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Offered by:

REP. BARRY, 12th Dist.

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REP. HARKINS, 120th Dist.

To: Subst. Senate Bill No. 948

File No. 909

Cal. No. 700

"AN ACT CONCERNING IMPLEMENTATION OF THE S.A.F.E. MORTGAGE LICENSING ACT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 36a-21 of the general statutes is repealed and the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

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

11 (1) Examination and investigation reports and information
12 contained in or derived from such reports, including examination

13 reports prepared by the commissioner or prepared on behalf of or for
14 the use of the commissioner;

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

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

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

45 (c) No director, officer, employee or agent of any Connecticut bank
46 or Connecticut credit union shall disclose without the prior written
47 consent of the commissioner any information contained in an
48 examination report about such bank or credit union, which
49 information is not otherwise a matter of public record.

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

79 Association of Residential Mortgage Regulators or associations
80 representing governmental agencies.

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

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

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

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

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

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

107 (1) "Advance fee" means any consideration paid or given, directly or
108 indirectly, to a mortgage lender, mortgage correspondent lender or

109 mortgage broker required to be licensed pursuant to sections 36a-485
110 to 36a-498a, inclusive, as amended by this act, and sections 36a-534a
111 and 36a-534b, prior to the closing of a residential mortgage loan to any
112 person, including, but not limited to, loan fees, points, broker's fees or
113 commissions, transaction fees or similar prepaid finance charges;

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

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

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

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

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

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

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

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

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

171 ~~[(5)]~~ (11) "Main office" means the main address designated on the
172 [Nationwide Mortgage Licensing System] system;

173 [(6)] (12) "Mortgage broker" means a person who, [for a fee,
174 commission or other valuable consideration, directly or indirectly,
175 negotiates, solicits, arranges, places or finds a mortgage loan that is to
176 be made by a mortgage lender or mortgage correspondent lender,
177 whether or not the mortgage lender or mortgage correspondent lender
178 are required to be licensed under sections 36a-485 to 36a-498a,
179 inclusive] for compensation or gain or in the expectation of
180 compensation or gain (A) takes a residential mortgage loan
181 application, or (B) offers or negotiates terms of a residential mortgage
182 loan, excluding an individual who is sponsored by another mortgage
183 lender, mortgage correspondent lender or mortgage broker;

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

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

193 [(9) "Mortgage loan" means a first mortgage loan or secondary
194 mortgage loan;]

195 [(10)] (15) "Mortgage loan originator" means an individual who [is
196 employed or retained by, or otherwise acts on behalf of, a mortgage
197 lender, mortgage correspondent lender or mortgage broker licensee
198 who, for, or with the expectation of, a fee, commission or other
199 valuable consideration, takes an application for or negotiates, solicits,
200 arranges or finds a mortgage loan. "Mortgage loan originator" does not
201 include (1) an officer, if the licensee is a corporation; a general partner,
202 if the licensee is a partnership; a member, if the licensee is a limited
203 liability company; or a sole proprietor, if the licensee is a sole
204 proprietorship, or (2) an individual whose responsibilities are limited

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

228 [(11)] (16) "Office" means a branch office or a main office;

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

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

234 (19) "Real estate brokerage activity" means any activity that involves
235 offering or providing real estate brokerage services to the public,
236 including (A) acting as a real estate agent or real estate broker for a

237 buyer, seller, lessor or lessee of real property; (B) bringing together
238 parties interested in the sale, purchase, lease, rental or exchange of real
239 property; (C) negotiating, on behalf of any party, any portion of a
240 contract relating to the sale, purchase, lease, rental or exchange of real
241 property, other than in connection with providing financing with
242 respect to any such transaction; (D) engaging in any activity for which
243 a person engaged in the activity is required to be registered or licensed
244 as a real estate agent or real estate broker under any applicable law;
245 and (E) offering to engage in any activity, or act in any capacity,
246 described in this subdivision;

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

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

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

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

266 [(14)] (23) "Secondary mortgage loan" means [(A) a loan or an
267 extension of credit, including, but not limited to, an extension of credit
268 pursuant to a contract or an assigned contract for the sale of goods or

269 services, made to a natural person, the proceeds of which are to be
270 used primarily for personal, family or household purposes, and] a
271 residential mortgage loan that is secured, in whole or in part, by a
272 mortgage, [upon any interest in one-to-four-family owner-occupied
273 residential property located in this state,] provided such property is
274 subject to one or more prior mortgages; [, and (B) the renewal or
275 refinancing of any existing loan or extension of credit described in
276 subparagraph (A) of this subdivision;]

277 [(15)] (24) "Simulated check" means a document that imitates or
278 resembles a check but is not a negotiable instrument;

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

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

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

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

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

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

298 (a) [The Banking Commissioner] (1) In addition to any other duties

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

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

333 amended by this act, and sections 9 and 19 to 21, inclusive, of this act,
334 and other relevant information.

335 (3) The commissioner may establish relationships or enter into
336 contracts with the system or other entities designated by the system to
337 collect and maintain records and process transaction fees or other fees
338 related to licensees or other persons subject to sections 36a-485 to 36a-
339 498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b,
340 as amended by this act, and sections 9 and 19 to 21, inclusive, of this
341 act.

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

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

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

363 (b) (1) Each first mortgage lender license and secondary mortgage
364 lender license in existence on June 30, 2008, shall be deemed on and

365 after July 1, 2008, to be a mortgage lender license, as defined in section
366 36a-485, as amended by this act; (2) each first mortgage correspondent
367 lender license and secondary mortgage correspondent lender license in
368 existence on June 30, 2008, shall be deemed on and after July 1, 2008, to
369 be a mortgage correspondent lender license, as defined in section 36a-
370 485, as amended by this act; (3) each first mortgage broker license and
371 secondary mortgage broker license in existence on June 30, 2008, shall
372 be deemed on and after July 1, 2008, to be a mortgage broker license, as
373 defined in section 36a-485, as amended by this act; and (4) each
374 originator registration in existence on June 30, 2008, shall be deemed
375 on and after July 1, 2008, to be a mortgage loan originator license, as
376 defined in section 36a-485, as amended by this act.

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

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

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

394 (d) Notwithstanding the provisions of this section, any initial
395 application for a license submitted on the [Nationwide Mortgage
396 Licensing System] system between October 1, 2008, and December 31,

397 2008, shall not be approved by the commissioner prior to January 1,
398 2009.

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

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

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

422 (a) No person shall engage in the business of making residential
423 mortgage loans or act as a mortgage broker in this state unless such
424 person has first obtained the required license for its main office and
425 each branch office where such business is conducted in accordance
426 with the provisions of sections 36a-485 to [36a-498a] 36a-498c,
427 inclusive, as amended by this act, sections 36a-534a and 36a-534b, as
428 amended by this act, and sections 9 and 19 to 21, inclusive, of this act.

429 Effective April 1, 2010, any such person who is an individual shall also
430 obtain a mortgage loan originator license prior to conducting such
431 business unless such individual does not engage directly in the
432 activities of a mortgage loan originator. A person, other than a licensed
433 mortgage loan originator acting on behalf of [the] a mortgage lender [,]
434 or mortgage correspondent lender, [or mortgage broker, that employs
435 or retains such mortgage loan originator,] shall be deemed to be
436 engaged in the business of making residential mortgage loans if such
437 person advertises, causes to be advertised, solicits [,] or offers to make
438 [or makes] residential mortgage loans, either directly or indirectly. A
439 person, other than a licensed mortgage loan originator acting on behalf
440 of a mortgage broker, shall be deemed to be acting as a mortgage
441 broker if such person advertises or causes to be advertised that such
442 person will negotiate, solicit, place or find a residential mortgage loan,
443 either directly or indirectly. A mortgage correspondent lender shall not
444 be deemed to be acting as a mortgage lender if such mortgage
445 correspondent lender makes a loan utilizing its own funds in a
446 situation where another person does not honor such person's
447 commitment to fund the loan.

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

463 of a mortgage loan originator is not effective during any period when
464 such mortgage loan originator is not [associated with] sponsored by a
465 licensed mortgage lender, mortgage correspondent lender or mortgage
466 broker. Either the mortgage loan originator or the mortgage lender,
467 mortgage correspondent lender or mortgage broker may file a
468 notification of the termination of [employment] sponsorship of a
469 mortgage loan originator with the [Nationwide Mortgage Licensing
470 System] system.

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

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

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

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

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

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

520 (a) The following are exempt from licensing under sections 36a-485
521 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-
522 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,
523 inclusive, of this act:

524 [(1)] Any bank, out-of-state bank, Connecticut credit union, federal
525 credit union [,] or out-of-state credit union, [provided subsidiaries of
526 such institutions other than] provided such bank or credit union is
527 federally insured, any operating [subsidiaries] subsidiary of a federal
528 [banks and] bank or federally-chartered out-of-state [banks are not

529 exempt from licensure;] bank or any wholly-owned subsidiary of a
530 Connecticut bank or a Connecticut credit union. Each wholly-owned
531 subsidiary of a Connecticut bank or Connecticut credit union that
532 engages in the business of making residential mortgage loans or acts as
533 a mortgage broker in this state shall provide written notification to the
534 commissioner prior to engaging in such activity.

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

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

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

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

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

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

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

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

562 [(9)] (8) Persons acting as fiduciaries with respect to any employee
563 pension benefit plan qualified under the Internal Revenue Code of
564 1986, or any subsequent corresponding internal revenue code of the
565 United States, as from time to time amended, who make residential
566 mortgage loans solely to plan participants from plan assets; and

567 [(10)] (9) Persons making secondary mortgage loans to individuals
568 related to the maker by blood or marriage.

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

571 (a) (1) The commissioner shall not issue a mortgage lender license, a
572 mortgage correspondent lender license or a mortgage broker license to
573 any person unless such person meets the following tangible net worth
574 and experience requirements, as applicable: (A) The minimum tangible
575 net worth requirement for a mortgage lender shall be two hundred
576 fifty thousand dollars and the minimum tangible net worth
577 requirement for a mortgage correspondent lender and a mortgage
578 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,
579 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a
580 mortgage lender, mortgage correspondent lender or mortgage broker
581 shall have, at the main office for which the license is sought, a qualified
582 individual [with] and, at each branch office, a branch manager who
583 have supervisory authority over the lending or brokerage activities
584 who [has] have at least three years' experience in the mortgage
585 business within the five years immediately preceding the date of the
586 application for the license [, and at each branch office, the lender or
587 broker shall have a branch manager with supervisory authority over
588 the lending or brokerage activities who has at least three years'
589 experience in the mortgage business within the five years immediately
590 preceding the application for the license] and who, effective April 1,

591 2010, have completed the prelicensing education requirement
592 described in section 9 of this act and passed a written test that meets
593 the test requirement described in section 9 of this act. As used in this
594 subdivision, "experience in the mortgage business" means paid
595 experience in the origination, processing or underwriting of residential
596 mortgage loans, the marketing of such loans in the secondary market
597 or in the supervision of such activities, or any other relevant
598 experience as determined by the commissioner.

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

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

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

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

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

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

693 (2) Not later than April 1, 2010, each mortgage loan originator
694 licensee shall furnish to the system fingerprints for submission to the
695 Federal Bureau of Investigation and any governmental agency or
696 entity authorized to receive such information for a state, national and
697 international criminal history background check. By July 31, 2010, or
698 thirty days after the system commences accepting such authorizations
699 for processing, whichever is later, each such licensee shall furnish
700 authorization for the system and the commissioner to obtain an
701 independent credit report obtained from a consumer reporting agency
702 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC
703 1681a.

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

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

725 (b) Upon the filing of an application for a mortgage loan originator

726 license, the commissioner shall license the mortgage loan originator
727 named in the application unless the commissioner finds that such
728 applicant or mortgage loan originator has made a material
729 misstatement in the application or that the financial responsibility,
730 character, reputation, integrity and general fitness of such mortgage
731 loan originator are not such as to warrant belief that granting such
732 license would be in the public interest and consistent with the
733 purposes of sections 36a-485 to 36a-498a, inclusive, and sections 36a-
734 760a to 36a-760h, inclusive. If the commissioner denies an application
735 for a mortgage loan originator license, the commissioner shall notify
736 the applicant and the proposed mortgage loan originator of the denial
737 and the reasons for such denial. Any denial of an application by the
738 commissioner shall, when applicable, be subject to the provisions of
739 section 46a-80.]

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

760 operate honestly, fairly and efficiently within the purposes of sections
761 36a-485 to 36a-498c, inclusive, as amended by this act, sections 36a-
762 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,
763 inclusive, of this act; (D) the applicant has met the surety bond
764 requirement under section 36a-492, as amended by this act; and (E) the
765 applicant has not made a material misstatement in the application. If
766 the commissioner fails to make such findings, the commissioner shall
767 not issue a license, and shall notify the applicant of the denial and the
768 reasons for such denial.

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

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

786 (b) (1) The commissioner shall not issue an initial license for a
787 mortgage loan originator unless the commissioner, at a minimum,
788 finds that the applicant has: (A) Never had a mortgage loan originator
789 license revoked in any governmental jurisdiction, except that a
790 subsequent formal vacating of such revocation shall not be deemed a
791 revocation; (B) notwithstanding the provisions of section 46a-80, as
792 amended by this act, not been convicted of, or pled guilty or nolo

793 contendere to, a felony in a domestic, foreign or military court during
794 the seven-year period preceding the date of the application for
795 licensing or at any time preceding such date of application if such
796 felony involved an act of fraud, dishonesty, a breach of trust, or money
797 laundering, provided any pardon of a conviction shall not be a
798 conviction for purposes of this subdivision; (C) demonstrated financial
799 responsibility, character and general fitness so as to command the
800 confidence of the community and to warrant a determination that the
801 mortgage loan originator will operate honestly, fairly and efficiently
802 within the purpose of sections 36a-485 to 36a-498c, inclusive, as
803 amended by this act, sections 36a-534a and 36a-534b, as amended by
804 this act, and sections 9 and 19 to 21, inclusive, of this act; (D) effective
805 April 1, 2010, completed the prelicensing education requirement
806 described in section 9 of this act and passed a written test that meets
807 the test requirement described in section 9 of this act; (E) effective July
808 31, 2010, met the surety bond requirement under section 36a-492, as
809 amended by this act; and (F) not made a material misstatement in the
810 application. If the commissioner denies an application for a mortgage
811 loan originator license, the commissioner shall notify the applicant and
812 may notify the sponsor or any other person the commissioner deems
813 appropriate of the denial and the reasons for such denial.

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

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

826 (3) No later than April 1, 2010, each mortgage loan originator
827 licensee shall have completed the prelicensing education requirement
828 described in section 9 of this act and passed a written test that meets
829 the test requirement described in section 9 of this act, provided a
830 mortgage loan originator licensee who was licensed as of the
831 enactment of this act shall have completed such prelicensing education
832 requirement and passed such written test not later than October 31,
833 2010.

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

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

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

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

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

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

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

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

885 (2) A written test shall not be treated as a qualified written test for
886 purposes of subdivision (1) of this subsection unless the test
887 adequately measures the applicant's knowledge and comprehension in
888 appropriate subject areas, including ethics, federal law and regulation
889 pertaining to mortgage origination, state law and regulation pertaining
890 to mortgage origination, and federal and state law and regulation,

891 including instruction on fraud, consumer protection, the
892 nontraditional mortgage marketplace and fair lending issues.

893 (3) Nothing in this subsection shall prohibit a test provider
894 approved by the system from providing a test at the location of the
895 sponsor of the applicant, any subsidiary or affiliate of the sponsor of
896 the applicant or any entity with which the applicant holds an exclusive
897 arrangement to conduct the business of a mortgage loan originator.

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

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

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

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

920 (2) For purposes of subdivision (1) of this subsection, continuing
921 education courses shall be reviewed and approved by the system

922 based upon reasonable standards. Review and approval of a
923 continuing education course shall include review and approval of the
924 course provider.

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

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

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

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

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

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

953 (9) A person who meets the requirements of subparagraphs (A)(i)
954 and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489
955 of the general statutes, as amended by this act, may compensate for
956 any deficiency in continuing education requirements pursuant to
957 regulations adopted by the commissioner.

958 (d) For purposes of this section "nontraditional mortgage product"
959 means any mortgage product other than a thirty-year fixed rate
960 mortgage, and "system" has the same meaning as provided in section
961 36a-485 of the general statutes, as amended by this act.

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

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

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

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

996 (c) The mortgage lender, mortgage correspondent lender or
997 mortgage broker licensee shall promptly file with the [Nationwide
998 Mortgage Licensing System] system or, if the information cannot be
999 filed on the [Nationwide Mortgage Licensing System] system, directly
1000 notify the commissioner, in writing, of the occurrence of any of the
1001 following developments:

1002 (1) Filing for bankruptcy, or the consummation of a corporate
1003 restructuring, of the licensee;

1004 (2) Filing of a criminal indictment against the licensee in any way
1005 related to the lending or brokerage activities of the licensee, or
1006 receiving notification of the filing of any criminal felony indictment or
1007 felony conviction of any of the licensee's officers, directors, members,
1008 partners or shareholders owning ten per cent or more of the
1009 outstanding stock;

1010 (3) Receiving notification of the institution of license denial, cease
1011 and desist, suspension or revocation procedures, or other formal or
1012 informal regulatory action by any governmental agency against the
1013 licensee and the reasons therefor;

1014 (4) Receiving notification of the initiation of any action by the
1015 Attorney General or the attorney general of any other state and the
1016 reasons therefor;

1017 (5) Receiving notification of a material adverse action with respect
1018 to any existing line of credit or warehouse credit agreement;

1019 (6) Suspension or termination of the licensee's status as an approved
1020 seller or servicer by the Federal National Mortgage Association,
1021 Federal Home Loan Mortgage Corporation or Government National
1022 Mortgage Association;

1023 (7) Exercise of recourse rights by investors or subsequent assignees
1024 of residential mortgage loans if such loans for which the recourse
1025 rights are being exercised, in the aggregate, exceed the licensee's net
1026 worth exclusive of real property and fixed assets;

1027 (8) Receiving notification of filing for bankruptcy of any of the
1028 licensee's officers, directors, members, partners or shareholders
1029 owning ten per cent or more of the outstanding stock of the licensee; or

1030 [(9) Any proposed change in control in the ownership of the
1031 licensee, or among the officers, directors, members or partners of the
1032 licensee on a form provided by the commissioner. The commissioner
1033 may thereupon cause such investigation to be made as he deems
1034 necessary, as if the licensee were applying for an initial license. In the
1035 case of a corporation, "change in control" means a change of ownership
1036 by a person or group acting in concert to acquire ten per cent or more
1037 of any class of voting securities, or the ability of a person or group
1038 acting in concert to elect a majority of the directors or otherwise effect
1039 a change in policy of the corporation.]

1040 (9) A decrease in the net worth required by subsection (a) of section
1041 36a-488, as amended by this act.

1042 (d) Each mortgage loan originator licensee shall promptly file with
1043 the [Nationwide Mortgage Licensing System] system or, if the
1044 information cannot be filed on the [Nationwide Mortgage Licensing
1045 System] system, directly notify the commissioner, in writing, of the
1046 occurrence of any of the following developments:

- 1047 (1) Filing for bankruptcy of the mortgage loan originator licensee;
- 1048 (2) Filing of a criminal indictment against the mortgage loan
1049 originator licensee;
- 1050 (3) Receiving notification of the institution of license or registration
1051 denial, cease and desist, suspension or revocation procedures, or other
1052 formal or informal regulatory action by any governmental agency
1053 against the mortgage loan originator licensee and the reasons therefor;
1054 or
- 1055 (4) Receiving notification of the initiation of any action against the
1056 mortgage loan originator licensee by the Attorney General or the
1057 attorney general of any other state and the reasons therefor.
- 1058 (e) Each mortgage lender, mortgage correspondent lender,
1059 mortgage broker and mortgage loan originator license shall remain in
1060 force and effect until it has been surrendered, revoked, suspended or
1061 expires, or is no longer effective, in accordance with the provisions of
1062 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this
1063 act, sections 36a-534a and 36a-534b, as amended by this act, and
1064 sections 9 and 19 to 21, inclusive, of this act.
- 1065 Sec. 11. Section 36a-491 of the general statutes is repealed and the
1066 following is substituted in lieu thereof (*Effective July 31, 2009*):
- 1067 (a) [(1)] The expiration date of any mortgage lender, mortgage
1068 correspondent lender and mortgage broker license that expires on
1069 September 30, 2008, shall be extended to the close of business on
1070 December 31, 2008. On and after July 1, 2008, each mortgage lender,
1071 mortgage correspondent lender, [or] mortgage broker and mortgage
1072 loan originator license shall expire at the close of business on
1073 December thirty-first of the year in which it is approved, unless such
1074 license is renewed, and provided any such license that is approved on
1075 or after November first shall expire at the close of business on
1076 December thirty-first of the year following the year in which it is
1077 approved. An application for renewal of a license shall be filed

1078 between November first and December thirty-first of the year in which
1079 the license expires. [, provided a licensee may file a renewal
1080 application not later than March first of the following year together
1081 with a late fee of one hundred dollars. Any such filing after December
1082 thirty-first shall be deemed timely and sufficient for purposes of
1083 subsection (b) of section 4-182.] Each applicant for [a] an initial license
1084 or renewal of a license as a mortgage lender or mortgage
1085 correspondent lender shall pay to the [Nationwide Mortgage Licensing
1086 System] system any required fees or charges and a license fee of eight
1087 hundred dollars, and each applicant for an initial or renewal license as
1088 a mortgage broker shall pay to the [Nationwide Mortgage Licensing
1089 System] system any required fees or charges and a license fee of four
1090 hundred dollars, provided each mortgage lender or mortgage
1091 correspondent lender licensee who is a licensee on September 30, 2008,
1092 who submits a renewal application shall, at the time of making such
1093 application, pay to the [Nationwide Mortgage Licensing System]
1094 system any required fees or charges and a license fee of nine hundred
1095 dollars and each mortgage broker who was a licensee on June 30, 2008,
1096 who submits a renewal application shall, at the time of making such
1097 application, pay to the [Nationwide Mortgage Licensing System]
1098 system any required fees or charges and a license fee of four hundred
1099 fifty dollars.

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

1112 each mortgage lender, mortgage correspondent lender or mortgage
1113 broker who is a licensee on September 30, 2008, who submits a renewal
1114 application for a mortgage loan originator shall, at the time of making
1115 such application, pay to the Nationwide Mortgage Licensing System
1116 any required fees or charges and a license fee of one hundred twenty-
1117 five dollars. On and after January 1, 2010, each mortgage lender,
1118 mortgage correspondent lender or mortgage broker filing an
1119 application for a mortgage loan originator license shall pay a license
1120 fee of one hundred dollars for each mortgage loan originator and any
1121 required fees or charges to the Nationwide Mortgage Licensing
1122 System.]

1123 (b) All fees paid pursuant to this section, including fees paid in
1124 connection with an application that is denied or withdrawn prior to
1125 the issuance of the license, shall be nonrefundable, provided [such
1126 fees] any license fee paid by an originator for a license that is not
1127 sponsored by a mortgage lender, mortgage correspondent lender or
1128 mortgage broker may be refundable. No fee paid pursuant to this
1129 section shall be prorated if the license is surrendered, revoked or
1130 suspended prior to the expiration of the period for which it was
1131 approved.

1132 Sec. 12. Section 36a-492 of the general statutes is repealed and the
1133 following is substituted in lieu thereof (*Effective July 31, 2009*):

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

1145 licensee in the licensee's capacity as a mortgage lender, mortgage
1146 correspondent lender or a mortgage broker, and conducting such
1147 mortgage business consistent with the provisions of sections 36a-485 to
1148 36a-498a, inclusive. Any borrower or prospective borrower who may
1149 be damaged by failure to perform any written agreements or
1150 commitments, or by the wrongful conversion of funds paid by a
1151 borrower or prospective borrower to a licensee, may proceed on such
1152 bond against the principal or surety thereon, or both, to recover
1153 damages. Commencing August 1, 2009, any borrower or prospective
1154 borrower who may be damaged by a licensee's failure to satisfy a
1155 judgment against the licensee arising from the making or brokering of
1156 a nonprime home loan, as defined in section 36a-760, may proceed on
1157 such bond against the principal or surety thereon, or both, to recover
1158 the amount of the judgment. The commissioner may proceed on such
1159 bond against the principal or surety thereon, or both, to collect any
1160 civil penalty imposed upon the licensee pursuant to subsection (a) of
1161 section 36a-50 and any unpaid costs of examination of the licensee as
1162 determined pursuant to section 36a-65. The proceeds of the bond, even
1163 if commingled with other assets of the licensee, shall be deemed by
1164 operation of law to be held in trust for the benefit of such claimants
1165 against the licensee in the event of bankruptcy of the licensee and shall
1166 be immune from attachment by creditors and judgment creditors. The
1167 bond shall run concurrently with the period of the license granted to
1168 the applicant, and the aggregate liability under the bond shall not
1169 exceed the penal sum of the bond.] Effective July 31, 2010, the penal
1170 sum of the bond shall be maintained in an amount that reflects the
1171 dollar amount of the loans originated by the mortgage lender,
1172 mortgage correspondent lender or mortgage broker, as determined by
1173 the commissioner.

1174 (2) Effective July 31, 2010, each person licensed as a mortgage loan
1175 originator shall be covered by a surety bond in accordance with this
1176 section, provided such coverage shall be provided through the bond of
1177 the mortgage lender, mortgage correspondent lender or mortgage
1178 broker who sponsors such mortgage loan originator. The penal sum of

1179 the bond shall be maintained in an amount that reflects the dollar
1180 amount of loans originated by the mortgage loan originator, as
1181 determined by the commissioner. The commissioner may adopt
1182 regulations in accordance with chapter 54 with respect to the
1183 requirements for such surety bonds.

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

1213 36a-65. The proceeds of the bond, even if commingled with other
1214 assets of the licensee, shall be deemed by operation of law to be held in
1215 trust for the benefit of such claimants against the licensee in the event
1216 of bankruptcy of the licensee and shall be immune from attachment by
1217 creditors and judgment creditors. The bond shall run concurrently
1218 with the period of the license granted to the applicant, and the
1219 aggregate liability under the bond shall not exceed the penal sum of
1220 the bond. The licensee shall notify the commissioner of the
1221 commencement of an action on the licensee's bond. When an action is
1222 commenced on a licensee's bond, the commissioner may require the
1223 filing of a new bond and immediately on recovery on any action on the
1224 bond, the licensee shall file a new bond.

1225 [(b)] (c) The surety company shall have the right to cancel the bond
1226 at any time by a written notice to the licensee stating the date
1227 cancellation shall take effect. Such notice shall be sent by certified mail
1228 to the licensee at least thirty days prior to the date of cancellation. A
1229 surety bond shall not be cancelled unless the surety company notifies
1230 the commissioner in writing not less than thirty days prior to the
1231 effective date of cancellation.

1232 Sec. 13. Subsection (a) of section 36a-493 of the general statutes is
1233 repealed and the following is substituted in lieu thereof (*Effective July*
1234 *31, 2009*):

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

1246 disclosures required under part III of chapter 669; (2) whether the
1247 licensee acted as a mortgage lender, a mortgage correspondent lender,
1248 a mortgage broker, a mortgage lender and a mortgage broker, or a
1249 mortgage correspondent lender and a mortgage broker; (3) if the
1250 licensee is acting as a mortgage lender or mortgage correspondent
1251 lender, and retains the residential mortgage loan or receives payments
1252 thereon, an adequate loan history for those loans retained or upon
1253 which payments are received, itemizing the amount and date of each
1254 payment and the unpaid balance at all times; (4) the purpose for which
1255 the loan was made; (5) the original or an exact copy of the note, loan
1256 agreement or other evidence of indebtedness and mortgage deed; (6) a
1257 statement signed by the borrower acknowledging the receipt of such
1258 statement which discloses the full amount of any fee, commission or
1259 consideration paid to the mortgage lender, mortgage correspondent
1260 lender and mortgage broker for all services in connection with the
1261 origination and settlement of the residential mortgage loan; (7) the
1262 name and address of the mortgage lender, mortgage correspondent
1263 lender and the mortgage broker, if any, involved in the loan
1264 transaction; (8) a copy of the initial and a copy of the final residential
1265 mortgage loan application taken from the borrower; and (9) a copy of
1266 all information used in evaluating the application.

1267 Sec. 14. Section 36a-494 of the general statutes is repealed and the
1268 following is substituted in lieu thereof (*Effective July 31, 2009*):

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

1280 employee or agent of such licensee has done any of the following: (A)
1281 Made any material misstatement in the application; (B) committed any
1282 fraud, misappropriated funds or misrepresented, concealed,
1283 suppressed, intentionally omitted or otherwise intentionally failed to
1284 disclose any of the material particulars of any residential mortgage
1285 loan transaction, including disclosures required by subdivision (6) of
1286 subsection (a) of section 36a-493, as amended by this act, or part III of
1287 chapter 669 or regulations adopted pursuant thereto, to anyone
1288 entitled to such information; (C) violated any of the provisions of this
1289 title or of any regulations adopted pursuant thereto, or any other law
1290 or regulation applicable to the conduct of its business; or (D) failed to
1291 perform any agreement with a licensee or a borrower.

1292 (2) The commissioner may suspend, revoke or refuse to renew any
1293 mortgage loan originator license or take any other action, in
1294 accordance with the provisions of section 36a-51, for any reason which
1295 would be sufficient grounds for the commissioner to deny an
1296 application for such license under sections 36a-485 to [36a-498a] 36a-
1297 498c, inclusive, as amended by this act, sections 36a-534a and 36a-534b,
1298 as amended by this act, and sections 9 and 19 to 21, inclusive, of this
1299 act, or if the commissioner finds that the licensee has committed any
1300 fraud, misappropriated funds, misrepresented, concealed, suppressed,
1301 intentionally omitted or otherwise intentionally failed to disclose any
1302 of the material particulars of any residential mortgage loan transaction
1303 or has violated any of the provisions of this title or of any regulations
1304 adopted pursuant to such title or any other law or regulation
1305 applicable to the conduct of such licensee's business.

1306 (b) Whenever it appears to the commissioner that any person has
1307 violated, is violating or is about to violate any of the provisions of
1308 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this
1309 act, sections 36a-534a and 36a-534b, as amended by this act, and
1310 sections 9 and 19 to 21, inclusive, of this act, or any regulation adopted
1311 pursuant thereto, or any licensee has failed to perform any agreement
1312 with a borrower, committed any fraud, misappropriated funds or
1313 misrepresented, concealed, suppressed, intentionally omitted or

1314 otherwise intentionally failed to disclose any of the material particulars
1315 of any residential mortgage loan transaction, including disclosures
1316 required by subdivision (6) of subsection (a) of section 36a-493, as
1317 amended by this act, or part III of chapter 669 or regulations adopted
1318 pursuant thereto, to anyone entitled to such information, the
1319 commissioner may take action against such person or licensee in
1320 accordance with sections 36a-50 and 36a-52.

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

1348 prohibition shall become effective upon receipt of such notice and,
1349 unless stayed by a court, shall remain in effect until the entry of a
1350 permanent order or the dismissal of the matters asserted.

1351 (2) If a hearing is requested within the time specified in the notice,
1352 the commissioner shall hold a hearing upon the matters asserted in the
1353 notice unless such person fails to appear at the hearing. After the
1354 hearing, if the commissioner finds that any of the grounds set forth in
1355 subparagraph (A) or (B), of subdivision (1) of this subsection exist with
1356 respect to such person, the commissioner may order the removal of
1357 such person from office and from any employment in the mortgage
1358 business in this state. If such person fails to appear at the hearing, the
1359 commissioner may order the removal of such person from office and
1360 from employment in the mortgage business in this state.

1361 (d) The commissioner may issue a temporary order to cease
1362 business under a license if the commissioner determines that such
1363 license was issued erroneously. The commissioner shall give the
1364 licensee an opportunity for a hearing on such action in accordance
1365 with section 36a-52. Such temporary order shall become effective upon
1366 receipt by the licensee and, unless set aside or modified by a court,
1367 shall remain in effect until the effective date of a permanent order or
1368 dismissal of the matters asserted in the notice.

1369 Sec. 15. Section 36a-496 of the general statutes is repealed and the
1370 following is substituted in lieu thereof (*Effective July 31, 2009*):

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

1380 licensed to act as such by the commissioner, if the mortgage lender or
1381 mortgage correspondent lender has actual knowledge that the
1382 mortgage broker or mortgage loan originator was not licensed by the
1383 commissioner.

1384 Sec. 16. Section 36a-497 of the general statutes is repealed and the
1385 following is substituted in lieu thereof (*Effective July 31, 2009*):

1386 No mortgage lender licensee, mortgage correspondent lender
1387 licensee or mortgage broker licensee shall:

1388 (1) Advertise or cause to be advertised in this state, any residential
1389 mortgage loan in which such person intends to act only as a mortgage
1390 broker unless the advertisement includes the following statement,
1391 clearly and conspicuously expressed: MORTGAGE BROKER ONLY,
1392 NOT A MORTGAGE LENDER OR MORTGAGE CORRESPONDENT
1393 LENDER; or

1394 (2) In connection with an advertisement in this state, use (A) a
1395 simulated check; (B) a comparison between the loan payments under
1396 the residential mortgage loan offered and the loan payments under a
1397 hypothetical loan or extension of credit, unless the advertisement
1398 includes, with respect to both the hypothetical loan or extension of
1399 credit and the residential mortgage loan being offered, the interest rate,
1400 the loan balance, the total amount of finance charges, the total number
1401 of payments and the monthly payment amount that would be required
1402 to pay off the outstanding loan balance shown; (C) representations
1403 such as "verified as eligible", "eligible", "preapproved", "prequalified"
1404 or similar words or phrases, without also disclosing, in immediate
1405 proximity to and in similar size print, language which sets forth
1406 prerequisites to qualify for the residential mortgage loan, including,
1407 but not limited to, income verification, credit check, and property
1408 appraisal or evaluation; or (D) any words or symbols in the
1409 advertisement or on the envelope containing the advertisement that
1410 give the appearance that the mailing was sent by a government
1411 agency.

1412 Sec. 17. Subsections (a) to (g), inclusive, of section 36a-498 of the
1413 general statutes are repealed and the following is substituted in lieu
1414 thereof (*Effective July 31, 2009*):

1415 (a) Except as provided in subsection (c) of this section, every
1416 advance fee paid or given, directly or indirectly, to a mortgage lender,
1417 mortgage correspondent lender or mortgage broker required to be
1418 licensed pursuant to sections 36a-485 to [36a-498a] 36a-498c, inclusive,
1419 as amended by this act, sections 36a-534a and 36a-534b, as amended by
1420 this act, and sections 9 and 19 to 21, inclusive, of this act, shall be
1421 refundable.

1422 (b) No mortgage loan originator required to be licensed pursuant to
1423 sections 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this
1424 act, sections 36a-534a and 36a-534b, as amended by this act, and
1425 sections 9 and 19 to 21, inclusive, of this act, shall accept payment of
1426 any advance fee except an advance fee on behalf of a mortgage lender,
1427 mortgage correspondent lender or mortgage broker licensee. Nothing
1428 in this subsection shall be construed as prohibiting the mortgage
1429 lender, mortgage correspondent lender or mortgage broker licensee
1430 from paying a mortgage loan originator all or part of an advance fee,
1431 provided such advance fee paid is not refundable under this section.

1432 (c) Subsection (a) of this section shall not apply if: (1) The person
1433 providing the advance fee and the mortgage lender, mortgage
1434 correspondent lender or mortgage broker agree in writing that the
1435 advance fee shall not be refundable, in whole or in part; and (2) the
1436 written agreement complies in all respects with the provisions of
1437 subsection (d) of this section.

1438 (d) An agreement under subsection (c) of this section shall meet all
1439 of the following requirements to be valid and enforceable: (1) The
1440 agreement shall be dated, signed by both parties, and be executed
1441 prior to the payment of any advance fee; (2) the agreement shall
1442 expressly state the total advance fee required to be paid and any
1443 amount of the advance fee that shall not be refundable; (3) the

1444 agreement shall clearly and conspicuously state any conditions under
1445 which the advance fee will be retained by the mortgage lender,
1446 mortgage correspondent lender or mortgage broker; (4) the term
1447 "nonrefundable" shall be used to describe each advance fee or portion
1448 thereof to which the term is applicable, and shall appear in boldface
1449 type in the agreement each time it is used; and (5) the form of the
1450 agreement shall (A) be separate from any other forms, contracts, or
1451 applications utilized by the mortgage lender, mortgage correspondent
1452 lender or mortgage broker, (B) contain a heading in a size equal to at
1453 least ten-point boldface type that shall title the form "AGREEMENT
1454 CONCERNING NONREFUNDABILITY OF ADVANCE FEE", (C)
1455 provide for a duplicate copy which shall be given to the person paying
1456 the advance fee at the time of payment of the advance fee, and (D)
1457 include such other specifications as the commissioner may by
1458 regulation prescribe.

1459 (e) An agreement under subsection (c) of this section that does not
1460 meet the requirements of subsection (d) of this section shall be
1461 voidable at the election of the person paying the advance fee.

1462 (f) (1) No mortgage lender, mortgage correspondent lender or
1463 mortgage broker required to be licensed pursuant to sections 36a-485
1464 to [36a-498a] 36a-498c, inclusive, as amended by this act, sections 36a-
1465 534a and 36a-534b, as amended by this act, and sections 9 and 19 to 21,
1466 inclusive, of this act, shall enter into an agreement with or otherwise
1467 require any person to pay the mortgage lender, mortgage
1468 correspondent lender or mortgage broker for any fee, commission or
1469 other valuable consideration lost as a result of such person failing to
1470 consummate a residential mortgage loan, provided the mortgage
1471 lender, mortgage correspondent lender or mortgage broker may collect
1472 such fee, commission or consideration as an advance fee subject to the
1473 requirements of this section.

1474 (2) No mortgage broker required to be licensed pursuant to sections
1475 36a-485 to [36a-498a] 36a-498c, inclusive, as amended by this act,
1476 sections 36a-534a and 36a-534b, as amended by this act, and sections 9

1477 and 19 to 21, inclusive, of this act, shall enter into an agreement with or
1478 otherwise require any person to pay the mortgage broker any fee,
1479 commission or other valuable consideration for the prepayment of the
1480 principal of a residential mortgage loan by such person before the date
1481 on which the principal is due.

1482 (g) (1) For the purposes of this subsection:

1483 (A) "Unfair or deceptive act or practice" means (i) the failure to
1484 clearly and conspicuously state in the initial phase of the solicitation
1485 that the solicitor is not affiliated with the mortgage lender, mortgage
1486 correspondent lender or mortgage broker with which the consumer
1487 initially applied, (ii) the failure to clearly and conspicuously state in
1488 the initial phase of the solicitation that the solicitation is based on
1489 personal information about the consumer that was purchased, directly
1490 or indirectly, from a consumer reporting agency without the
1491 knowledge or permission of the mortgage lender, mortgage
1492 correspondent lender or mortgage broker with which the consumer
1493 initially applied, (iii) the failure in the initial solicitation to comply
1494 with the provisions of the federal Fair Credit Reporting Act relating to
1495 prescreening solicitations that use consumer reports, including the
1496 requirement to make a firm offer of credit to the consumer, or (iv)
1497 knowingly or negligently using information from a mortgage trigger
1498 lead (I) to solicit consumers who have opted out of prescreened offers
1499 of credit under the federal Fair Credit Reporting Act, or (II) to place
1500 telephone calls to consumers who have placed their contact
1501 information on a federal or state Do Not Call list; and

1502 (B) "Mortgage trigger lead" means a consumer report obtained
1503 pursuant to Section 604 (c)(1)(B) of the federal Fair Credit Reporting
1504 Act, 15 USC 1681b, where the issuance of the report is triggered by an
1505 inquiry made with a consumer reporting agency in response to an
1506 application for credit. "Mortgage trigger lead" does not include a
1507 consumer report obtained by a mortgage lender or mortgage
1508 correspondent lender that holds or services existing indebtedness of
1509 the applicant who is the subject of the report.

1510 (2) No mortgage lender, mortgage correspondent lender, mortgage
1511 broker or mortgage loan originator shall engage in an unfair or
1512 deceptive act or practice in soliciting an application for a residential
1513 mortgage loan when such solicitation is based, in whole or in part, on
1514 information contained in a mortgage trigger lead. Any violation of this
1515 subsection shall be deemed an unfair or deceptive trade practice under
1516 subsection (a) of section 42-110b.

1517 Sec. 18. Section 36a-555 of the general statutes is repealed and the
1518 following is substituted in lieu thereof (*Effective July 31, 2009*):

1519 No person shall engage in the business of making loans of money or
1520 credit in the amount or to the value of fifteen thousand dollars or less
1521 for loans made under section 36a-563 or section 36a-565, and charge,
1522 contract for or receive a greater rate of interest, charge or consideration
1523 than twelve per cent per annum therefor, unless licensed to do so by
1524 the commissioner pursuant to sections 36a-555 to 36a-573, inclusive, as
1525 amended by this act. The provisions of this section shall not apply to
1526 (1) a bank, (2) an out-of-state bank, (3) a Connecticut credit union, (4) a
1527 federal credit union, (5) an out-of-state credit union, (6) a savings and
1528 loan association wholly owned subsidiary service corporation, (7) a
1529 person to the extent that such person makes loans for agricultural,
1530 commercial, industrial or governmental use or extends credit through
1531 an open-end credit plan, as defined in subdivision (8) of subsection (a)
1532 of section 36a-676, for the retail purchase of consumer goods or
1533 services, (8) a mortgage lender or mortgage correspondent lender
1534 licensed pursuant to [sections 36a-485 to 36a-498a, inclusive,] section
1535 36a-489, as amended by this act, when making [first] residential
1536 mortgage loans, as defined in section 36a-485, as amended by this act,
1537 or (9) a licensed pawnbroker.

1538 Sec. 19. (NEW) (*Effective July 31, 2009*) (a) In addition to any
1539 authority provided under title 36a of the general statutes, the Banking
1540 Commissioner shall have the authority to conduct investigations and
1541 examinations as follows:

1542 (1) For purposes of initial licensing, license renewal, license
1543 suspension, license conditioning, license revocation or termination, or
1544 general or specific inquiry or investigation to determine compliance
1545 with sections 36a-485 to 36a-498c, inclusive, of the general statutes, as
1546 amended by this act, sections 36a-534a and 36a-534b of the general
1547 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,
1548 of this act, the commissioner may access, receive and use any books,
1549 accounts, records, files, documents, information or evidence including,
1550 but not limited to: (A) Criminal, civil and administrative history
1551 information; (B) personal history and experience information including
1552 independent credit reports obtained from a consumer reporting
1553 agency described in Section 603(p) of the federal Fair Credit Reporting
1554 Act, 15USC1681a; and (C) any other documents, information or
1555 evidence the commissioner deems relevant to the inquiry or
1556 investigation regardless of the location, possession, control or custody
1557 of such documents, information or evidence.

1558 (2) For the purposes of investigating violations or complaints arising
1559 under sections 36a-485 to 36a-498c, inclusive, of the general statutes, as
1560 amended by this act, section 36a-534a or 36a-534b of the general
1561 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,
1562 of this act, or for the purposes of examination, the commissioner may
1563 review, investigate or examine any licensee, individual or person
1564 subject to said sections as often as necessary in order to carry out the
1565 purposes of said sections. The commissioner may direct, subpoena or
1566 order the attendance of and examine under oath all persons whose
1567 testimony may be required about the loans or the business or subject
1568 matter of any such examination or investigation, and may direct,
1569 subpoena or order such person to produce books, accounts, records,
1570 files and any other documents the commissioner deems relevant to the
1571 inquiry.

1572 (b) Each licensee, individual or person subject to sections 36a-485 to
1573 36a-498c, inclusive, of the general statutes, as amended by this act,
1574 sections 36a-534a and 36a-534b of the general statutes, as amended by
1575 this act, and sections 9 and 19 to 21, inclusive, of this act, shall make or

1576 compile reports or prepare other information as directed by the
1577 commissioner in order to carry out the purposes of this section
1578 including accounting compilations, information lists and data
1579 concerning loan transactions in a format prescribed by the
1580 commissioner or such other information the commissioner deems
1581 necessary to carry out the purposes of this section.

1582 (c) In making any examination or investigation authorized by this
1583 section, the commissioner may control access to any documents and
1584 records of the licensee or person under examination or investigation.
1585 The commissioner may take possession of the documents and records
1586 or place a person in exclusive charge of the documents and records in
1587 the place where they are usually kept. During the period of control, no
1588 individual or person shall remove or attempt to remove any of the
1589 documents and records except pursuant to a court order or with the
1590 consent of the commissioner. Unless the commissioner has reasonable
1591 grounds to believe the documents or records of the licensee have been,
1592 or are at risk of being, altered or destroyed for purposes of concealing
1593 a violation of sections 36a-485 to 36a-498c, inclusive, of the general
1594 statutes, as amended by this act, section 36a-534a or 36a-534b of the
1595 general statutes, as amended by this act, or sections 9 or 19 to 21,
1596 inclusive, of this act, the licensee or owner of the documents and
1597 records shall have access to the documents or records as necessary to
1598 conduct its ordinary business affairs.

1599 (d) In order to carry out the purposes of this section, the
1600 commissioner may:

1601 (1) Retain attorneys, accountants or other professionals and
1602 specialists as examiners, auditors or investigators to conduct or assist
1603 in the conduct of examinations or investigations;

1604 (2) Enter into agreements or relationships with other government
1605 officials or regulatory associations in order to improve efficiencies and
1606 reduce regulatory burden by sharing resources, standardized or
1607 uniform methods or procedures, and documents, records, information

1608 or evidence obtained under this section;

1609 (3) Use, hire, contract or employ public or privately available
1610 analytical systems, methods or software to examine or investigate the
1611 licensee, individual or person subject to sections 36a-485 to 36a-498c,
1612 inclusive, of the general statutes, as amended by this act, sections 36a-
1613 534a and 36a-534b of the general statutes, as amended by this act, and
1614 sections 9 and 19 to 21, inclusive, of this act;

1615 (4) Accept and rely on examination or investigation reports made by
1616 other government officials, within or without this state; and

1617 (5) Accept audit reports made by an independent certified public
1618 accountant for the licensee, individual or person subject to sections
1619 36a-485 to 36a-498c, inclusive, of the general statutes, as amended by
1620 this act, sections 36a-534a and 36a-534b of the general statutes, as
1621 amended by this act, and sections 9 and 19 to 21, inclusive, of this act,
1622 in the course of that part of the examination covering the same general
1623 subject matter as the audit and may incorporate the audit report in the
1624 report of the examination, report of investigation or other writing of
1625 the commissioner.

1626 (e) The authority of this section shall remain in effect, whether such
1627 licensee, individual or person subject to sections 36a-485 to 36a-498c,
1628 inclusive, of the general statutes, as amended by this act, sections 36a-
1629 534a and 36a-534b of the general statutes, as amended by this act, and
1630 sections 9 and 19 to 21, inclusive, of this act, acts or claims to act under
1631 any licensing or registration law of this state, or claims to act without
1632 such authority.

1633 (f) No licensee, individual or person subject to investigation or
1634 examination under this section may knowingly withhold, abstract,
1635 remove, mutilate, destroy or secrete any books, records, computer
1636 records or other information.

1637 Sec. 20. (NEW) (*Effective July 31, 2009*) No person or individual
1638 subject to sections 36a-485 to 36a-498c, inclusive, of the general

1639 statutes, as amended by this act, sections 36a-534a and 36a-534b of the
1640 general statutes, as amended by this act, and sections 9 and 19 to 21,
1641 inclusive, of this act, may:

1642 (1) Directly or indirectly employ any scheme, device or artifice to
1643 defraud or mislead borrowers or lenders or to defraud any person;

1644 (2) Engage in any unfair or deceptive practice toward any person;

1645 (3) Obtain property by fraud or misrepresentation;

1646 (4) Solicit or enter into a contract with a borrower that provides in
1647 substance that such person or individual may earn a fee or commission
1648 through "best efforts" to obtain a loan even though no loan is actually
1649 obtained for the borrower;

1650 (5) Solicit, advertise or enter into a contract for specific interest rates,
1651 points or other financing terms unless the terms are actually available
1652 at the time of soliciting, advertising or contracting;

1653 (6) Conduct any business as a mortgage lender, mortgage
1654 correspondent lender, mortgage broker or mortgage loan originator
1655 without holding a valid license as required under sections 36a-485 to
1656 36a-498c, inclusive, of the general statutes, as amended by this act,
1657 sections 36a-534a and 36a-534b of the general statutes, as amended by
1658 this act, and sections 9 and 19 to 21, inclusive, of this act, or assist or
1659 aide and abet any person in the conduct of business as a mortgage
1660 lender, mortgage correspondent lender, mortgage broker or mortgage
1661 loan originator without a valid license as required under said sections;

1662 (7) Fail to make disclosures as required by sections 36a-485 to 36a-
1663 498c, inclusive, of the general statutes, as amended by this act, sections
1664 36a-534a and 36a-534b of the general statutes, as amended by this act,
1665 and sections 9 and 19 to 21, inclusive, of this act and any other
1666 applicable state or federal law including regulations thereunder;

1667 (8) Fail to comply with sections 36a-485 to 36a-498c, inclusive, of the
1668 general statutes, as amended by this act, sections 36a-534a and 36a-

1669 534b of the general statutes, as amended by this act, and sections 9 and
1670 19 to 21, inclusive, of this act, or rules or regulations adopted under
1671 said sections or fail to comply with any other state or federal law,
1672 including the rules and regulations thereunder, applicable to any
1673 business authorized or conducted under said sections;

1674 (9) Make, in any manner, any false or deceptive statement or
1675 representation including, with regard to the rates, points or other
1676 financing terms or conditions for a residential mortgage loan, or
1677 engage in bait and switch advertising;

1678 (10) Negligently make any false statement or knowingly and
1679 wilfully make any omission of material fact in connection with any
1680 information or reports filed with a governmental agency or the system,
1681 as defined in section 36a-485 of the general statutes, as amended by
1682 this act, or in connection with any investigation conducted by the
1683 Banking Commissioner or another governmental agency;

1684 (11) Make any payment, threat or promise, directly or indirectly, to
1685 any person for the purposes of influencing the independent judgment
1686 of the person in connection with a residential mortgage loan as defined
1687 in section 36a-485 of the general statutes, as amended by this act, or
1688 make any payment threat or promise, directly or indirectly, to any
1689 appraiser of a property, for the purposes of influencing the
1690 independent judgment of the appraiser with respect to the value of the
1691 property;

1692 (12) Collect, charge, attempt to collect or charge or use or propose
1693 any agreement purporting to collect or charge any fee prohibited by
1694 sections 36a-485 to 36a-498c, inclusive, of the general statutes, as
1695 amended by this act, sections 36a-534a and 36a-534b of the general
1696 statutes, as amended by this act, and sections 9 and 19 to 21, inclusive,
1697 of this act;

1698 (13) Cause or require a borrower to obtain property insurance
1699 coverage in an amount that exceeds the replacement cost of the
1700 improvements as established by the property insurer; or

1701 (14) Fail to truthfully account for moneys belonging to a party to a
1702 residential mortgage loan transaction.

1703 Sec. 21. (NEW) (*Effective July 31, 2009*) The "unique identifier", as
1704 defined in section 36a-485 of the general statutes, as amended by this
1705 act, of any mortgage loan originator licensed under section 36a-489 of
1706 the general statutes, as amended by this act, originating a residential
1707 mortgage loan shall be clearly shown on all residential mortgage loan
1708 application forms, solicitations or advertisements, including business
1709 cards or web sites, and any other documents as established by rule,
1710 regulation or order of the Banking Commissioner.

1711 Sec. 22. (NEW) (*Effective July 31, 2009*) If any provision or
1712 application of sections 9 and 19 to 21, inclusive, of this act, section 36a-
1713 21 of the general statutes, as amended by this act, sections 36a-485 to
1714 36a-498c, inclusive, of the general statutes, as amended by this act, or
1715 sections 36a-534a and 36a-534b of the general statutes, as amended by
1716 this act, to any person or circumstance is held invalid by a court of this
1717 state, the remainder of said sections or the application of such
1718 provision to other persons or circumstances shall not be affected.

1719 Sec. 23. Subsection (a) of section 36a-498a of the general statutes is
1720 repealed and the following is substituted in lieu thereof (*Effective July*
1721 *31, 2009*):

1722 (a) No mortgage lender licensee or mortgage correspondent lender
1723 licensee under section 36a-489 and no person exempt from licensure
1724 under [subdivisions (1), (2), (5) and (6)] subsection (a) and subdivisions
1725 (1), (4) and (5) of subsection (b) of section 36a-487, as amended by this
1726 act, making a first mortgage loan may charge, impose or cause to be
1727 paid, directly or indirectly, prepaid finance charges that exceed in the
1728 aggregate, the greater of five per cent of the principal amount of the
1729 loan or two thousand dollars. If the proceeds of the loan are used to
1730 refinance an existing loan, the aggregate of the prepaid finance charges
1731 for the current refinancing and any previous financings by such
1732 licensee or exempt person or affiliate of such licensee or exempt person

1733 within two years of the current refinancing shall not exceed the greater
1734 of five per cent of the principal amount of the initial loan or two
1735 thousand dollars. The provisions of this section shall not prohibit such
1736 licensee or exempt person from charging, imposing or causing to be
1737 paid, directly or indirectly, prepaid finance charges in addition to
1738 those permitted by this section in connection with any additional
1739 proceeds received by the borrower in the refinancing, provided such
1740 prepaid finance charges on the additional proceeds shall not exceed
1741 five per cent of the additional proceeds.

1742 Sec. 24. Section 46a-80 of the general statutes is repealed and the
1743 following is substituted in lieu thereof (*Effective October 1, 2009*):

1744 (a) Except as provided in subsection (b) of this section, [and]
1745 subsection (b) of section 46a-81 and section 36a-489, as amended by
1746 this act, and notwithstanding any other provisions of law to the
1747 contrary, a person shall not be disqualified from employment by the
1748 state of Connecticut or any of its agencies, nor shall a person be
1749 disqualified to practice, pursue or engage in any occupation, trade,
1750 vocation, profession or business for which a license, permit, certificate
1751 or registration is required to be issued by the state of Connecticut or
1752 any of its agencies solely because of a prior conviction of a crime.

1753 (b) A person may be denied employment by the state or any of its
1754 agencies, or a person may be denied a license, permit, certificate or
1755 registration to pursue, practice or engage in an occupation, trade,
1756 vocation, profession or business by reason of the prior conviction of a
1757 crime if after considering (1) the nature of the crime and its
1758 relationship to the job for which the person has applied; (2)
1759 information pertaining to the degree of rehabilitation of the convicted
1760 person; and (3) the time elapsed since the conviction or release, the
1761 state, or any of its agencies determines that the applicant is not suitable
1762 for the position of employment sought or the specific occupation,
1763 trade, vocation, profession or business for which the license, permit,
1764 certificate or registration is sought.

1765 (c) If a conviction of a crime is used as a basis for rejection of an
1766 applicant, such rejection shall be in writing and specifically state the
1767 evidence presented and reasons for rejection. A copy of such rejection
1768 shall be sent by registered mail to the applicant.

1769 (d) In no case may records of arrest, which are not followed by a
1770 conviction, or records of convictions, which have been erased, be used,
1771 distributed or disseminated by the state or any of its agencies in
1772 connection with an application for employment or for a permit, license,
1773 certificate or registration.

1774 Sec. 25. Section 46a-81 of the general statutes is repealed and the
1775 following is substituted in lieu thereof (*Effective October 1, 2009*):

1776 (a) [The] Except as provided in section 36a-489, as amended by this
1777 act, the provisions of sections 46a-79 to 46a-81, inclusive, shall prevail
1778 over any other provisions of law which purport to govern the denial of
1779 licenses, permits, certificates, registrations, or other means to engage in
1780 an occupation, trade, vocation, business or profession, on the grounds
1781 of a lack of good moral character, or which purport to govern the
1782 suspension or revocation of a license, permit, certificate or registration
1783 on the grounds of conviction of a crime.

1784 (b) Sections 46a-79 to 46a-81, inclusive, shall not be applicable to any
1785 law enforcement agency, provided nothing herein shall be construed
1786 to preclude a law enforcement agency in its discretion from adopting
1787 the policy set forth in said sections.

1788 Sec. 26. Section 36a-760j of the general statutes is repealed and the
1789 following is substituted in lieu thereof (*Effective July 31, 2009*):

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

1796 encouraging other mortgage brokers not to utilize, an appraiser based
1797 solely on the fact that the appraiser provided an appraisal reflecting a
1798 fair market value estimate that was less than the sale contract price.

1799 Sec. 27. Subdivision (7) of section 8-265cc of the general statutes is
1800 repealed and the following is substituted in lieu thereof (*Effective July*
1801 *1, 2009*):

1802 (7) "Financial hardship due to circumstances beyond the
1803 mortgagor's control" means [:(A) A] a significant reduction [of at least
1804 twenty-five per cent] of aggregate family household income or increase
1805 in expenses which reasonably cannot be or could not have been
1806 alleviated by the liquidation of assets by the mortgagor as determined
1807 by the Connecticut Housing Finance Authority, including, but not
1808 limited to, a reduction resulting from (A) (i) unemployment or
1809 underemployment of one or more of the mortgagors; (ii) a loss,
1810 reduction or delay in receipt of such federal, state or municipal
1811 benefits as Social Security, supplemental security income, public
1812 assistance and government pensions; (iii) a loss, reduction or delay in
1813 receipt of such private benefits as pension, disability, annuity or
1814 retirement benefits; (iv) divorce or a loss of support payments; (v)
1815 disability, illness or death of a mortgagor; [(vi) uninsured damage to
1816 the mortgaged property which affects liveability and necessitates
1817 costly repairs; or (vii)] or (B)(i) a significant increase in the dollar
1818 amount of the periodic payments required by the mortgage; (ii) an
1819 unanticipated rise in housing expenses; or (iii) expenses related to the
1820 disability, illness or death of a member of the mortgagor's family, but
1821 [is] does not include expenses related to the accumulation of credit or
1822 installment debt incurred for recreational or nonessential items prior to
1823 the occurrence of the alleged circumstances beyond the mortgagor's
1824 control in an amount that would have caused the mortgagor's total
1825 debt service to exceed sixty per cent of aggregate family income at that
1826 time. [; or (B) a significant increase in the dollar amount of the periodic
1827 payments required by the mortgage.]

1828 Sec. 28. Subsection (b) of section 8-265dd of the general statutes is

1829 repealed and the following is substituted in lieu thereof (*Effective July*
1830 *1, 2009*):

1831 (b) Notwithstanding any provision of the general statutes, or any
1832 rule of law to the contrary, on and after July 1, 2008, no judgment of
1833 strict foreclosure nor any judgment ordering a foreclosure sale shall be
1834 entered in any action instituted by the mortgagee to foreclose a
1835 mortgage commenced on or after such date, for the foreclosure of an
1836 eligible mortgage unless (1) notice to the mortgagor has been given by
1837 the mortgagee in accordance with section 8-265ee, as amended by this
1838 act, and the time for response has expired, and (2) a determination has
1839 been made on the mortgagor's application for emergency mortgage
1840 assistance payments in accordance with section 8-265ff, as amended by
1841 this act, or the applicable time periods set forth in sections 8-265cc to 8-
1842 265kk, inclusive, as amended by this act, have expired, whichever is
1843 earlier. For purposes of this section and sections 8-265ee to 8-265kk,
1844 inclusive, as amended by this act, an "eligible mortgage" is a mortgage
1845 which satisfies the standards contained in subdivisions (1), (3), (8) and
1846 (10) to (13), inclusive, of subsection [(d)] (e) of section 8-265ff, as
1847 amended by this act.

1848 Sec. 29. Section 8-265ee of the general statutes is repealed and the
1849 following is substituted in lieu thereof (*Effective July 1, 2009*):

1850 (a) On and after July 1, 2008, a mortgagee who desires to foreclose
1851 upon a mortgage which satisfies the standards contained in
1852 subdivisions (1), (3), (10), (11) and (12) of subsection [(d)] (e) of section
1853 8-265ff, as amended by this act, shall give notice to the mortgagor by
1854 registered, or certified mail, postage prepaid at the address of the
1855 property which is secured by the mortgage. No such mortgagee may
1856 commence a foreclosure of a mortgage prior to mailing such notice.
1857 Such notice shall advise the mortgagor of his delinquency or other
1858 default under the mortgage and shall state that the mortgagor has sixty
1859 days from the date of such notice in which to (1) have a face-to-face
1860 meeting, telephone or other conference acceptable to the authority
1861 with the mortgagee or a face-to-face meeting with a consumer credit

1862 counseling agency to attempt to resolve the delinquency or default by
1863 restructuring the loan payment schedule or otherwise, and (2) contact
1864 the authority, at an address and phone number contained in the notice,
1865 to obtain information and apply for emergency mortgage assistance
1866 payments if the mortgagor and mortgagee are unable to resolve the
1867 delinquency or default.

1868 (b) [If] Except in cases in which the mortgagee refuses to meet with
1869 the mortgagor, if the mortgagor fails to meet with the mortgagee or
1870 comply with any of the time limitations specified in the notice as
1871 provided in subsection (a) of this section, or if the mortgagor's
1872 application is not filed by the date thirty days after the date of any
1873 default in payment under an agreement as provided in subsection (c)
1874 of this section or if the mortgagor's application for emergency
1875 mortgage assistance payments is not approved by the date thirty
1876 calendar days after the date of receipt of the mortgagor's application in
1877 accordance with the provisions of section 8-265ff, as amended by this
1878 act, the foreclosure of the mortgagor's mortgage may, at any time
1879 thereafter, except as provided in subsection (e) of this section, continue
1880 without any further restriction or requirement under the provisions of
1881 sections 8-265cc to 8-265kk, inclusive, as amended by this act, provided
1882 the mortgagee files an affidavit with the court stating the notice
1883 provisions of subsection (a) of this section have been complied with
1884 and that either the mortgagor failed to meet with the mortgagee or
1885 failed to comply with all of the time limitations specified in the notice
1886 as provided in subsection (a) of this section or that the mortgagor's
1887 application for emergency assistance payments was not approved by
1888 the date thirty calendar days after the date of receipt of the
1889 mortgagor's application, or that a determination of ineligibility was
1890 made.

1891 (c) If, after a face-to-face meeting, telephone or other conference
1892 acceptable to the authority, as provided in subsection (a) of this
1893 section, the mortgagor and the mortgagee reach an agreement to
1894 resolve the delinquency or default and, because of financial hardship
1895 due to circumstances beyond the mortgagor's control, the mortgagor is

1896 unable to fulfill the obligations of the agreement, the mortgagor may
1897 apply to the authority for emergency mortgage assistance payments
1898 under sections 8-265cc to 8-265kk, inclusive, as amended by this act, by
1899 the date thirty days after the date of any default in payment under the
1900 agreement. The mortgagee shall not be required to send any additional
1901 notice to the mortgagor other than the notice required under
1902 subsection (a) of this section.

1903 (d) No person receiving financial relief under sections 8-265cc to 8-
1904 265kk, inclusive, as amended by this act, may file a defense,
1905 counterclaim or set-off to any action for foreclosure of the mortgage for
1906 which such financial relief was provided.

1907 (e) Nothing in sections 8-265cc to 8-265kk, inclusive, as amended by
1908 this act, shall prevent a mortgagor from exercising rights that may
1909 exist under the foreclosure mediation program and those rights may
1910 be exercised concurrently with the rights afforded under sections 8-
1911 265cc to 8-265kk, inclusive, as amended by this act, provided the
1912 exercise of rights under the foreclosure mediation program shall not
1913 cause a delay in the determination under subsection [(d)] (e) of section
1914 8-265ff, as amended by this act. Nothing in sections 8-265cc to 8-265kk,
1915 inclusive, as amended by this act, shall prevent a mortgagor from
1916 applying or reapplying and being considered for emergency mortgage
1917 assistance if such mortgagor is referred to the emergency mortgage
1918 assistance program by the foreclosure mediation program.

1919 Sec. 30. Section 8-265ff of the general statutes is repealed and the
1920 following is substituted in lieu thereof (*Effective October 1, 2009*):

1921 (a) Any mortgagor may apply for emergency mortgage assistance
1922 payments under sections 2-265cc to 8-265kk, inclusive, as amended by
1923 this act, if such mortgagor (1) has received notice of intent to foreclose
1924 as provided in section 8-265ee, as amended by this act, or (2) (A) is
1925 sixty days or more delinquent on a mortgage, or (B) such mortgagor
1926 anticipates that he will be sixty days or more delinquent on a mortgage
1927 based on financial hardship beyond such mortgagor's control,

1928 provided the authority determines that such mortgagor will be so
1929 delinquent. As part of the application process, the authority may refer
1930 the applicant to a counseling agency approved by the United States
1931 Department of Housing and Urban Development.

1932 [(a)] (b) If the mortgagor applies for emergency mortgage assistance
1933 payments under sections 8-265cc to 8-265kk, inclusive, as amended by
1934 this act, the authority shall, no later than eight business days after the
1935 date of receipt of such application, notify all of the mortgagees listed
1936 on the application holding a mortgage on the mortgagor's real
1937 property.

1938 [(b)] (c) The mortgagor shall apply for a loan on the form provided
1939 by the authority. The mortgagor shall complete and sign the
1940 application subject to the penalty for false statement under section 53a-
1941 157b.

1942 [(c)] (d) The mortgagor shall provide the authority with full
1943 disclosure of all assets and liabilities, whether singly or jointly held,
1944 and all household income regardless of source. For purposes of this
1945 subsection, both of the following are included as assets:

1946 (1) The sum of the household's savings and checking accounts,
1947 market value of stocks, bonds and other securities, other capital
1948 investments, pensions and retirement funds, personal property and
1949 equity in real property including the subject mortgage property.
1950 Income derived from family assets shall be considered as income.
1951 Equity is the difference between the market value of the property and
1952 the total outstanding principal of any loans secured by the property
1953 and other liens.

1954 (2) Lump-sum additions to family assets such as inheritances,
1955 capital gains, insurance payments included under health, accident,
1956 hazard or worker's compensation policies and settlements, verdicts or
1957 awards for personal or property losses or transfer of assets without
1958 consideration within one year of the time of application. Pending
1959 claims for such items must be identified by the homeowner as

1960 contingent assets.

1961 [(d)] (e) The authority shall make a determination of eligibility for
1962 emergency mortgage assistance payments by the date thirty calendar
1963 days after the date of receipt of the mortgagor's application. During
1964 said thirty-day period no judgment of strict foreclosure or any
1965 judgment ordering foreclosure by sale shall be entered in any action
1966 for the foreclosure of any mortgage any mortgagee holds on the
1967 mortgagor's real property. No emergency mortgage assistance
1968 payments may be provided unless the authority finds that:

1969 (1) The real property securing the mortgage is a one-to-four family
1970 owner-occupied residence, including, but not limited to, a single
1971 family unit in a common interest community, is the principal residence
1972 of the mortgagor and is located in this state;

1973 (2) Payments, including amounts required to be paid into escrow or
1974 impound accounts as reserves for taxes and insurance payments,
1975 including mortgage insurance, or any combination of such payments,
1976 owed by the mortgagor under any mortgage on such real property
1977 have been contractually delinquent and the mortgagee has indicated to
1978 the mortgagor its intention to foreclose;

1979 (3) The mortgage is not insured by the Federal Housing
1980 Administration under Title II of the National Housing Act, 12 USC
1981 Section 1707 et seq.;

1982 (4) The mortgagor is a resident of this state and is suffering financial
1983 hardship which renders the mortgagor unable to correct the
1984 delinquency or delinquencies within a reasonable time and make full
1985 mortgage payments. For the purposes of subdivision (8) of this
1986 subsection, in order to determine whether the financial hardship is due
1987 to circumstances beyond the mortgagor's control, the authority may
1988 consider information regarding the mortgagor's employment, credit
1989 history and current and past household income, assets, total debt
1990 service, net worth, eligibility for other types of assistance and any
1991 other criteria or related factors it deems necessary and relevant;

1992 (5) There is a reasonable prospect that the mortgagor will be able to
1993 resume full mortgage payments on the original, modified or
1994 refinanced mortgage within sixty months after the beginning of the
1995 period in which emergency mortgage assistance payments are
1996 provided in accordance with a written plan formulated or approved by
1997 the authority and pay the mortgage in full in level monthly payments
1998 of principal and interest, subject only to payment changes as provided
1999 in the mortgage, by its maturity date;

2000 (6) The mortgagor has applied to the authority for emergency
2001 mortgage assistance payments on an application form prescribed by
2002 the authority which includes a financial statement disclosing all assets
2003 and liabilities of the mortgagor, whether singly or jointly held, and all
2004 household income regardless of source;

2005 (7) Based on the financial statement, the mortgagor has insufficient
2006 household income or net worth to correct the delinquency or
2007 delinquencies within a reasonable period of time and make full
2008 mortgage payments;

2009 (8) There is a reasonable prospect that the mortgagor, as determined
2010 by the authority, will be able to repay the emergency mortgage
2011 assistance within a reasonable amount of time under the terms of
2012 section 8-265hh, including through a refinancing of the mortgage, and
2013 the authority finds that, except for the current delinquency, the
2014 mortgagor has had a favorable residential mortgage credit history for
2015 the previous two years or period of ownership, whichever is less. For
2016 the purposes of this subdivision, if a mortgagor has been more than
2017 thirty days in arrears four or more times on a residential mortgage
2018 within the previous year, the mortgagor shall be ineligible for
2019 emergency mortgage assistance payments unless the mortgagor can
2020 demonstrate that the prior delinquency was the result of financial
2021 hardship due to circumstances beyond the mortgagor's control. In
2022 making a determination under this subsection, the authority may
2023 consider information regarding the structure of the mortgage, its
2024 repayment schedule and any other relevant factors or criteria it deems

2025 appropriate;

2026 (9) The mortgagee is not otherwise prevented by law from
2027 foreclosing upon the mortgage;

2028 (10) The mortgagor has not mortgaged the real property for
2029 commercial or business purposes;

2030 (11) The mortgagor has not previously received emergency
2031 mortgage assistance payments from the authority, provided a
2032 mortgagor who has previously received such payments shall be
2033 eligible to reapply if the mortgagor has reinstated the mortgage and
2034 the mortgagor shall not have been delinquent for at least six
2035 consecutive months immediately following such reinstatement;

2036 (12) The mortgagor is not in default under the mortgage except for
2037 the monetary delinquency referred to in subdivision (2) of this
2038 subsection; and

2039 (13) The mortgagor meets such other procedural requirements as
2040 the authority may establish.

2041 Sec. 31. Section 8-265rr of the general statutes is repealed and the
2042 following is substituted in lieu thereof (*Effective from passage*):

2043 (a) As used in this section, "authority" means the Connecticut
2044 Housing Finance Authority created under section 8-244.

2045 (b) The authority is authorized to continue to develop and
2046 implement a program for home mortgage refinancing for homeowners
2047 with fixed or adjustable rate mortgages as an additional purpose
2048 pursuant to the provisions of subdivision (32) of section 8-250. Such
2049 program shall be undertaken by the authority consistent with and
2050 subject to its contractual obligations to its bondholders in an initial
2051 amount of forty million dollars under terms and conditions
2052 determined by the authority.

2053 Sec. 32. Subsection (d) of section 8-265gg of the general statutes is

2054 repealed and the following is substituted in lieu thereof (*Effective*
2055 *October 1, 2009*):

2056 (d) The authority shall establish procedures for periodic review of
2057 the mortgagor's financial circumstances for the purpose of determining
2058 the necessity for continuation, termination or adjustment of the
2059 amount of emergency mortgage assistance payments or adjustment of
2060 the payments by the mortgagor pursuant to subsection (b) of this
2061 section. Payments shall be discontinued when the authority
2062 determines that, due to changes in the mortgagor's financial condition,
2063 the payments are no longer necessary in accordance with the standards
2064 contained in section 8-265ff, as amended by this act, or the expiration
2065 of the sixty-month period of a mortgagor eligibility for such payments
2066 under subsection [(d)] (e) of section 8-265ff, as amended by this act,
2067 whichever is sooner, and a foreclosure of the mortgagor's mortgage
2068 may, at any time thereafter, proceed without further restriction or
2069 requirement under sections 8-265cc to 8-265hh, inclusive, as amended
2070 by this act. The authority may adjust payments by the mortgagor
2071 pursuant to subsection (b) of this section based on a review under this
2072 subsection.

2073 Sec. 33. Subsection (a) of section 8-265hh of the general statutes is
2074 repealed and the following is substituted in lieu thereof (*Effective*
2075 *October 1, 2009*):

2076 (a) Upon approval of emergency mortgage assistance payments, the
2077 authority shall enter into an agreement with the mortgagor for
2078 repayment of all such assistance with interest as provided in this
2079 section. The agreement shall provide for monthly payments by the
2080 mortgagor after emergency mortgage assistance payments have ended
2081 and shall be subject to the following provisions:

2082 [(1) If the mortgagor's total housing expense is less than or equal to
2083 thirty-five per cent of the mortgagor's aggregate family income, the
2084 mortgagor shall pay to the authority the difference between thirty-five
2085 per cent of such aggregate family income and such total housing

2086 expense, unless otherwise determined by the authority after examining
2087 the mortgagor's financial circumstances and ability to repay the
2088 emergency mortgage assistance payments;]

2089 [(2)] (1) If the mortgagor's total housing expense, including
2090 projected repayments for mortgage assistance under this section, is
2091 greater than thirty-five per cent of the mortgagor's aggregate family
2092 income, repayment of the emergency mortgage assistance payments
2093 shall be deferred until such total housing expense, including projected
2094 repayments for mortgage assistance under this section, is less than or
2095 equal to thirty-five per cent of such aggregate family income;

2096 [(3)] (2) If repayment of emergency mortgage assistance payments is
2097 not made by the date the mortgage is paid in full, the mortgagor shall
2098 make monthly payments to the authority in an amount not less than
2099 the monthly mortgage payment until such assistance is repaid;

2100 [(4)] (3) Interest shall accrue on all emergency mortgage assistance
2101 payments made by the authority at a rate based upon the cost of funds
2102 to the state periodically determined by the State Treasurer in
2103 consultation with the authority. Interest shall start to accrue whenever
2104 the mortgagor is required to commence repayment under this section.

2105 Sec. 34. Section 49-311 of the general statutes is repealed and the
2106 following is substituted in lieu thereof (*Effective July 1, 2009*):

2107 (a) Prior to July 1, 2010: (1) Any action for the foreclosure of a
2108 mortgage on residential real property with a return date during the
2109 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
2110 the provisions of subsection (b) of this section, and (2) any action for
2111 the foreclosure of a mortgage on residential real property with a return
2112 date during the period from July 1, 2009, to June 30, 2010, inclusive,
2113 shall be subject to the provisions of subsection (c) of this section.

2114 [(a)] (b) (1) Prior to July 1, 2010, when a mortgagee commences an
2115 action for the foreclosure of a mortgage on residential real property
2116 with a return date [on or after] during the period from July 1, 2008, to

2117 June 30, 2009, inclusive, the mortgagee shall give notice to the
2118 mortgagor of the foreclosure mediation program established in section
2119 49-31m by attaching to the front of the foreclosure complaint that is
2120 served on the mortgagor: [(1)] (A) A copy of the notice of the
2121 availability of foreclosure mediation, in such form as the Chief Court
2122 Administrator prescribes, and [(2)] (B) a foreclosure mediation request
2123 form, in such form as the Chief Court Administrator prescribes.

2124 [(b) (1)] (2) Except as provided in subdivision [(2)] (3) of this
2125 subsection, a mortgagor may request foreclosure mediation by
2126 submitting the foreclosure mediation request form to the court and
2127 filing an appearance not more than fifteen days after the return day for
2128 the foreclosure action. Upon receipt of the foreclosure mediation
2129 request form, the court shall notify each appearing party that a
2130 foreclosure mediation request form has been submitted by the
2131 mortgagor.

2132 [(2)] (3) The court may grant a mortgagor permission to submit a
2133 foreclosure mediation request form and file an appearance after the
2134 fifteen-day period established in subdivision [(1)] (2) of this subsection,
2135 for good cause shown, except that no foreclosure mediation request
2136 form may be submitted and no appearance may be filed more than
2137 twenty-five days after the return date.

2138 [(3)] (4) No foreclosure mediation request form may be submitted to
2139 the court on or after July 1, 2010.

2140 [(c)] (5) If at any time on or after July 1, 2008, but prior to July 1,
2141 2010, the court determines that the notice requirement of [subsection
2142 (a) of this section] subdivision (1) of this subsection has not been met,
2143 the court may, upon its own motion or upon the written motion of the
2144 mortgagor, issue an order that no judgment may enter for fifteen days
2145 during which period the mortgagor may submit a foreclosure
2146 mediation request form to the court.

2147 [(d)] (6) Notwithstanding any provision of the general statutes or
2148 any rule of law to the contrary, prior to July 1, 2010, no judgment of

2149 strict foreclosure nor any judgment ordering a foreclosure sale shall be
2150 entered in any action subject to the provisions of this subsection and
2151 instituted by the mortgagee to foreclose a mortgage on residential real
2152 property unless: [(1)] (A) Notice to the mortgagor has been given by
2153 the mortgagee in accordance with [subsection (a)] subdivision (1) of
2154 this [section] subsection and the time for submitting a foreclosure
2155 mediation request form has expired and no foreclosure mediation
2156 request form has been submitted, or if such notice has not been given,
2157 the time for submitting a foreclosure mediation request form pursuant
2158 to [subsection (b) or (c)] subdivision (2) or (3) of this [section]
2159 subsection has expired and no foreclosure mediation request form has
2160 been submitted, or [(2)] (B) the mediation period set forth in
2161 subdivision (b) of section 49-31n, as amended by this act, has expired
2162 or has otherwise terminated, whichever is earlier.

2163 [(e)] (Z) None of the mortgagor's or mortgagee's rights in the
2164 foreclosure action shall be waived by the mortgagor's submission of a
2165 foreclosure mediation request form to the court.

2166 (c) (1) Prior to July 1, 2010, when a mortgagee commences an action
2167 for the foreclosure of a mortgage on residential real property with a
2168 return date on or after July 1, 2009, the mortgagee shall give notice to
2169 the mortgagor of the foreclosure mediation program established in
2170 section 49-31m by attaching to the front of the writ, summons and
2171 complaint that is served on the mortgagor: (A) A copy of the notice of
2172 foreclosure mediation, in such form as the Chief Court Administrator
2173 prescribes, (B) a copy of the foreclosure mediation certificate form
2174 described in subdivision (3) of this subsection, in such form as the
2175 Chief Court Administrator prescribes, and (C) a blank appearance
2176 form, in such form as the Chief Court Administrator prescribes.

2177 (2) The court shall issue a notice of foreclosure mediation described
2178 in subdivision (3) of this subsection to the mortgagor not later than
2179 three days after the mortgagee returns the writ to the court.

2180 (3) The notice of foreclosure mediation shall instruct the mortgagor

2181 to file the appearance and foreclosure mediation certificate forms with
2182 the court no later than the date fifteen days from the return date for the
2183 foreclosure action. The foreclosure mediation certificate form shall
2184 require the mortgagor to provide sufficient information to permit the
2185 court to confirm that the defendant in the foreclosure action is a
2186 mortgagor, and to certify that said mortgagor has sent a copy of the
2187 mediation certificate form to the plaintiff in the action.

2188 (4) Upon receipt of the mortgagor's appearance and foreclosure
2189 mediation certificate forms, and provided the court confirms the
2190 defendant in the foreclosure action is a mortgagor and that said
2191 mortgagor has sent a copy of the mediation certificate form to the
2192 plaintiff, the court shall schedule a date for foreclosure mediation in
2193 accordance with subsection (c) of section 49-31n, as amended by this
2194 act. The court shall issue notice of such mediation date to all appearing
2195 parties not earlier than the date five business days after the return date.
2196 If the court does not receive the appearance and foreclosure mediation
2197 certificate forms from the mortgagor by the date fifteen days after the
2198 return date for the foreclosure action, the court shall not schedule such
2199 mediation.

2200 (5) Notwithstanding the provisions of this subsection, the court may
2201 refer a foreclosure action brought by a mortgagee to the foreclosure
2202 mediation program at any time, provided the mortgagor has filed an
2203 appearance in said action.

2204 (6) Notwithstanding any provision of the general statutes or any
2205 rule of law, prior to July 1, 2010, no judgment of strict foreclosure nor
2206 any judgment ordering a foreclosure sale shall be entered in any action
2207 subject to the provisions of this subsection and instituted by the
2208 mortgagee to foreclose a mortgage on residential real property unless:
2209 (A) The mediation period set forth in subdivision (c) of section 49-31n,
2210 as amended by this act, has expired or has otherwise terminated,
2211 whichever is earlier, or (B) the mediation program is not otherwise
2212 required or available.

2213 (7) None of the mortgagor's or mortgagee's rights in the foreclosure
2214 action shall be waived by participation in the foreclosure mediation
2215 program.

2216 Sec. 35. Section 49-31n of the general statutes is repealed and the
2217 following is substituted in lieu thereof (*Effective July 1, 2009*):

2218 (a) Prior to July 1, 2010: (1) Any action for the foreclosure of a
2219 mortgage on residential real property with a return date during the
2220 period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to
2221 the provisions of subsection (b) of this section, and (2) any action for
2222 the foreclosure of a mortgage on residential real property with a return
2223 date during the period from July 1, 2009, to June 30, 2010, inclusive,
2224 shall be subject to the provisions of subsection (c) of this section.

2225 [(a) The] (b) (1) For any action for the foreclosure of a mortgage on
2226 residential real property with a return date during the period from
2227 July 1, 2008, to June 30, 2009, inclusive, the mediation period under the
2228 foreclosure mediation program established in section 49-31m shall
2229 commence when the court sends notice to each appearing party that a
2230 foreclosure mediation request form has been submitted by a
2231 mortgagor to the court, which notice shall be sent not later than three
2232 business days after the court receives a completed foreclosure
2233 mediation request form. The mediation period shall conclude not more
2234 than sixty days after the return day for the foreclosure action, except
2235 that the court may, in its discretion, for good cause shown, [(1)] (A)
2236 extend, by not more than thirty days, or shorten the mediation period
2237 on its own motion or upon motion of any party, or [(2)] (B) extend by
2238 not more than thirty days the mediation period upon written request
2239 of the mediator.

2240 [(b)] (2) The first mediation session shall be held not later than
2241 fifteen business days after the court sends notice to all parties that a
2242 foreclosure mediation request form has been submitted to the court.
2243 The mortgagor and mortgagee shall appear in person at each
2244 mediation session and shall have authority to agree to a proposed

2245 settlement, except that if the mortgagee is represented by counsel, the
2246 mortgagee's counsel may appear in lieu of the mortgagee to represent
2247 the mortgagee's interests at the mediation, provided such counsel has
2248 the authority to agree to a proposed settlement and the mortgagee is
2249 available during the mediation session by telephone or electronic
2250 means. The court shall not award attorney's fees to any mortgagee for
2251 time spent in a mediation session if the court finds that such
2252 mortgagee has failed to comply with this subdivision, unless the court
2253 finds reasonable cause for such failure.

2254 [(c)] (3) Not later than two days after the conclusion of the first
2255 mediation session, the mediator shall determine whether the parties
2256 will benefit from further mediation. The mediator shall file with the
2257 court a report setting forth such determination and mail a copy of such
2258 report to each appearing party. If the mediator reports to the court that
2259 the parties will not benefit from further mediation, the mediation
2260 period shall terminate automatically. If the mediator reports to the
2261 court after the first mediation session that the parties may benefit from
2262 further mediation, the mediation period shall continue.

2263 [(d)] (4) If the mediator has submitted a report to the court that the
2264 parties may benefit from further mediation pursuant to [subsection (c)
2265 of this section] subdivision (3) of this subsection, not more than two
2266 days after the conclusion of the mediation, but no later than the
2267 termination of the mediation period set forth in [subsection (a) of this
2268 section] subdivision (1) of this subsection, the mediator shall file a
2269 report with the court describing the proceedings and specifying the
2270 issues resolved, if any, and any issues not resolved pursuant to the
2271 mediation. The filing of the report shall terminate the mediation period
2272 automatically. If certain issues have not been resolved pursuant to the
2273 mediation, the mediator may refer the mortgagor to any appropriate
2274 community-based services that are available in the judicial district, but
2275 any such referral shall not cause a delay in the mediation process.

2276 [(e)] (5) The Chief Court Administrator shall establish policies and
2277 procedures to implement this [section] subsection. Such policies and

2278 procedures shall, at a minimum, provide that the mediator shall advise
2279 the mortgagor at the first mediation session required by [subsection (b)
2280 of this section] subdivision (2) of this subsection that: [(1)] (A) Such
2281 mediation does not suspend the mortgagor's obligation to respond to
2282 the foreclosure action; [in accordance with applicable rules of the
2283 court;] and [(2)] (B) a judgment of strict foreclosure or foreclosure by
2284 sale may cause the mortgagor to lose the residential real property to
2285 foreclosure.

2286 [(f)] (6) In no event shall any determination issued by a mediator
2287 under this program form the basis of an appeal of any foreclosure
2288 judgment.

2289 [(g)] (7) Foreclosure mediation request forms shall not be accepted
2290 by the court on or after July 1, 2010, and the foreclosure mediation
2291 program shall terminate when all mediation has concluded with
2292 respect to any applications submitted to the court prior to July 1, 2010.

2293 [(h)] (8) At any time during the mediation period, the mediator may
2294 refer the mortgagor to the mortgage assistance programs, except that
2295 any such referral shall not prevent a mortgagee from proceeding to
2296 judgment when the conditions specified in [subsection (d)] subdivision
2297 (6) of subsection (b) of section 49-31l, as amended by this act, have
2298 been satisfied.

2299 (c) (1) For any action for the foreclosure of a mortgage on residential
2300 real property with a return date during the period from July 1, 2009, to
2301 June 30, 2010, inclusive, the mediation period under the foreclosure
2302 mediation program established in section 49-31m shall commence
2303 when the court sends notice to each appearing party scheduling the
2304 first foreclosure mediation session. The mediation period shall
2305 conclude not later than the date sixty days after the return date for the
2306 foreclosure action, except that the court may, in its discretion, for good
2307 cause shown, (A) extend, by not more than thirty days, or shorten the
2308 mediation period on its own motion or upon motion of any party, or
2309 (B) extend by not more than thirty days the mediation period upon

2310 written request of the mediator.

2311 (2) The first mediation session shall be held not later than fifteen
2312 business days after the court sends notice to each appearing party in
2313 accordance with subdivision (4) of subsection (c) of section 49-31l, as
2314 amended by this act. The mortgagor and mortgagee shall appear in
2315 person at each mediation session and shall have authority to agree to a
2316 proposed settlement, except that if the mortgagee is represented by
2317 counsel, the mortgagee's counsel may appear in lieu of the mortgagee
2318 to represent the mortgagee's interests at the mediation, provided such
2319 counsel has the authority to agree to a proposed settlement and the
2320 mortgagee is available during the mediation session by telephone or
2321 electronic means. The court shall not award attorney's fees to any
2322 mortgagee for time spent in a mediation session if the court finds that
2323 such mortgagee has failed to comply with this subdivision, unless the
2324 court finds reasonable cause for such failure.

2325 (3) Not later than two days after the conclusion of the first
2326 mediation session, the mediator shall determine whether the parties
2327 will benefit from further mediation. The mediator shall file with the
2328 court a report setting forth such determination and mail a copy of such
2329 report to each appearing party. If the mediator reports to the court that
2330 the parties will not benefit from further mediation, the mediation
2331 period shall terminate automatically. If the mediator reports to the
2332 court after the first mediation session that the parties may benefit from
2333 further mediation, the mediation period shall continue.

2334 (4) If the mediator has submitted a report to the court that the
2335 parties may benefit from further mediation pursuant to subdivision (3)
2336 of this subsection, not more than two days after the conclusion of the
2337 mediation, but no later than the termination of the mediation period
2338 set forth in subdivision (1) of this subsection, the mediator shall file a
2339 report with the court describing the proceedings and specifying the
2340 issues resolved, if any, and any issues not resolved pursuant to the
2341 mediation. The filing of the report shall terminate the mediation period
2342 automatically. If certain issues have not been resolved pursuant to the

2343 mediation, the mediator may refer the mortgagor to any appropriate
2344 community-based services that are available in the judicial district, but
2345 any such referral shall not cause a delay in the mediation process.

2346 (5) The Chief Court Administrator shall establish policies and
2347 procedures to implement this subsection. Such policies and procedures
2348 shall, at a minimum, provide that the mediator shall advise the
2349 mortgagor at the first mediation session required by subdivision (2) of
2350 this subsection that: (A) Such mediation does not suspend the
2351 mortgagor's obligation to respond to the foreclosure action; and (B) a
2352 judgment of strict foreclosure or foreclosure by sale may cause the
2353 mortgagor to lose the residential real property to foreclosure.

2354 (6) In no event shall any determination issued by a mediator under
2355 this program form the basis of an appeal of any foreclosure judgment.

2356 (7) The foreclosure mediation program shall terminate when all
2357 mediation has concluded with respect to any foreclosure action with a
2358 return date during the period from July 1, 2009, to June 30, 2010,
2359 inclusive.

2360 (8) At any time during the mediation period, the mediator may refer
2361 the mortgagor to the mortgage assistance programs, except that any
2362 such referral shall not prevent a mortgagee from proceeding to
2363 judgment when the conditions specified in subdivision (6) of
2364 subsection (c) of section 49-31l, as amended by this act, have been
2365 satisfied.

2366 Sec. 36. Section 49-31o of the general statutes is repealed and the
2367 following is substituted in lieu thereof (*Effective July 1, 2009*):

2368 (a) Nothing in sections 49-31k to 49-31n, inclusive, as amended by
2369 this act, shall require a mortgagee to modify a mortgage or change the
2370 terms of payment of a mortgage without its consent.

2371 (b) Information submitted by the mortgagor to a mediator, either
2372 orally or in writing, including financial documents, shall not be subject

2373 to disclosure by the judicial branch.

2374 Sec. 37. Section 49-15 of the general statutes is repealed and the
2375 following is substituted in lieu thereof (*Effective October 1, 2009*):

2376 (a) (1) Any judgment foreclosing the title to real estate by strict
2377 foreclosure may, at the discretion of the court rendering the [same]
2378 judgment, upon the written motion of any person having an interest
2379 [therein,] in the judgment and for cause shown, be opened and
2380 modified, notwithstanding the limitation imposed by section 52-212a,
2381 upon such terms as to costs as the court deems reasonable, [; but]
2382 provided no such judgment shall be opened after the title has become
2383 absolute in any encumbrancer except as provided in subdivision (2) of
2384 this subsection.

2385 (2) Any judgment foreclosing the title to real estate by strict
2386 foreclosure may be opened after title has become absolute in any
2387 encumbrancer upon agreement of each party to the foreclosure action
2388 who filed an appearance in the action and any person who acquired an
2389 interest in the real estate after title became absolute in any
2390 encumbrancer, provided (A) such judgment may not be opened more
2391 than four months after the date such judgment was entered or more
2392 than thirty days after title became absolute in any encumbrancer,
2393 whichever is later, and (B) the rights and interests of each party,
2394 regardless of whether the party filed an appearance in the action, and
2395 any person who acquired an interest in the real estate after title became
2396 absolute in any encumbrancer, are restored to the status that existed on
2397 the date the judgment was entered.

2398 (3) If a judgment is opened pursuant to this subsection, the person
2399 who filed the written motion pursuant to subdivision (1) of this
2400 subsection shall record a certified copy of the court's order to open
2401 such judgment on the land records in the town in which the real estate
2402 is situated.

2403 (b) Upon the filing of a bankruptcy petition by a mortgagor under
2404 Title 11 of the United States Code, any judgment against the mortgagor

2405 foreclosing the title to real estate by strict foreclosure shall be opened
2406 automatically without action by any party or the court, provided, the
2407 provisions of such judgment, other than the establishment of law days,
2408 shall not be set aside under this subsection, [; but] provided no such
2409 judgment shall be opened after the title has become absolute in any
2410 encumbrancer or the mortgagee, or any person claiming under such
2411 encumbrancer or mortgagee. The mortgagor shall file a copy of the
2412 bankruptcy petition, or an affidavit setting forth the date the
2413 bankruptcy petition was filed, with the clerk of the court in which the
2414 foreclosure matter is pending. Upon the termination of the automatic
2415 stay authorized pursuant to 11 USC 362, the mortgagor shall file with
2416 such clerk an affidavit setting forth the date the stay was terminated.

2417 Sec. 38. Subsections (a) and (b) of section 36b-62 of the general
2418 statutes, as amended by section 2 of substitute house bill 6232 of the
2419 current session, are repealed and the following is substituted in lieu
2420 thereof (*Effective October 1, 2009*):

2421 (a) No person shall sell or offer a business opportunity in this state
2422 unless such [person] business opportunity is registered under this
2423 section or is exempt from registration under section 36b-65, as
2424 amended by [this act] substitute house bill 6232 of the current session.

2425 (b) Prior to the sale or offer for sale of a business opportunity the
2426 seller shall register the business opportunity with the commissioner by
2427 filing with the commissioner:

2428 (1) A copy of the disclosure document required by section 36b-63, as
2429 amended by [this act] substitute house bill 6232 of the current session;

2430 (2) A bond as required by section 36b-64, as amended by [this act]
2431 substitute house bill 6232 of the current session;

2432 (3) In accordance with subsection (e) of this section, an irrevocable
2433 consent appointing the commissioner to be such seller's attorney to
2434 receive service of any lawful process in any noncriminal suit, action or
2435 proceeding which arises under sections 36b-60 to 36b-80, inclusive, as

2436 amended by [this act] substitute house bill 6232 of the current session,
2437 or any regulation or order adopted or issued under the provisions of
2438 said sections;

2439 (4) Information and documents in such form as the commissioner
2440 may prescribe, including, but not limited to:

2441 (A) The official name, address and principal place of business of the
2442 seller and of the parent firm or holding company of such seller, if any;

2443 (B) The biographical data and business experience of each of the
2444 seller's directors and officers;

2445 (C) The business experience of the seller, including the length of
2446 time such seller has: (i) Conducted a business of the type to be
2447 operated by the purchaser-investor, (ii) sold any business opportunity
2448 for such business, and (iii) sold any business opportunity in any other
2449 line of business;

2450 (D) A copy of any contracts, agreements, brochures or other
2451 documents relating to the business opportunity;

2452 (E) A factual description of the business opportunity offered to be
2453 sold and of the services, training and assistance that will be provided
2454 by the seller to the purchaser-investor;

2455 (F) A statement describing any services, supplies, products, signs,
2456 fixtures or equipment relating to the establishment or the operation of
2457 the business opportunity that the purchaser-investor is required to
2458 purchase, lease or rent directly or indirectly from the seller;

2459 (G) A copy of the table of contents of any operations manual to be
2460 provided to the purchaser-investor;

2461 (H) (i) A balance sheet, income statement and statement of changes
2462 in financial condition of the seller as of a date not more than four
2463 months prior to the filing under this subsection, which financial
2464 statements may be unaudited, provided, if the seller has been in

2465 business for less than twelve months from the date of such filing, such
2466 financial statements shall be reviewed by an independent certified
2467 public accountant and shall include a written opinion from such
2468 accountant stating that the accountant is not aware of any material
2469 modifications that should be made to the financial statements in order
2470 for them to be in conformity with generally accepted accounting
2471 principles; (ii) a balance sheet of the seller, an income statement and
2472 statement of changes in financial position for the most recent fiscal
2473 year audited by an independent public accountant or an independent
2474 certified public accountant; (iii) a balance sheet of the seller, an income
2475 statement and statement of changes in financial position for the prior
2476 two fiscal years reviewed by an independent certified public
2477 accountant who provides an opinion stating that such accountant is
2478 not aware of any material modifications that should be made to the
2479 financial statements in order for them to be in conformity with
2480 generally accepted accounting principles; [or] and (iv) any material
2481 changes in the financial condition of the seller occur after such
2482 financial statements are prepared, the seller shall disclose such changes
2483 and explain their significance to the operation of the business
2484 opportunity. If the seller is controlled by any person who absolutely
2485 and unconditionally guarantees to assume the duties and obligations
2486 of the seller under the business opportunity agreement should the
2487 seller become unable to perform, the commissioner may accept
2488 consolidated financial statements from the seller and such person;

2489 (I) Any other information that the commissioner in the
2490 commissioner's discretion reasonably requires;

2491 (J) A written statement signed and sworn to by the seller before a
2492 person qualified to administer oaths that the information contained in
2493 the documents filed pursuant to this subsection is true and correct; and

2494 (K) A nonrefundable registration fee of four hundred dollars.

2495 Sec. 39. Section 36a-537 of the general statutes, as amended by
2496 section 6 of substitute senate bill 950 of the current session, as

2497 amended, is repealed and the following is substituted in lieu thereof
2498 (*Effective from passage*):

2499 The application for a license as a sales finance company shall be on a
2500 form prescribed by the commissioner, in writing and under oath,
2501 together with such exhibits and other pertinent information as the
2502 commissioner may require. The application shall include (1) the
2503 history of criminal convictions for the ten-year period prior to the date
2504 of the application of the applicant; and the partners, if the applicant is
2505 a partnership; the members, if the applicant is a limited liability
2506 company or association; or the officers, directors and principal
2507 employees if the applicant is a corporation; and (2) sufficient
2508 information pertaining to the history of criminal convictions, in a form
2509 acceptable to the commissioner, on such applicant, partners, directors,
2510 members, officers, [directors] and principal employees as the
2511 commissioner deems necessary to make findings under section 36a-
2512 541, as amended by [this act] substitute senate bill 950 of the current
2513 session, as amended.

2514 Sec. 40. Subsection (c) of section 36a-581 of the general statutes, as
2515 amended by section 10 of substitute senate bill 950 of the current
2516 session, as amended, is repealed and the following is substituted in
2517 lieu thereof (*Effective from passage*):

2518 (c) An application for a check cashing license or renewal of such
2519 license shall be in writing, under oath and on a form provided by the
2520 commissioner. The application shall set forth: (1) The name and
2521 address of the applicant; (2) if the applicant is a firm or partnership,
2522 the names and addresses of each member of the firm or partnership;
2523 (3) if the applicant is a corporation, the names and addresses of each
2524 officer, director, authorized agent and each shareholder owning ten
2525 per cent or more of the outstanding stock of such corporation; (4) if the
2526 applicant is a limited liability company, the names and addresses of
2527 each member and authorized agent of such limited liability company;
2528 (5) (A) the history of criminal convictions for the ten-year period prior
2529 to the date of the application of the applicant; the members, if the

2530 applicant is a firm or partnership; the officers, directors, authorized
2531 agent and each shareholder owning ten per cent or more of the
2532 outstanding stock of the applicant, if the applicant is a corporation,
2533 and (B) sufficient information pertaining to the history of criminal
2534 convictions in a form acceptable to the commissioner on such
2535 applicant, members, officers, directors, authorized agent and
2536 shareholders as the commissioner deems necessary to make the
2537 findings under subsection (e) of [his] this section, as amended by [this
2538 act] substitute senate bill 950 of the current session, as amended; (6)
2539 each location where the check cashing business is to be conducted and
2540 the type of facility that will be operated at that location; (7) the
2541 business plan, which shall include the proposed days and hours of
2542 operation; (8) the amount of liquid assets available for each location
2543 which shall not be less than the amount specified in subdivision (7) of
2544 subsection (e) of this section, as amended by [this act] substitute senate
2545 bill 950 of the current session, as amended; (9) for each limited facility,
2546 a copy of the executed contract evidencing the proposed arrangement
2547 between the applicant and the employer; and (10) any other
2548 information the commissioner may require.

2549 Sec. 41. Section 29 of substitute senate bill 950 of the current session,
2550 as amended, is repealed and the following is substituted in lieu thereof
2551 (*Effective October 1, 2009*):

2552 (a) As used in this section and sections 30 to 33, inclusive, of [this
2553 act] substitute senate bill 950 of the current session, as amended, (1)
2554 "debt negotiation" means, for or with the expectation of a fee,
2555 commission or other valuable consideration, assisting a debtor in
2556 negotiating or attempting to negotiate on behalf of a debtor the terms
2557 of a debtor's obligations with one or more mortgagees or creditors of
2558 the debtor, including the negotiation of short sales of residential
2559 property or foreclosure rescue services; (2) "debtor" means any
2560 individual who has incurred indebtedness or owes a debt for personal,
2561 family or household purposes; (3) "mortgagee" means the original
2562 lender under a mortgage loan secured by residential property or its
2563 agents, successors or assigns; (4) "mortgagor" means [the owner-

2564 occupant of a one-to-four family residential property located in this
2565 state] a debtor who is an owner of residential property, including, but
2566 not limited to, a single-family unit in a common interest community,
2567 who is also the borrower under a mortgage encumbering such
2568 residential property; (5) "short sale" means the sale of residential
2569 property by a mortgagor for an amount less than the outstanding
2570 balance owed on the loan secured by such property where, prior to the
2571 sale, the mortgagee or an assignee of the mortgagee agrees to accept
2572 less than the outstanding loan balance in full or partial satisfaction of
2573 the mortgage debt and the proceeds of the sale are paid to the
2574 mortgagee or an assignee of the mortgagee; (6) "foreclosure rescue
2575 services" means services related to or promising assistance in
2576 connection with (A) avoiding or delaying actual or anticipated
2577 foreclosure proceedings concerning residential property, or (B) curing
2578 or otherwise addressing a default or failure to timely pay with respect
2579 to a mortgage loan secured by residential property, and includes, but
2580 is not limited to, the offer, arrangement or placement of a mortgage
2581 loan secured by residential property or other extension of credit when
2582 those services are advertised, offered or promoted in the context of
2583 foreclosure related services; and (7) "residential property" means one-
2584 to-four family owner-occupied real property.

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

2598 (3) has [his or her] its place of business located outside of this state and
2599 the contract concerns a debt that is secured by property located within
2600 this state.

2601 (c) An application for an original or renewal debt negotiation license
2602 shall be in writing on a form provided by the commissioner and shall
2603 include (1) the history of criminal convictions for the ten-year period
2604 prior to the date of the application of the (A) applicant, (B) partners, if
2605 the applicant is a partnership, (C) members, if the applicant is a limited
2606 liability company or association, or (D) officers, directors and principal
2607 employees, if the applicant is a corporation; and (2) sufficient
2608 information pertaining to the history of criminal convictions, in a form
2609 acceptable to the commissioner, on such applicant, partners, members,
2610 officers, directors and principal employees as the commissioner deems
2611 necessary to make the findings under subsection (d) of this section.

2612 (d) If the commissioner finds, upon the filing of an application for a
2613 debt negotiation license, that: (1) The financial responsibility, character,
2614 reputation, integrity and general fitness of the (A) applicant, (B)
2615 partners thereof, if the applicant is a partnership, (C) members, if the
2616 applicant is a limited liability company or association, and (D) officers,
2617 directors and principal employees, if the applicant is a corporation, are
2618 such as to warrant belief that the business will be operated soundly
2619 and efficiently, in the public interest and consistent with the purposes
2620 of sections 29 to 33, inclusive, of [this act] substitute senate bill 950 of
2621 the current session, as amended; and (2) the applicant is solvent and no
2622 proceeding in bankruptcy, receivership or assignment for the benefit of
2623 creditors has been commenced against the applicant, the commissioner
2624 may thereupon issue the applicant a debt negotiation license. Such
2625 debt negotiation license shall not be transferable. Any change of
2626 location of a licensee shall require prior written notice to the
2627 commissioner. No licensee shall use any name unless such name has
2628 been approved by the commissioner. If the commissioner fails to make
2629 such findings, the commissioner shall not issue a license and shall
2630 notify the applicant of the reasons for such denial. The commissioner
2631 may deny an application if the commissioner finds that the applicant

2632 or any partner, member, officer, director or principal employee of the
2633 applicant has been convicted, during the ten-year period prior to the
2634 date of application, of any misdemeanor involving any aspect of the
2635 debt negotiation business or any felony. Any denial of an application
2636 by the commissioner shall, when applicable, be subject to the
2637 provisions of section 46a-80 of the general statutes. Withdrawal of an
2638 application for a license shall become effective upon receipt by the
2639 commissioner of a notice of intent to withdraw such application. The
2640 commissioner may deny a license up to the date one year after the
2641 effective date of withdrawal.

2642 (e) Each applicant for an original or renewal debt negotiation license
2643 shall, at the time of making such application, pay to the commissioner
2644 an application fee of one thousand six hundred dollars, provided, if
2645 such application is filed not earlier than one year before the date such
2646 license will expire, such person shall pay a license fee of eight hundred
2647 dollars. Each such license shall expire at the close of business on
2648 September thirtieth of the odd-numbered year following its issuance
2649 unless such license is renewed. Each licensee shall, on or before
2650 September first of the year in which the license expires, file such
2651 renewal application as the commissioner may require. Whenever an
2652 application for a license is filed under this section by any person who
2653 was a licensee under this section and whose license expired less than
2654 sixty days prior to the date such application was filed, such application
2655 shall be accompanied by a one-hundred-dollar processing fee in
2656 addition to the application fee.

2657 (f) If the commissioner determines that a check filed with the
2658 commissioner to pay an application fee has been dishonored, the
2659 commissioner shall automatically suspend the license or a renewal
2660 license that has been issued but is not yet effective. The commissioner
2661 shall give the licensee notice of the automatic suspension pending
2662 proceedings for revocation or refusal to renew and an opportunity for
2663 a hearing on such actions in accordance with section 36a-51 of the
2664 general statutes.

2665 (g) No abatement of the license fee shall be made if the license is
2666 surrendered, revoked or suspended prior to the expiration of the
2667 period for which it was issued. The fee required by subsection (e) of
2668 this section shall be nonrefundable.

2669 Sec. 42. Section 1 of substitute senate bill 949 of the current session,
2670 as amended, is repealed and the following is substituted in lieu thereof
2671 (*Effective October 1, 2009*):

2672 (a) A person commits residential mortgage fraud when, for financial
2673 gain and with the intent to defraud, such person: (1) Knowingly makes
2674 any material written misstatement, misrepresentation or omission
2675 during the mortgage lending process with the intention that a
2676 mortgage lender, mortgage correspondent lender or mortgage broker,
2677 as defined in section 36a-485 of the general statutes, a borrower or any
2678 other person that is involved in the mortgage lending process will rely
2679 on such written misstatement, misrepresentation or omission; (2)
2680 knowingly uses or facilitates the use or attempts to use or facilitate the
2681 use of any written misstatement, misrepresentation or omission during
2682 the mortgage lending process with the intention that a mortgage
2683 lender, mortgage correspondent lender, as defined in section 36a-485
2684 of the general statutes, borrower or any other person that is involved
2685 in the mortgage lending process relies on it; (3) receives or attempts to
2686 receive proceeds or any other funds in connection with a residential
2687 mortgage closing that the person knew or should have known resulted
2688 from an act or acts constituting residential mortgage fraud; or (4)
2689 conspires with or solicits another to engage in an act or acts
2690 constituting residential mortgage fraud.

2691 (b) (1) A person who commits a single act of residential mortgage
2692 fraud is guilty of a class D felony.

2693 (2) A person who commits two or more acts of residential mortgage
2694 fraud is guilty of a class C felony.

2695 (3) For purposes of this section, (A) "person" means (i) a mortgage
2696 broker, mortgage lender, mortgage loan originator or mortgage

2697 correspondent lender, as defined in section 36a-485 of the general
2698 statutes, or (ii) any other individual who [makes] is a mortgagor on
2699 more than three individual mortgage loans or who purchases or sells
2700 more than three residential properties in a consecutive twelve-month
2701 period; (B) "mortgage lending process" means the process through
2702 which an individual seeks or obtains a residential mortgage loan,
2703 including solicitation, application, origination, negotiation of terms,
2704 underwriting, signing, closing and funding of a residential mortgage
2705 loan and services provided incident to such mortgage loan, including
2706 the appraisal of the residential property; and (C) "residential property"
2707 means "residential property" as defined in section 36a-485 of the
2708 general statutes.

2709 (c) It shall be sufficient in any prosecution for residential mortgage
2710 fraud to show that the party accused did the act with the intent to
2711 deceive or defraud. It shall be unnecessary to show that any particular
2712 person was harmed financially in the transaction or that the person to
2713 whom the deliberate misstatement, misrepresentation or omission was
2714 made relied upon the misstatement, misrepresentation or omission.
2715 For purposes of this section, the residential mortgage fraud is
2716 committed: (1) In the county in which the residential real property for
2717 which the mortgage loan is being sought is located; (2) in the county in
2718 which any act was performed in furtherance of residential mortgage
2719 fraud; (3) in any county in which any person alleged to have engaged
2720 in an act that constitute residential mortgage fraud had control or
2721 possession of any proceeds of such residential mortgage fraud; (4) if a
2722 closing occurred, in any county in which the closing occurred; or (5) in
2723 any county in which a document containing a deliberate misstatement,
2724 misrepresentation or omission is filed with an official registrar.

2725 Sec. 43. Section 36a-760 of the general statutes, as amended by
2726 section 3 of substitute senate bill 949 of the current session, as
2727 amended, is repealed and the following is substituted in lieu thereof
2728 (*Effective October 1, 2009*):

2729 (a) As used in this section and sections 36a-760a to 36a-760j,

2730 inclusive, as amended by [this act] substitute senate bill 949 of the
2731 current session, as amended:

2732 (1) ["Commissioner" means the Banking Commissioner and, with
2733 respect to any function of the commissioner, includes any person
2734 authorized or designated by the commissioner to carry out that
2735 function] "APR" has the same meaning as provided in section 36a-746a;

2736 (2) "CHFA loan" means a loan made, insured, purchased, subsidized
2737 or guaranteed by the Connecticut Housing Finance Authority;

2738 (3) "FHA loan" means a loan made, insured, purchased, subsidized
2739 or guaranteed by the Federal Housing Administration;

2740 (4) "First mortgage loan" has the same meaning as provided in
2741 section 36a-485;

2742 (5) "Lender" means any person engaged in the business of the
2743 making of mortgage loans who is required to be licensed by the
2744 Department of Banking under chapter 668, or their successors or
2745 assigns, and shall also mean any bank, out-of-state bank, Connecticut
2746 credit union, federal credit union, out-of-state credit union, or an
2747 operating subsidiary of a federal bank or a federally chartered out-of-
2748 state bank where such subsidiary engages in the business of making
2749 mortgage loans, and their successors and assigns, but shall not include
2750 any mortgage broker, as defined in this section, or any mortgage loan
2751 originator, as defined in section 36a-485;

2752 (6) "Mortgage broker" means any person, other than a lender, who
2753 (A) for a fee, commission or other valuable consideration, negotiates,
2754 solicits, arranges, places or finds a mortgage, and (B) who is required
2755 to be licensed by the Department of Banking under chapter 668, or
2756 their successors or assigns;

2757 (7) "Nonprime home loan" means any loan or extension of credit,
2758 excluding an open-end line of credit, and further excluding a reverse
2759 mortgage transaction, as defined in 12 CFR 226.33, as amended from

2760 time to time:

2761 (A) In which the borrower is a natural person;

2762 (B) The proceeds of which are to be used primarily for personal
2763 family or household purposes;

2764 (C) In which the loan is secured by a mortgage upon any interest in
2765 one-to-four family residential property located in this state which is, or
2766 when the loan is made, intended to be used or occupied by the
2767 borrower as a principal residence;

2768 (D) In which the principal amount of the loan does not exceed (i)
2769 four hundred seventeen thousand dollars for a loan originated on or
2770 after July 1, 2008, but before July 1, 2010; and (ii) the then current
2771 conforming loan limit, as established from time to time by the Federal
2772 National Mortgage Association, for a loan originated on or after July 1,
2773 2010;

2774 (E) Where the loan is not a CHFA loan; and

2775 (F) In which the conditions set forth in clauses (i) and (ii) of this
2776 subparagraph apply, subject to any adjustments made pursuant to
2777 clause (iii) of this subparagraph:

2778 (i) The difference, at the time of consummation, between the APR
2779 for the loan and the conventional mortgage rate is either equal to or
2780 greater than (I) one and three-quarters percentage points, if the loan is
2781 a first mortgage loan, or (II) three and three-quarters percentage
2782 points, if the loan is a secondary mortgage loan. For purposes of such
2783 calculation, "conventional mortgage rate" means the contract interest
2784 rate on commitments for fixed-rate mortgages published by the board
2785 of governors of the federal reserve system in its statistical release H.15,
2786 or any publication that may supersede it, during the week preceding
2787 the week in which the interest rate for the loan is set.

2788 (ii) The difference, at the time of consummation, between the APR
2789 for the loan or extension of credit and the average prime offer rate for a

2790 comparable transaction, as of the date the interest rate is set, is greater
2791 than one and one-half percentage points if the loan is a first mortgage
2792 loan or three and one-half percentage points if the loan is a secondary
2793 mortgage loan. For purposes of this subparagraph, "average prime
2794 offer rate" has the meaning as provided in 12 CFR 226.35, as amended
2795 from time to time.

2796 (iii) The commissioner shall have the authority, after consideration
2797 of the relevant factors, to increase the percentages set forth in clauses
2798 (i) and (ii) of this subparagraph. The authority of the commissioner,
2799 and any increases or decreases made under this clause, shall expire on
2800 August 31, 2010. For purposes of this clause, the relevant factors to be
2801 considered by the commissioner shall include, but not be limited to,
2802 the existence and amount of increases in fees or charges in connection
2803 with purchases of mortgages by the Federal National Mortgage
2804 Association or the Federal Home Loan Mortgage Corporation and
2805 increases in fees or charges imposed by mortgage insurers and the
2806 impact, including the magnitude of the impact, that such increases
2807 have had, or will likely have, on APRs for mortgage loans in this state.
2808 When considering such factors, the commissioner shall focus on those
2809 increases that are related to the deterioration in the housing market
2810 and credit conditions. The commissioner may refrain from increasing
2811 such percentages if it appears that lenders are increasing interest rates
2812 or fees in bad faith or if increasing the percentages would be contrary
2813 to the purposes of sections 36a-760 to 36a-760f, inclusive, as amended
2814 by [this act] substitute senate bill 949 of the current session, as
2815 amended. No increase authorized by the commissioner to a particular
2816 percentage shall exceed one-quarter of one percentage point, and the
2817 total of all increases to a particular percentage under this clause shall
2818 not exceed one-half of one percentage point. No increase shall be made
2819 unless: (I) The increase is noticed in the Banking Department Bulletin
2820 and the Connecticut Law Journal, and (II) a public comment period of
2821 twenty days is provided. Any increase made under this clause shall be
2822 reduced proportionately when the need for the increase has
2823 diminished or no longer exists. The commissioner, in the exercise of his

2824 discretion, may authorize an increase in the percentages with respect
 2825 to all loans or just with respect to a certain class or classes of loans.

2826 (8) "Open-end line of credit" means a mortgage extended by a
 2827 lender under a plan in which: (A) The lender reasonably contemplates
 2828 repeated transactions; (B) the lender may impose a finance charge from
 2829 time to time on an outstanding unpaid balance; (C) the amount of
 2830 credit that may be extended to the consumer during the term of the
 2831 plan, up to any limit set by the lender, is generally made available to
 2832 the extent that any outstanding balance is repaid; and (D) none of the
 2833 proceeds of the open-end line of credit are used at closing to (i)
 2834 purchase the borrower's primary residence, or (ii) refinance a
 2835 mortgage loan that had been used by the borrower to purchase the
 2836 borrower's primary residence;

2837 (9) "Residential property" has the same meaning as provided in
 2838 section 36a-485;

2839 (10) "Secondary mortgage loan" has the same meaning as provided
 2840 in section 36a-485.

2841 (b) The provisions of sections 36a-760a to 36a-760i, inclusive, shall
 2842 be applicable to nonprime home loans and mortgages, as appropriate,
 2843 for which applications have been received on or after August 1, 2008."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 31, 2009	36a-21
Sec. 2	July 31, 2009	36a-485
Sec. 3	July 31, 2009	36a-534b
Sec. 4	July 31, 2009	36a-498c
Sec. 5	July 31, 2009	36a-486
Sec. 6	July 31, 2009	36a-487
Sec. 7	July 31, 2009	36a-488
Sec. 8	July 31, 2009	36a-489
Sec. 9	July 31, 2009	New section
Sec. 10	July 31, 2009	36a-490

Sec. 11	<i>July 31, 2009</i>	36a-491
Sec. 12	<i>July 31, 2009</i>	36a-492
Sec. 13	<i>July 31, 2009</i>	36a-493(a)
Sec. 14	<i>July 31, 2009</i>	36a-494
Sec. 15	<i>July 31, 2009</i>	36a-496
Sec. 16	<i>July 31, 2009</i>	36a-497
Sec. 17	<i>July 31, 2009</i>	36a-498(a) to (g)
Sec. 18	<i>July 31, 2009</i>	36a-555
Sec. 19	<i>July 31, 2009</i>	New section
Sec. 20	<i>July 31, 2009</i>	New section
Sec. 21	<i>July 31, 2009</i>	New section
Sec. 22	<i>July 31, 2009</i>	New section
Sec. 23	<i>July 31, 2009</i>	36a-498a(a)
Sec. 24	<i>October 1, 2009</i>	46a-80
Sec. 25	<i>October 1, 2009</i>	46a-81
Sec. 26	<i>July 31, 2009</i>	36a-760j
Sec. 27	<i>July 1, 2009</i>	8-265cc(7)
Sec. 28	<i>July 1, 2009</i>	8-265dd(b)
Sec. 29	<i>July 1, 2009</i>	8-265ee
Sec. 30	<i>October 1, 2009</i>	8-265ff
Sec. 31	<i>from passage</i>	8-265rr
Sec. 32	<i>October 1, 2009</i>	8-265gg(d)
Sec. 33	<i>October 1, 2009</i>	8-265hh(a)
Sec. 34	<i>July 1, 2009</i>	49-31l
Sec. 35	<i>July 1, 2009</i>	49-31n
Sec. 36	<i>July 1, 2009</i>	49-31o
Sec. 37	<i>October 1, 2009</i>	49-15
Sec. 38	<i>October 1, 2009</i>	36b-62(a) and (b)
Sec. 39	<i>from passage</i>	36a-537
Sec. 40	<i>from passage</i>	36a-581(c)
Sec. 41	<i>October 1, 2009</i>	SB 950 (current session), Sec. 29
Sec. 42	<i>October 1, 2009</i>	SB 949 (current session), Sec. 1
Sec. 43	<i>October 1, 2009</i>	36a-760