AN ACT CONCERNING THE DEPARTMENT OF BANKING’S PROPOSAL ON MORTGAGE PRACTICES.

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

Section 1. (NEW) (Effective October 1, 2009) (a) A person commits residential mortgage fraud when, for financial gain and with the intent to defraud, such person: (1) Knowingly makes or attempts to make any material misstatement, misrepresentation or omission during the mortgage lending process with the intention that a mortgage lender, mortgage correspondent lender or mortgage broker, as defined in section 36a-485 of the general statutes, a borrower or any other person that is involved in the mortgage lending process will rely on such misstatement, misrepresentation or omission; (2) knowingly uses or facilitates the use or attempts to use or facilitate the use of any misstatement, misrepresentation or omission during the mortgage lending process with the intention that a mortgage lender, mortgage correspondent lender, as defined in section 36a-485 of the general statutes, borrower or any other person that is involved in the mortgage lending process relies on it; (3) receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing
that the person knew or should have known resulted from an act or
acts constituting residential mortgage fraud; or (4) conspires with or
solicits another to engage in an act or acts constituting residential
mortgage fraud.

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

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

For purposes of this subsection, (A) "mortgage lending process"
means the process through which an individual seeks or obtains a
residential mortgage loan, including solicitation, application,
origination, negotiation of terms, underwriting, signing, closing and
funding of a residential mortgage loan and services provided incident
to such mortgage loan, including the appraisal of the residential
property; and (B) "residential property" means "residential property"
as defined in section 36a-485 of the general statutes.

(c) It shall be sufficient in any prosecution for residential mortgage
fraud to show that the party accused did the act with the intent to
deceive or defraud. It shall be unnecessary to show that any particular
person was harmed financially in the transaction or that the person to
whom the deliberate misstatement, misrepresentation or omission was
made relied upon the misstatement, misrepresentation or omission.
For purposes of this section, the residential mortgage fraud is
committed: (1) In the county in which the residential real property for
which the mortgage loan is being sought is located; (2) in the county in
which any act was performed in furtherance of residential mortgage
fraud; (3) in any county in which any person alleged to have engaged
in an act that constitute residential mortgage fraud had control or
possession of any proceeds of such residential mortgage fraud; (4) if a
closing occurred, in any county in which the closing occurred; or (5) in
any county in which a document containing a deliberate misstatement,
representation or omission is filed with an official registrar.
Sec. 2. (NEW) (Effective October 1, 2009) (a) All real and personal property of every kind used or intended for use in the course of, derived from or realized through an act of residential mortgage fraud under section 1 of this act shall be subject to forfeiture to the state as set forth in section 54-72 of the general statutes, provided the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a mortgage lender or mortgage correspondent lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property without knowledge of the act or acts constituting residential mortgage fraud.

(b) In addition to the penalty prescribed under section 1 of this act, courts may order restitution to any person that has suffered a financial loss due to any act or acts constituting residential mortgage fraud.

(c) In the absence of fraud, bad faith or malice, a person shall not be subject to an action for civil liability for filing reports or furnishing other information regarding suspected residential mortgage fraud under section 1 of this act to a regulatory or law enforcement agency.

Sec. 3. Section 36a-3 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2009):

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

T1  "Account". Sections 36a-155 and 36a-365.
T2  "Additional proceeds". Section 36a-746e.
T3  "Administrative expense". Section 36a-237.
T4  "Advance fee". Sections 36a-485 and 36a-615.
T5  "Advertise" or "advertisement". Section 36a-485.
T6  "Agency bank". Section 36a-285.
T7  ["Alternative mortgage loan". Section 36a-265.]
T8  "Amount financed". Section 36a-690.
"Annual percentage rate". Section 36a-690.
"Annual percentage yield". Section 36a-316.
"Annuities". Section 36a-455a.
"Applicant". Section 36a-736.
"APR". Section 36a-746a.
"Assessment area". Section 36a-37.
"Assets". Section 36a-70.
"Associate". Section 36a-184.
"Associated member". Section 36a-458a.
"Bank". Section 36a-30.
"Bankers' bank". Section 36a-70.
"Banking business". Section 36a-425.
"Basic services". Section 36a-437a.
"Billing cycle". Section 36a-565.
"Bona fide nonprofit organization". Section 36a-655.
"Branch". Sections 36a-145, 36a-410 and 36a-435b.
"Branch office". Section 36a-485.
"Branch or agency net payment entitlement". Section 36a-428n.
"Branch or agency net payment obligation". Section 36a-428n.
"Broker". Section 36a-746a.
"Business and industrial development corporation". Section 36a-626.
"Business and property in this state". Section 36a-428n.
"Capital". Section 36a-435b.
"Cash advance". Section 36a-564.
"Cash price". Section 36a-770.
"Certificate of incorporation". Section 36a-435b.
"CHFA loan". Section 36a-760, as amended by this act.
"Closely related activities". Sections 36a-250 and 36a-455a.
"Collective managing agency account". Section 36a-365.
"Commercial vehicle". Section 36a-770.
"Community bank". Section 36a-70.
"Community credit union". Section 36a-37.
"Community development bank". Section 36a-70.
"Community reinvestment performance". Section 36a-37.

"Connecticut holding company". Sections 36a-53 and 36a-410.

"Consolidate". Section 36a-145.

"Construction loan". Section 36a-458a.

"Consumer". Sections 36a-155, 36a-676 and 36a-695.

"Consumer Credit Protection Act". Section 36a-676.

"Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.

"Consumer collection agency". Section 36a-800.

"Consummation". Section 36a-746a.

"Controlling interest". Section 36a-276.

"Conventional mortgage rate". Section 36a-760, as amended by this act.

"Corporate". Section 36a-435b.

"Credit". Sections 36a-645 and 36a-676.

"Credit manager". Section 36a-435b.

"Creditor". Sections 36a-676, 36a-695 and 36a-800.

"Credit card", "cardholder" and "card issuer". Section 36a-676.

"Credit clinic". Section 36a-700.

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

"Credit report". Section 36a-695.

"Credit sale". Section 36a-676.

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

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

"De novo branch". Section 36a-410.

"Debt". Section 36a-645.

"Debt adjustment". Section 36a-655.

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

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

"Debtor". Section 36a-655.

"Deliver". Section 36a-316.

"Deposit". Section 36a-316.

"Deposit account". Section 36a-316.

"Deposit account charge". Section 36a-316.
"Deposit account disclosures". Section 36a-316.

"Deposit contract". Section 36a-316.

"Deposit services". Section 36a-425.

"Depositor". Section 36a-316.

"Director". Section 36a-435b.

"Earning period". Section 36a-316.

"Electronic payment instrument". Section 36a-596.

"Eligible collateral". Section 36a-330.

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

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

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

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

"Federal Home Mortgage Disclosure Act". Section 36a-736.

"FHA loan". Section 36a-760, as amended by this act.

"Fiduciary". Section 36a-365.

"Filing fee". Section 36a-770.

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

"Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330, 36a-435b, 36a-736 and 36a-755.

"Financial records". Section 36a-41.

"First mortgage loan". Sections 36a-485, 36a-705, 36a-715 and 36a-725.

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

"Fully indexed rate". Section 36a-760b, as amended by this act.

"General facility". Section 36a-580.

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

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

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

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

"Guardian". Section 36a-365.

"High cost home loan". Section 36a-746a.

"Holder". Section 36a-596.

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

"Home banking terminal". Section 36a-170.
"Home improvement loan". Section 36a-736.
"Home purchase loan". Section 36a-736.
"Home state". Section 36a-410.
"Immediate family member". Section 36a-435b.
"Insider". Section 36a-454b.
"Installment loan contract". Sections 36a-535 and 36a-770.
"Insurance". Section 36a-455a.
"Insurance bank". Section 36a-285.
"Insurance department". Section 36a-285.
"Interest". Section 36a-316.
"Interest rate". Section 36a-316.
"Interim interest". Section 36a-746a.
"Lender". Sections 36a-746a, 36a-760, as amended by this act, [and] 36a-770, and section 4 of this act.
"Lessor". Section 36a-676.
"License". Section 36a-626.
"Licensee". Sections 36a-596 and 36a-626.
"Limited branch". Section 36a-145.
"Limited facility". Section 36a-580.
"Loan broker". Section 36a-615.
"Loss". Section 36a-330.
"Made in this state". Section 36a-770.
"Main office". Section 36a-485.
"Managing agent". Section 36a-365.
"Manufactured home". Section 36a-457b.
"Material litigation". Section 36a-596.
"Member". Section 36a-435b.
"Member business loan". Section 36a-458a.
"Member in good standing". Section 36a-435b.
"Membership share". Section 36a-435b.
"Mobile branch". Section 36a-435b.
"Money order". Section 36a-596.
"Money transmission". Section 36a-365.
"Mortgage". Section 36a-760g.
"Mortgage broker". Sections 36a-485, 36a-705 and 36a-760, as amended by this act.

"Mortgage correspondent lender". Section 36a-485.

"Mortgage insurance". Section 36a-725.

"Mortgage lender". Sections 36a-485, 36a-705 and 36a-725.

"Mortgage loan". Sections 36a-261, 36a-265, as amended by this act, 36a-457b.

36a-485 and 36a-736.

"Mortgage loan originator". Section 36a-485.

"Mortgage rate lock-in". Section 36a-705.

"Mortgage servicing company". Section 36a-715.

"Mortgagor". Section 36a-715.

"Motor vehicle". Section 36a-770.

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

"Municipality". Section 36a-800.

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

"Net worth". Sections 36a-441a, 36a-458a and 36a-596.

"Network". Section 36a-155.

"Nonprime home loan". Section 36a-760, as amended by this act.

"Nonrefundable". Section 36a-498, as amended by this act.

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

"Office". Sections 36a-23, 36a-316 and 36a-485.

"Officer". Section 36a-435b.

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

"Open-end line of credit". Section 36a-760, as amended by this act.

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

"Organization". Section 36a-800.

"Out-of-state holding company". Section 36a-410.

"Outstanding". Section 36a-596.

"Passbook savings account". Section 36a-316.

"Payment instrument". Section 36a-596.

"Periodic statement". Section 36a-316.

"Permissible investment". Section 36a-596.

"Person". Section 36a-184.
"Post". Section 36a-316.
"Prepaid finance charge". Section 36a-746a.
"Prime quality". Section 36a-596.
"Principal amount of the loan". Section 36a-485.
"Processor". Section 36a-155.
"Public deposit". Section 36a-330.
"Purchaser". Section 36a-596.
"Qualified financial contract". Section 36a-428n.
"Qualified public depository" and "depository". Section 36a-330.
"Real estate". Section 36a-457b.
"Records". Section 36a-17.
"Related person". Section 36a-53.
"Relocate". Sections 36a-145 and 36a-462a.
"Residential property". Section 36a-485.
"Retail buyer". Sections 36a-535 and 36a-770.
"Retail credit transaction". Section 42-100b.
"Retail installment contract". Sections 36a-535 and 36a-770.
"Retail installment sale". Sections 36a-535 and 36a-770.
"Retail seller". Sections 36a-535 and 36a-770.
["Reverse annuity mortgage loan". Section 36a-265.]
"Reverse mortgage". Section 4 of this act.
"Sales finance company". Sections 36a-535 and 36a-770.
"Savings department". Section 36a-285.
"Savings deposit". Section 36a-316.
"Secondary mortgage loan". Section 36a-485.
"Security convertible into a voting security". Section 36a-184.
"Senior management". Section 36a-435b.
"Share". Section 36a-435b.
"Simulated check". Section 36a-485.
"Single common bond membership". Section 36a-435b.
"Special mortgage". Section 36a-760c, as amended by this act.
"Social purpose investment". Section 36a-277.
"Standard mortgage loan". Section 36a-265, as amended by this act.
"Table funding agreement". Section 36a-485.
Sec. 4. Section 36a-265 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2009):

(a) (1) "Mortgage loan" means a loan secured by a first mortgage on one, two, three or four family, owner-occupied residential real property;

(2) "Standard mortgage loan" means a mortgage loan authorized by section 36a-261 or section 36a-457b for the Connecticut bank or Connecticut credit union making such loan; and

[(3) "Alternative mortgage loan" means a mortgage loan which is a reverse annuity mortgage loan or graduated payment mortgage loan, other than a standard mortgage loan;

(4) "Reverse annuity mortgage loan" means a mortgage loan in which loan proceeds are advanced to the mortgagors, in installments, either directly or indirectly, and which together with unpaid interest, if any, is to be repaid in accordance with subdivision (2) of subsection (e) of this section; and]

[(5)] (3) "Graduated payment mortgage loan" means a mortgage loan, other than a standard mortgage loan, in which principal and interest payments, if any, and the making of additional advances, if any, are designed to reflect the prospective increasing or decreasing income of the mortgagor.

(b) Notwithstanding any other provision of the general statutes,
Connecticut banks and Connecticut credit unions may make graduated payment mortgage loans in accordance with this section. The provisions of the general statutes governing standard mortgage loans by a Connecticut bank or Connecticut credit union making such loans shall apply to graduated payment mortgage loans unless inconsistent with the provisions of this section. Nothing in this section shall be construed to prohibit a Connecticut bank or Connecticut credit union from making any loan which is not a graduated payment mortgage loan, provided such loan otherwise complies with the general statutes.

(c) A Connecticut bank or Connecticut credit union making a graduated payment mortgage loan may contract with the mortgagor for interest to be paid currently or to accrue, and if accrued, for accrued interest to be added to the mortgage debt on which interest may be charged and collected. Such accrued interest which is added to the mortgage debt shall be secured by the mortgage to the same extent as the principal of such graduated payment mortgage debt. No instrument evidencing a graduated payment mortgage loan and no deed granting a graduated payment mortgage shall contain any provision imposing a penalty for prepayment of such loan.

(d)(1) Each Connecticut bank and Connecticut credit union that offers or makes any type of graduated payment mortgage loan shall disclose to each person who requests an application for a mortgage loan or who states that such person is a prospective mortgage loan applicant information concerning all types of mortgage loans, including each type of graduated payment mortgage loan, offered by such bank or credit union as the commissioner may prescribe by regulations. The commissioner may prescribe forms for such disclosure.

(2) Each prospective mortgage loan applicant shall have the choice of applying for a standard mortgage loan or any type of graduated payment mortgage loan.
graduated payment mortgage loan offered by such Connecticut bank or Connecticut credit union.

(e) (1) If the mortgagee or its assignee and the mortgagor agree, any installment payment of either the loan proceeds or any annuity purchased with the loan proceeds of a reverse annuity mortgage loan may be reduced by an amount used for partial repayment of the mortgage debt, except as provided in subdivision (2) of this subsection.

(A) Notwithstanding any such reduction, each mortgagor shall receive a cash payment in each installment for the term of the annuity or, if no annuity, for the term during which the mortgagee contracted with the mortgagor to advance loan proceeds; and

(B) No repayments of any part of the mortgage debt shall be required from the mortgagor after termination of the period during which loan proceeds or any annuity purchased with the loan proceeds are advanced to the mortgagor.

(2) If the mortgagee or its assignee and the mortgagor agree, and at the option of the mortgagee, advances under a reverse annuity mortgage loan may terminate and the entire unpaid balance of the loan plus accrued interest may become due and payable upon the occurrence of any of the following events:

(A) The death of the last surviving mortgagor;

(B) The sale or other transfer of the real estate securing the loan to a person other than any of the original mortgagors; or

(C) Any other occurrence which materially decreases the value of the property securing the loan or which will have the likely effect of causing the loan not to be repaid. Any such additional occurrence shall be clearly recited in the mortgage deed.

(f) Every graduated payment mortgage loan offered or made by a Connecticut bank or Connecticut credit union shall provide for...
interest at a specified rate or a series of specified rates.

[(g)] [(f)] The commissioner may adopt such regulations pursuant to chapter 54 as the commissioner deems necessary to carry out the provisions of this section.

Sec. 5. (NEW) (Effective October 1, 2009) (a) As used in this section:

(1) "Reverse mortgage" means a nonrecourse loan secured by real property which provides cash advances to a borrower based on the equity in a borrower's owner-occupied principal residence in this state and requires no payment of principal or interest until the entire loan becomes due and payable; and

(2) "Lender" means a "Connecticut bank" or "Connecticut credit union", as defined in section 36a-2 of the general statutes, or a person licensed as a mortgage lender or mortgage correspondent lender pursuant to sections 36a-485 to 36a-498a, inclusive, of the general statutes, as amended by this act.

(b) No person shall make a reverse mortgage loan, except as authorized under federal law or under the provisions of this section.

(c) A lender may make or acquire a reverse mortgage loan made to an owner of real estate improved with a dwelling designed to be occupied by not more than four families, pursuant to a program for reverse mortgage loans that has been submitted to and approved by the commissioner, provided such owner is at least sixty years of age and occupies the mortgaged real estate in whole or in part. A person shall be considered to be the owner of real estate notwithstanding that legal title thereto is held in the name of a trust if the person is the beneficiary of such trust.

(d) The proceeds from a reverse mortgage loan shall be disbursed to the borrower pursuant to the approved program, and together with unpaid interest, if any, shall become due and payable: (1) At the end of a fixed term, if any; (2) upon the death of the borrower; (3) upon the
conveyance of title to the mortgaged real estate; (4) upon the borrower
ceasing to occupy the real estate as a principal dwelling; or (5) upon
default by the borrower in the performance of its obligations under the
loan agreement.

(e) The program for reverse mortgage loans submitted to the
commissioner shall include the following:

(1) A description of the type of loan, including whether it is open-
end or closed;

(2) A provision that an applicant for the loan shall not be bound for
seven days after the applicant's acceptance, in writing, of the lender's
written commitment to make the loan;

(3) A provision requiring the lender to obtain a written statement
signed by the borrower acknowledging receipt of disclosure of all
contractual contingencies that could force a sale of the mortgaged real
estate;

(4) A provision permitting prepayment of the loan without penalty
at any time before the loan becomes due and payable;

(5) The interest rate, which may be fixed or variable, and the method
of calculation thereof, which shall be established at loan origination
and, at the option of the borrower, may be contingent on the value of
the mortgaged real estate at closing or at maturity or on changes in the
value during the period between closing and maturity;

(6) The method of disbursement of the proceeds of the loan to the
borrower; but, at the request of the borrower, disbursement may be
made to a third party pursuant to the terms of the loan agreement;

(7) A copy of the form of the note and mortgage deed that will be
utilized for the loans;

(8) A detailed description of how the reverse mortgage program will
(9) Any other information the commissioner may require.

(f) Before making a reverse mortgage loan, the lender shall provide a prospective borrower with written materials explaining in plain language the type of loan being offered and its specific terms, including, but not limited to:

(1) A schedule, if applicable, and explanation of payments to the borrower pursuant to the terms of the mortgage agreement and whether or not property taxes and insurance premiums are to be deducted;

(2) A schedule of outstanding debt over time, if applicable;

(3) The repayment date, if a fixed term loan, and other provisions which cause the loan to become due and payable;

(4) The method of repayment and schedule, if any;

(5) All contractual contingencies, including lack of home maintenance and other default provisions that may result in a forced sale of the mortgaged property;

(6) The interest rate and annual percentage rate, and for a reverse mortgage loan for a specified term, the total interest payable thereon;

(7) The loan fees and charges;

(8) A description of prepayment and, if applicable, refinancing features; and

(9) A statement that the mortgage has tax and estate planning consequences and may affect levels of, or eligibility for, certain government benefits, grants or pensions, and that applicants are advised to explore those matters with appropriate authorities.
(g) A lender shall not make a reverse mortgage loan as provided in this section until it has received a notice, in writing, that the prospective borrower has completed a reverse mortgage counseling program that includes instruction on reverse mortgage loans. Such instruction shall include, but not be limited to, the subject matter of subdivisions (1) to (9), inclusive, of subsection (e) of this section with respect to all reverse mortgage loan programs approved by the commissioner pursuant to this section.

(h) A reverse mortgage loan shall constitute a lien against the property securing the loan to the extent of all advances made pursuant to the reverse mortgage and all interest accrued on the advances, and the lien shall have priority over any lien filed or recorded after recordation of a reverse mortgage loan.

Sec. 6. Subsection (a) of section 36a-760 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2009):

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

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

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

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

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

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

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

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

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

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

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

(D) In which the principal amount of the loan does not exceed (i) four hundred seventeen thousand dollars for a loan originated on or after July 1, 2008, but before July 1, 2010; and (ii) the then current conforming loan limit, as established from time to time by the Federal National Mortgage Association, for a loan originated on or after July 1,
298 2010;

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

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

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

(ii) The difference between the APR for the loan and the conventional mortgage rate is either equal to or greater than (I) one and three-quarters percentage points, if the loan is a first mortgage loan, or (II) three and three-quarters percentage points, if the loan is a secondary mortgage loan. For purposes of such calculation, "conventional mortgage rate" means the most recent daily contract interest rate on commitments for fixed-rate mortgages published by the board of governors of the federal reserve system in its statistical release H.15, or any publication that may supersede it, during the week in which the interest rate for the loan is set.]
(F) (i) The difference between the APR for the loan or extension of credit and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than one and one-half percentage points if the loan is a first mortgage loan or three and one-half percentage points if the loan is a secondary mortgage loan. For purposes of this subparagraph, "average prime offer rate" has the meaning as provided in 12 CFR 226.35, as amended from time to time:

[(iii)] (ii) The commissioner shall have the authority, after consideration of the relevant factors, to increase the percentages set forth in [clauses] clause (i) [and (ii)] of this subparagraph. The authority of the commissioner, and any increases or decreases made under this clause, shall expire on August 31, [2009] 2010. For purposes of this clause, the relevant factors to be considered by the commissioner shall include, but not be limited to, the existence and amount of increases in fees or charges in connection with purchases of mortgages by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and increases in fees or charges imposed by mortgage insurers and the impact, including the magnitude of the impact, that such increases have had, or will likely have, on APRs for mortgage loans in this state. When considering such factors, the commissioner shall focus on those increases that are related to the deterioration in the housing market and credit conditions. The commissioner may refrain from increasing such percentages if it appears that lenders are increasing interest rates or fees in bad faith or if increasing the percentages would be contrary to the purposes of sections 36a-760 to 36a-760f, inclusive, as amended by this act. No increase authorized by the commissioner to a particular percentage shall exceed one-quarter of one percentage point, [I] and the total of all increases to a particular percentage under this clause shall not exceed one-half of one percentage point.] No increase shall be made unless: (I) The increase is noticed in the Banking Department Bulletin and the Connecticut Law Journal, and (II) a public comment period of twenty days is provided. Any increase made under this clause shall be reduced proportionately when the need for the increase has
diminished or no longer exists. The commissioner, in the exercise of his
discretion, may authorize an increase in the percentages with respect
to all loans or just with respect to a certain class or classes of loans;

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

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

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

Sec. 7. Section 36a-760b of the general statutes is repealed and the
following is substituted in lieu thereof (Effective from passage):

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

(b) A lender's analysis of [an obligor's] a borrower's ability to repay under subsection (a) of this section may utilize commercially recognized underwriting standards and methodologies, including automated underwriting systems, provided they comply with the requirements of this subsection and subsection (a) of this section. In determining [an obligor's] a borrower's ability to repay a nonprime home loan, the lender shall take reasonable steps to verify the accuracy and completeness of information provided by or on behalf of the [obligor] borrower using tax returns, consumer reports, payroll receipts, bank records, reasonable alternative methods or reasonable third-party verification. In determining an [obligor's] borrower's ability to repay a nonprime home loan according to its terms when the loan has an adjustable rate feature, the lender shall underwrite the repayment schedule assuming that the interest rate is a fixed rate equal to the fully indexed interest rate at the time of consummation, or [within fifteen] no later than fifteen days [thereof] after the date of consummation, without considering any initial discounted rate. For purposes of this subsection, the "fully indexed rate" means the interest rate that would have been applied had the initial interest rate been determined by the application of the same interest rate formula that applies under the terms of the loan documents to subsequent interest rate adjustments, disregarding any limitations on the amount by which the interest rate may change at any one time. In determining [an obligor's] borrower's ability to repay a nonprime home loan that is not fully amortizing by its terms, the lender shall underwrite the loan based on a fully amortizing repayment schedule based on the maturity set forth in the note.

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

Sec. 8. Section 36a-760c of the general statutes is repealed and the
following is substituted in lieu thereof (Effective from passage):

[(a)] No lender shall make a nonprime home loan where all or a portion of the proceeds are used to fully or partially pay off a special mortgage on the same property unless the borrower has obtained a written certification from a counselor with an independent third-party nonprofit organization approved by the United States Department of Housing and Urban Development that the borrower has received mortgage counseling. For purposes of this section, "special mortgage" means a loan originated, subsidized or guaranteed by or through a state, federal, tribal or local government, or nonprofit organization.

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

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

Sec. 9. Section 36a-760e of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(a) A lender shall not offer a nonprime home loan that contains:

(1) A prepayment penalty, except that this prohibition shall not apply to FHA loans;
[(2) A provision that increases the interest rate after default other than a failure to comply with a provision to maintain an automatic electronic payment feature where that maintenance provision has been provided in return for an interest rate reduction and the increase is no greater than that reduction;]

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

(b) If a nonprime home loan contains a provision [which] that violates [subdivision (1), (2) or (3) of] subsection (a) of this section, that provision shall be void and unenforceable.

Sec. 10. Section 36a-489 of the general statutes is amended by adding subsection (c) as follows (Effective from passage):

(c) (NEW) Notwithstanding the provisions of this section, the commissioner may deem an application for a license as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator abandoned if the applicant fails to respond to any request for information required under sections 36a-485 to 36a-498a, inclusive, as amended by this act, or the regulations adopted pursuant to said sections. The commissioner shall notify the applicant in writing that if such information is not submitted within sixty days the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under said sections.
Sec. 11. Section 36a-498 of the general statutes is amended by adding subsection (h) as follows (Effective from passage):

(h) (NEW) No mortgage lender or mortgage correspondent lender shall include in a mortgage loan a provision that increases the interest rate after default other than a failure to comply with a provision to maintain an automatic electronic payment feature where such maintenance provision has been provided in return for an interest rate reduction and the increase is no greater than such reduction.

Sec. 12. Subsection (b) of section 36a-498a of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(b) (1) No mortgage lender or mortgage correspondent lender making a secondary mortgage loan may (A) charge, impose or cause to be paid, directly or indirectly, in connection with any secondary mortgage loan transaction, prepaid finance charges that exceed in the aggregate eight per cent of the principal amount of the loan, or (B) include in the loan agreement, under which prepaid finance charges have been assessed, any provision that permits the mortgage lender or mortgage correspondent lender to demand payment of the entire loan balance prior to the scheduled maturity, except that such loan agreement may contain a provision that permits the mortgage lender or mortgage correspondent lender to demand payment of the entire loan balance if any scheduled installment is in default for more than sixty days or if any condition of default set forth in the mortgage note exists.

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

Sec. 13. Section 36a-746c of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

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

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

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

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

[(4) An increase in the interest rate after default or default charges in excess of five per cent of the amount in default;]

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

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

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

Sec. 14. Subsection (d) of section 49-2 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2009):

(d) (1) Any mortgage to secure advancements made by a mortgagee or its assignee to a mortgagor pursuant to the terms of a mortgage securing a [reverse annuity mortgage loan, as defined in subdivision (4) of subsection (a) of section 36a-265] reverse mortgage loan, as defined in section 4 of this act, shall be sufficiently definite and certain and valid to secure all money actually advanced pursuant to and in accordance with its terms, whether at or subsequent to closing of the loan, up to but not exceeding the full amount of the loan therein authorized with the same priority as if all such money had been advanced at the time such mortgage was delivered if such mortgage sets forth: (A) That it is a ["reverse annuity mortgage loan"] "reverse mortgage loan" and contains a reference to [subdivision (4) of subsection (a) of section 36a-265] subdivision (1) of section 4 of this act:
(B) the full amount of the loan authorized; (C) a statement of the dates on which such advancements are to be made and the amounts of such advancements; and (D) the events which will give rise to the maturity of the loan.

(2) The mortgagee or its assignee and the mortgagor may subsequently modify the dates set forth in the mortgage for advancements by a writing setting forth such modification signed by the mortgagee or its assignee and the mortgagor and recorded upon the proper land records. Such modification shall in no way limit or otherwise affect the priority of such mortgage.

Sec. 15. Subsection (h) of section 36a-261 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2009):

(h) Loans not exceeding ninety per cent of the value of the real estate may be made subject to the following additional limitations set forth in subdivisions (1) and (2) of this subsection. (1) No loan shall be made until the person or persons liable on the note have filed with the bank a satisfactory financial statement which shall be kept on file. (2) All such loans shall require repayment of principal and payment of interest in at least consecutive semiannual installments of principal and interest, such payments to be sufficient to pay the loan in full not later than forty-two years from the date of the first payment and the first payment to be made within twenty-four months of the date of the note. The requirements for semiannual principal payments pursuant to this subdivision are not applicable to: (A) Consumer revolving loan agreements made pursuant to subsection (c) of section 49-2, (B) [alternative mortgage loans] graduated payment mortgage loans made pursuant to section 36a-265, as amended by this act, (C) reverse mortgage loans made pursuant to section 4 of this act, (D) loans which may be demanded at any time and which are secured by residential real estate, and [(D)] (E) any other loan or class of loans determined by the commissioner not to be subject to such requirements.
This act shall take effect as follows and shall amend the following sections:

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<th>Section</th>
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<tbody>
<tr>
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**Statement of Purpose:**
To prohibit specific acts or patterns of residential mortgage fraud and to provide criminal penalties for violations of such provisions; to amend the definition of "nonprime home loan" to make it consistent with the definition of "higher priced loans" in Federal Reserve Regulation Z; and to provide additional protections for borrowers.

[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.]