  
1200 applications utilized by the mortgage lender, mortgage correspondent  
1201 lender or mortgage broker, (B) contain a heading in a size equal to at  
1202 least ten-point boldface type that shall title the form "AGREEMENT  
1203 CONCERNING NONREFUNDABILITY OF ADVANCE FEE", (C)  
1204 provide for a duplicate copy which shall be given to the person paying  
1205 the advance fee at the time of payment of the advance fee, and (D)  
1206 include such other specifications as the commissioner may by  
1207 regulation prescribe.

1208 (e) An agreement under subsection (c) of this section that does not  
1209 meet the requirements of subsection (d) of this section shall be  
1210 voidable at the election of the person paying the advance fee.

1211 (f) (1) No mortgage lender, mortgage correspondent lender or  
1212 mortgage broker required to be licensed pursuant to sections 36a-485  
1213 to 36a-498a, inclusive, as amended by this act, shall enter into an  
1214 agreement with or otherwise require any person to pay the mortgage  
1215 lender, mortgage correspondent lender or mortgage broker for any fee,  
1216 commission or other valuable consideration lost as a result of such  
1217 person failing to consummate a residential mortgage loan, provided  
1218 the mortgage lender, mortgage correspondent lender or mortgage  
1219 broker may collect such fee, commission or consideration as an  
1220 advance fee subject to the requirements of this section.

1221 (2) No mortgage broker required to be licensed pursuant to sections  
1222 36a-485 to 36a-498a, inclusive, as amended by this act, shall enter into  
1223 an agreement with or otherwise require any person to pay the  
1224 mortgage broker any fee, commission or other valuable consideration  
1225 for the prepayment of the principal of a residential mortgage loan by  
1226 such person before the date on which the principal is due.

1227 (g) (1) For the purposes of this subsection:

1228 (A) "Unfair or deceptive act or practice" means (i) the failure to  
1229 clearly and conspicuously state in the initial phase of the solicitation  
1230 that the solicitor is not affiliated with the mortgage lender, mortgage  
1231 correspondent lender or mortgage broker with which the consumer  
1232 initially applied, (ii) the failure to clearly and conspicuously state in  
1233 the initial phase of the solicitation that the solicitation is based on  
1234 personal information about the consumer that was purchased, directly  
1235 or indirectly, from a consumer reporting agency without the  
1236 knowledge or permission of the mortgage lender, mortgage  
1237 correspondent lender or mortgage broker with which the consumer  
1238 initially applied, (iii) the failure in the initial solicitation to comply  
1239 with the provisions of the federal Fair Credit Reporting Act relating to  
1240 prescreening solicitations that use consumer reports, including the  
1241 requirement to make a firm offer of credit to the consumer, or (iv)  
1242 knowingly or negligently using information from a mortgage trigger  
1243 lead (I) to solicit consumers who have opted out of prescreened offers  
1244 of credit under the federal Fair Credit Reporting Act, or (II) to place  
1245 telephone calls to consumers who have placed their contact  
1246 information on a federal or state Do Not Call list; and

1247 (B) "Mortgage trigger lead" means a consumer report obtained  
1248 pursuant to Section 604 (c)(1)(B) of the federal Fair Credit Reporting  
1249 Act, 15 USC 1681b, where the issuance of the report is triggered by an  
1250 inquiry made with a consumer reporting agency in response to an  
1251 application for credit. "Mortgage trigger lead" does not include a  
1252 consumer report obtained by a mortgage lender or mortgage  
1253 correspondent lender that holds or services existing indebtedness of  
1254 the applicant who is the subject of the report.

1255 (2) No mortgage lender, mortgage correspondent lender, mortgage  
1256 broker or mortgage loan originator shall engage in an unfair or  
1257 deceptive act or practice in soliciting an application for a residential  
1258 mortgage loan when such solicitation is based, in whole or in part, on  
1259 information contained in a mortgage trigger lead. Any violation of this  
1260 subsection shall be deemed an unfair or deceptive trade practice under

1261 subsection (a) of section 42-110b.

1262 Sec. 18. Section 36a-555 of the general statutes is repealed and the  
1263 following is substituted in lieu thereof (*Effective from passage*):

1264 No person shall engage in the business of making loans of money or  
1265 credit in the amount or to the value of fifteen thousand dollars or less  
1266 for loans made under section 36a-563 or section 36a-565, and charge,  
1267 contract for or receive a greater rate of interest, charge or consideration  
1268 than twelve per cent per annum therefor, unless licensed to do so by  
1269 the commissioner pursuant to sections 36a-555 to 36a-573, inclusive, as  
1270 amended by this act. The provisions of this section shall not apply to  
1271 (1) a bank, (2) an out-of-state bank, (3) a Connecticut credit union, (4) a  
1272 federal credit union, (5) an out-of-state credit union, (6) a savings and  
1273 loan association wholly owned subsidiary service corporation, (7) a  
1274 person to the extent that such person makes loans for agricultural,  
1275 commercial, industrial or governmental use or extends credit through  
1276 an open-end credit plan, as defined in subdivision (8) of subsection (a)  
1277 of section 36a-676, for the retail purchase of consumer goods or  
1278 services, (8) a mortgage lender or mortgage correspondent lender  
1279 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as  
1280 amended by this act, when making [first] residential mortgage loans,  
1281 as defined in section 36a-485, as amended by this act, or (9) a licensed  
1282 pawnbroker.

1283 Sec. 19. (NEW) (*Effective from passage*) (a) In addition to any  
1284 authority allowed under title 36a of the general statutes, the Banking  
1285 Commissioner shall have the authority to conduct investigations and  
1286 examinations as follows:

1287 (1) For purposes of initial licensing, license renewal, license  
1288 suspension, license conditioning, license revocation or termination, or  
1289 general or specific inquiry or investigation to determine compliance  
1290 with sections 36a-485 to 36a-498a, inclusive, of the general statutes, as  
1291 amended by this act, the commissioner may access, receive and use  
1292 any books, accounts, records, files, documents, information or

1293 evidence including, but not limited to: (A) Criminal, civil and  
1294 administrative history information, including nonconviction data; (B)  
1295 personal history and experience information including independent  
1296 credit reports obtained from a consumer reporting agency described in  
1297 Section 603(p) of the federal Fair Credit Reporting Act, 15 USC 1681a;  
1298 and (C) any other documents, information or evidence the  
1299 commissioner deems relevant to the inquiry or investigation regardless  
1300 of the location, possession, control or custody of such documents,  
1301 information or evidence.

1302 (2) For the purposes of investigating violations or complaints arising  
1303 under sections 36a-485 to 36a-498a, inclusive, of the general statutes, as  
1304 amended by this act, or for the purposes of examination, the  
1305 commissioner may review, investigate or examine any mortgage  
1306 lender, mortgage correspondent lender, mortgage broker and  
1307 mortgage loan originator subject to said sections as often as necessary  
1308 in order to carry out the purposes of said sections. The commissioner  
1309 may direct, subpoena or order the attendance of and examine under  
1310 oath all persons whose testimony may be required about the loans or  
1311 the business or subject matter of any such examination or  
1312 investigation, and may direct, subpoena or order such person to  
1313 produce books, accounts, records, files and any other documents the  
1314 commissioner deems relevant to the inquiry.

1315 (b) Each mortgage lender, mortgage correspondent lender,  
1316 mortgage broker and mortgage loan originator subject to sections 36a-  
1317 485 to 36a-498a, inclusive, of the general statutes, as amended by this  
1318 act, shall make available to the commissioner, upon request, the books  
1319 and records relating to the operations of such a licensee, individual or  
1320 person. The commissioner shall have access to such books and records  
1321 and interview the officers, principals, mortgage loan originators,  
1322 employees, independent contractors, agents and customers of such  
1323 mortgage lender, mortgage correspondent lender, mortgage broker  
1324 and mortgage loan originator concerning their business.

1325 (c) Each mortgage lender, mortgage correspondent lender,  
1326 mortgage broker and mortgage loan originator subject to sections 36a-  
1327 485 to 36a-498a, inclusive, of the general statutes, as amended by this  
1328 act, shall make or compile reports or prepare other information as  
1329 directed by the commissioner in order to carry out the purposes of this  
1330 section including accounting compilations, information lists and data  
1331 concerning loan transactions in a format prescribed by the  
1332 commissioner or such other information the commissioner deems  
1333 necessary to carry out the purposes of this section.

1334 (d) In making any examination or investigation authorized by this  
1335 section, the commissioner may control access to any documents and  
1336 records of the licensee or person under examination or investigation.  
1337 The commissioner may take possession of the documents and records  
1338 or place a person in exclusive charge of the documents and records in  
1339 the place where they are usually kept. During the period of control, no  
1340 individual or person shall remove or attempt to remove any of the  
1341 documents and records except pursuant to a court order or with the  
1342 consent of the commissioner. Unless the commissioner has reasonable  
1343 grounds to believe the documents or records of the licensee have been,  
1344 or are at risk of being, altered or destroyed for purposes of concealing  
1345 a violation of sections 36a-485 to 36a-498a, inclusive, of the general  
1346 statutes, as amended by this act, or section 20 of this act, the licensee or  
1347 owner of the documents and records shall have access to the  
1348 documents or records as necessary to conduct its ordinary business  
1349 affairs.

1350 (e) In order to carry out the purposes of this section, the  
1351 commissioner may:

1352 (1) Retain attorneys, accountants or other professionals and  
1353 specialists as examiners, auditors or investigators to conduct or assist  
1354 in the conduct of examinations or investigations;

1355 (2) Enter into agreements or relationships with other government  
1356 officials or regulatory associations in order to improve efficiencies and

1357 reduce regulatory burden by sharing resources, standardized or  
1358 uniform methods or procedures, and documents, records, information  
1359 or evidence obtained under this section;

1360 (3) Use, hire, contract or employ public or privately available  
1361 analytical systems, methods or software to examine or investigate the  
1362 mortgage lender, mortgage correspondent lender, mortgage broker or  
1363 mortgage loan originator subject to sections 36a-485 to 36a-498a,  
1364 inclusive, of the general statutes, as amended by this act;

1365 (4) Accept and rely on examination or investigation reports made by  
1366 other government officials, within or without this state;

1367 (5) Accept audit reports made by an independent certified public  
1368 accountant for the mortgage lender, mortgage correspondent lender,  
1369 mortgage broker or mortgage loan originator subject to sections 36a-  
1370 485 to 36a-498a, inclusive, of the general statutes, as amended by this  
1371 act, in the course of that part of the examination covering the same  
1372 general subject matter as the audit and may incorporate the audit  
1373 report in the report of the examination, report of investigation or other  
1374 writing of the commissioner; or

1375 (6) Assess the mortgage lender, mortgage correspondent lender,  
1376 mortgage broker or mortgage loan originator subject to sections 36a-  
1377 485 to 36a-498a, inclusive, of the general statutes, as amended by this  
1378 act, the cost of the services in subsection (a) of this section.

1379 (f) The authority of this section shall remain in effect, whether such  
1380 a mortgage lender, mortgage correspondent lender, mortgage broker  
1381 or mortgage loan originator subject to sections 36a-485 to 36a-498a,  
1382 inclusive, of the general statutes, as amended by this act, acts or claims  
1383 to act under any licensing or registration law of this state, or claims to  
1384 act without such authority.

1385 (g) No licensee, individual or person subject to investigation or  
1386 examination under this section may knowingly withhold, abstract,

1387 remove, mutilate, destroy or secrete any books, records, computer  
1388 records or other information.

1389 Sec. 20. (NEW) (*Effective from passage*) No person or individual  
1390 subject to sections 36a-485 to 36a-498a, inclusive, of the general  
1391 statutes, as amended by this act, may:

1392 (1) Directly or indirectly employ any scheme, device or artifice to  
1393 defraud or mislead borrowers or lenders or to defraud any person;

1394 (2) Engage in any unfair or deceptive practice toward any person;

1395 (3) Obtain property by fraud or misrepresentation;

1396 (4) Solicit or enter into a contract with a borrower that provides in  
1397 substance that such person or individual may earn a fee or commission  
1398 through "best efforts" to obtain a loan even though no loan is actually  
1399 obtained for the borrower;

1400 (5) Solicit, advertise or enter into a contract for specific interest rates,  
1401 points or other financing terms unless the terms are actually available  
1402 at the time of soliciting, advertising or contracting;

1403 (6) Conduct any business as a mortgage lender, mortgage  
1404 correspondent lender, mortgage broker or mortgage loan originator  
1405 without holding a valid license as required under sections 36a-485 to  
1406 36a-498a, inclusive, of the general statutes, as amended by this act, or  
1407 assist or aide and abet any person in the conduct of business as a  
1408 mortgage lender, mortgage correspondent lender, mortgage broker or  
1409 mortgage loan originator without a valid license as required under  
1410 sections 36a-485 to 36a-498a, inclusive, of the general statutes, as  
1411 amended by this act;

1412 (7) Fail to make disclosures as required by sections 36a-485 to 36a-  
1413 498a, inclusive, of the general statutes, as amended by this act, and any  
1414 other applicable state or federal law including regulations thereunder;

1415 (8) Fail to comply with sections 36a-485 to 36a-498a, inclusive, of the  
1416 general statutes, as amended by this act, or rules or regulations  
1417 promulgated under said sections or fail to comply with any other state  
1418 or federal law, including the rules and regulations thereunder,  
1419 applicable to any business authorized or conducted under said  
1420 sections;

1421 (9) Make, in any manner, any false or deceptive statement or  
1422 representation including, with regard to the rates, points or other  
1423 financing terms or conditions for a residential mortgage loan, or  
1424 engage in bait and switch advertising;

1425 (10) Negligently make any false statement or knowingly and  
1426 wilfully make any omission of material fact in connection with any  
1427 information or reports filed with a governmental agency or the system,  
1428 as defined in section 36a-485 of the general statutes, as amended by  
1429 this act, or in connection with any investigation conducted by the  
1430 Banking Commissioner or another governmental agency;

1431 (11) Make any payment, threat or promise, directly or indirectly, to  
1432 any person for the purposes of influencing the independent judgment  
1433 of the person in connection with a residential mortgage loan, or make  
1434 any payment threat or promise, directly or indirectly, to any appraiser  
1435 of a property, for the purposes of influencing the independent  
1436 judgment of the appraiser with respect to the value of the property;

1437 (12) Collect, charge, attempt to collect or charge or use or propose  
1438 any agreement purporting to collect or charge any fee prohibited by  
1439 sections 36a-485 to 36a-498a, inclusive, of the general statutes, as  
1440 amended by this act;

1441 (13) Cause or require a borrower to obtain property insurance  
1442 coverage in an amount that exceeds the replacement cost of the  
1443 improvements as established by the property insurer; or

1444 (14) Fail to truthfully account for monies belonging to a party to a

1445 residential mortgage loan transaction.

1446 Sec. 21. (NEW) (*Effective from passage*) The "unique identifier", as  
 1447 defined in section 36a-485 of the general statutes, as amended by this  
 1448 act, of any person originating a residential mortgage loan shall be  
 1449 clearly shown on all residential mortgage loan application forms,  
 1450 solicitations or advertisements, including business cards or web sites,  
 1451 and any other documents as established by rule, regulation or order of  
 1452 the Banking Commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-21
Sec. 2	<i>from passage</i>	36a-485
Sec. 3	<i>from passage</i>	36a-534b
Sec. 4	<i>from passage</i>	36a-498c
Sec. 5	<i>from passage</i>	36a-486
Sec. 6	<i>from passage</i>	36a-487
Sec. 7	<i>from passage</i>	36a-488
Sec. 8	<i>from passage</i>	36a-489
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	36a-490
Sec. 11	<i>from passage</i>	36a-491
Sec. 12	<i>from passage</i>	36a-492
Sec. 13	<i>from passage</i>	36a-493(a)
Sec. 14	<i>from passage</i>	36a-494
Sec. 15	<i>from passage</i>	36a-496
Sec. 16	<i>from passage</i>	36a-497
Sec. 17	<i>from passage</i>	36a-498(a) to (g)
Sec. 18	<i>from passage</i>	36a-555
Sec. 19	<i>from passage</i>	New section
Sec. 20	<i>from passage</i>	New section
Sec. 21	<i>from passage</i>	New section

**Statement of Purpose:**

To implement the provisions of the federal S.A.F.E Mortgage Licensing Act of 2008.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*