



House of Representatives

General Assembly

File No. 178

February Session, 2010

Substitute House Bill No. 5186

House of Representatives, March 29, 2010

The Committee on Banks reported through REP. BARRY of the 12th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE PROVISIONS OF THE SECURITIES AND BUSINESS INVESTMENTS LAW OF CONNECTICUT GOVERNING NOTICE, THE DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION, AND THE DISCLOSURE TO PURCHASER-INVESTORS.

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

1 Section 1. Subsection (a) of section 36b-15 of the 2010 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2010*):

4 (a) The commissioner may, by order, deny, suspend or revoke any
5 registration or, by order, restrict or impose conditions on the securities
6 or investment advisory activities that an applicant or registrant may
7 perform in this state if the commissioner finds that (1) the order is in
8 the public interest, and (2) the applicant or registrant or, in the case of a
9 broker-dealer or investment adviser, any partner, officer, or director,
10 any person occupying a similar status or performing similar functions,
11 or any person directly or indirectly controlling the broker-dealer or

12 investment adviser: (A) Has filed an application for registration which
13 as of its effective date, or as of any date after filing in the case of an
14 order denying effectiveness, was incomplete in any material respect or
15 contained any statement which was, in light of the circumstances
16 under which it was made, false or misleading with respect to any
17 material fact; (B) has wilfully violated or wilfully failed to comply with
18 any provision of sections 36b-2 to 36b-33, inclusive, as amended by this
19 act, or a predecessor statute or any regulation or order under said
20 sections or a predecessor statute; (C) has been convicted, within the
21 past ten years, of any misdemeanor involving a security, any aspect of
22 a business involving securities, commodities, investments, franchises,
23 business opportunities, insurance, banking or finance, or any felony, or
24 has been released from incarceration, within the past ten years,
25 following such conviction, provided any denial, suspension or
26 revocation of such registration shall be in accordance with the
27 provisions of section 46a-80; (D) is permanently or temporarily
28 enjoined by any court of competent jurisdiction from engaging in or
29 continuing any conduct or practice involving any aspect of a business
30 involving securities, commodities, investments, franchises, business
31 opportunities, insurance, banking or finance; (E) is the subject of a
32 cease and desist order of the commissioner or an order of the
33 commissioner denying, suspending, or revoking registration as a
34 broker-dealer, agent, investment adviser or investment adviser agent;
35 (F) is the subject of any of the following sanctions that are currently
36 effective or were imposed within the past ten years: (i) An order issued
37 by the securities administrator of any other state or [by] the Securities
38 and Exchange Commission or the Commodity Futures Trading
39 Commission denying, suspending or revoking registration as a
40 broker-dealer, agent, investment adviser, investment adviser agent or a
41 person required to be registered under the Commodity Exchange Act,
42 7 USC 1 et seq., as from time to time amended, and the rules and
43 regulations thereunder, or the substantial equivalent of those terms, as
44 defined in sections 36b-2 to 36b-33, inclusive, as amended by this act,
45 (ii) an order of the Securities and Exchange Commission or
46 Commodity Futures Trading Commission suspending or expelling

47 such applicant, registrant or person from a national securities or
48 commodities exchange or national securities or commodities
49 association registered under the Securities Exchange Act of 1934 or the
50 Commodity Exchange Act, 7 USC 1 et seq., as from time to time
51 amended, or, in the case of an individual, an order of the Securities
52 and Exchange Commission or an equivalent order of the Commodity
53 Futures Trading Commission barring such individual from association
54 with a broker-dealer or an investment adviser, (iii) a suspension,
55 expulsion or other sanction issued by a national securities exchange or
56 other self-regulatory organization registered under federal laws
57 administered by the Securities and Exchange Commission or the
58 Commodity Futures Trading Commission if the effect of the sanction
59 has not been stayed or overturned by appeal or otherwise, (iv) a
60 United States Post Office fraud order, (v) a denial, suspension,
61 revocation or other sanction issued by the commissioner or any other
62 state or federal financial services regulator based upon nonsecurities
63 violations of any state or federal law under which a business involving
64 investments, franchises, business opportunities, insurance, banking or
65 finance is regulated, or (vi) a cease and desist order entered by the
66 Securities and Exchange Commission, a self-regulatory organization or
67 the securities agency or administrator of any other state or Canadian
68 province or territory; but the commissioner may not (I) institute a
69 revocation or suspension proceeding under this subparagraph more
70 than five years from the date of the sanction relied on, and (II) enter an
71 order under this subparagraph on the basis of an order under any
72 other state act unless that order was based on facts which would
73 constitute a ground for an order under this section; (G) may be denied
74 registration under federal law as a broker-dealer, agent, investment
75 adviser, investment adviser agent or as a person required to be
76 registered under the Commodity Exchange Act, 7 USC 1 et seq., as
77 from time to time amended, and the rules and regulations
78 promulgated thereunder, or the substantial equivalent of those terms
79 as defined in sections 36b-2 to 36b-33, inclusive, as amended by this
80 act; (H) has engaged in fraudulent, dishonest or unethical practices in
81 the securities, commodities, investment, franchise, business

82 opportunity, banking, finance or insurance business, including abusive
83 sales practices in the business dealings of such applicant, registrant or
84 person with current or prospective customers or clients; (I) is insolvent,
85 either in the sense that the liabilities of such applicant, registrant or
86 person exceed the assets of such applicant, registrant or person, or in
87 the sense that such applicant, registrant or person cannot meet the
88 obligations of such applicant, registrant or person as they mature; but
89 the commissioner may not enter an order against a broker-dealer or
90 investment adviser under this subparagraph without a finding of
91 insolvency as to the broker-dealer or investment adviser; (J) is not
92 qualified on the basis of such factors as training, experience, and
93 knowledge of the securities business, except as otherwise provided in
94 subsection (b) of this section; (K) has failed reasonably to supervise: (i)
95 The agents or investment adviser agents of such applicant or
96 registrant, if the applicant or registrant is a broker-dealer or investment
97 adviser; or (ii) the agents of a broker-dealer or investment adviser
98 agents of an investment adviser, if such applicant, registrant or other
99 person is or was an agent, investment adviser agent or other person
100 charged with exercising supervisory authority on behalf of a
101 broker-dealer or investment adviser; (L) in connection with any
102 investigation conducted pursuant to section 36b-26 or any examination
103 under subsection (d) of section 36b-14, has made any material
104 misrepresentation to the commissioner or upon request made by the
105 commissioner, has withheld or concealed material information from,
106 or refused to furnish material information to the commissioner,
107 provided, there shall be a rebuttable presumption that any records,
108 including, but not limited to, written, visual, audio, magnetic or
109 electronic records, computer printouts and software, and any other
110 documents, that are withheld or concealed from the commissioner in
111 connection with any such investigation or examination are material,
112 unless such presumption is rebutted by substantial evidence; (M) has
113 wilfully aided, abetted, counseled, commanded, induced or procured a
114 violation of any provision of sections 36b-2 to 36b-33, inclusive, as
115 amended by this act, or a predecessor statute or any regulation or
116 order under such sections or a predecessor statute; (N) after notice and

117 opportunity for a hearing, has been found within the previous ten
118 years: (i) By a court of competent jurisdiction, to have wilfully violated
119 the laws of a foreign jurisdiction under which the business of
120 securities, commodities, investments, franchises, business
121 opportunities, insurance, banking or finance is regulated; (ii) to have
122 been the subject of an order of a securities regulator of a foreign
123 jurisdiction denying, revoking or suspending the right to engage in the
124 business of securities as a broker-dealer, agent, investment adviser,
125 investment adviser agent or similar person; or (iii) to have been
126 suspended or expelled from membership by or participation in a
127 securities exchange or securities association operating under the
128 securities laws of a foreign jurisdiction. As used in this subparagraph,
129 "foreign" means a jurisdiction outside of the United States; or (O) has
130 failed to pay the proper filing fee; but the commissioner may enter
131 only a denial order under this subparagraph, and the commissioner
132 shall vacate any such order when the deficiency has been corrected.
133 The commissioner may not institute a suspension or revocation
134 proceeding on the basis of a fact or transaction known to the
135 commissioner when the registration became effective unless the
136 proceeding is instituted within one hundred eighty days of the
137 effective date of such registration.

138 Sec. 2. Subsections (g) and (h) of section 36b-33 of the general
139 statutes are repealed and the following is substituted in lieu thereof
140 (*Effective from passage*):

141 (g) Every applicant for registration under sections 36b-2 to 36b-33,
142 inclusive, as amended by this act, every investment adviser exempt
143 under subsection (e) of section 36b-6, and every issuer, other than the
144 United States, any state, Canada, any other foreign government with
145 which the United States currently maintains diplomatic relations, or
146 any issuer of covered securities under Section 18(b)(1) of the Securities
147 Act of 1933, which proposes to offer a security in this state through any
148 person acting on an agency basis in the common-law sense shall file
149 with the commissioner, in such form as the commissioner by
150 regulation prescribes, an irrevocable consent appointing the

151 commissioner or the commissioner's successor in office to be his or her
152 attorney to receive service of any lawful process in any noncriminal
153 suit, action, or proceeding against him or her or his or her successor
154 executor or administrator which arises under sections 36b-2 to 36b-33,
155 inclusive, as amended by this act, or any regulation or order
156 thereunder after the consent has been filed, with the same force and
157 validity as if served personally on the person filing the consent. A
158 person who has filed such a consent in connection with a previous
159 registration need not file another. Service may be made by leaving a
160 copy of the process in the office of the commissioner, but it is not
161 effective unless (1) the plaintiff, who may be the commissioner in a
162 suit, action, or proceeding instituted by the commissioner, forthwith
163 sends notice of the service and a copy of the process by registered mail
164 or certified mail, return receipt requested, or by any express delivery
165 carrier that provides a dated delivery receipt, to the defendant or
166 respondent at the defendant's or respondent's last address on file with
167 the commissioner or take other steps which are reasonably calculated
168 to give actual notice, and (2) the plaintiff's affidavit of compliance with
169 this subsection is filed in the case on or before the return day of the
170 process, if any, or within such further time as the court allows.

171 (h) When any person, including any nonresident of this state,
172 engages in conduct prohibited or made actionable by sections 36b-2 to
173 36b-33, inclusive, as amended by this act, or any regulation or order
174 thereunder, and such person has not filed a consent to service of
175 process under subsection (g) of this section and personal jurisdiction
176 over such person cannot otherwise be obtained in this state, that
177 conduct shall be considered equivalent to such person's appointment
178 of the commissioner or the commissioner's successor in office to be
179 such person's attorney to receive service of any lawful process in any
180 noncriminal suit, action, or proceeding against such person or such
181 person's successor executor or administrator which grows out of that
182 conduct and which is brought under said sections or any regulation or
183 order thereunder, with the same force and validity as if served on such
184 person personally. Service may be made by leaving a copy of the
185 process in the office of the commissioner, and it is not effective unless

186 (1) the plaintiff, who may be the commissioner in a suit, action, or
187 proceeding instituted by the commissioner, forthwith sends notice of
188 the service and a copy of the process by registered mail or certified
189 mail, return receipt requested, or by any express delivery carrier that
190 provides a dated delivery receipt, to the defendant or respondent at
191 the defendant's or respondent's last known address or takes other
192 steps which are reasonably calculated to give actual notice, and (2) the
193 plaintiff's affidavit of compliance with this subsection is filed in the
194 case on or before the return day of the process, if any, or within such
195 further time as the court allows.

196 Sec. 3. Section 36b-61 of the 2010 supplement to the general statutes
197 is repealed and the following is substituted in lieu thereof (*Effective*
198 *from passage*):

199 When used in sections 36b-60 to 36b-80, inclusive, as amended by
200 this act, unless the context otherwise requires:

201 (1) "Affiliate" means a person that: (A) Directly or indirectly
202 controls, is controlled by, or is under common control with, a seller; (B)
203 directly or indirectly owns, controls or holds with power to vote ten
204 per cent or more of the outstanding voting securities of a seller; or (C)
205 has, in common with a seller, one or more partners, officers, directors,
206 trustees, branch managers or other persons occupying similar status or
207 performing similar functions;

208 (2) "Business opportunity" means the sale or lease, or offer for sale
209 or lease, of any product, equipment, supply or service which is sold or
210 offered for sale to the purchaser-investor for the purpose of enabling
211 the purchaser-investor to start a business, and in which the seller
212 represents that: (A) The seller will provide locations or assist the
213 purchaser-investor in finding locations for the use or operation of
214 vending machines, racks, display cases or other similar devices, or
215 currency-operated amusement machines or devices, or any other
216 devices within the intent of sections 36b-60 to 36b-80, inclusive, as
217 amended by this act, as the commissioner shall by regulation or order
218 determine, on premises neither owned nor leased by the purchaser-

219 investor or seller; or (B) the seller will purchase any or all products
220 made, produced, fabricated, grown, bred or modified by the
221 purchaser-investor using, in whole or in part, the supplies, services or
222 chattels sold to the purchaser-investor; or (C) the seller guarantees,
223 either conditionally or unconditionally, that the purchaser-investor
224 will derive income from the business opportunity, or that the seller
225 will refund all or part of the price paid for the business opportunity or
226 repurchase any of the products, equipment, supplies or chattels
227 supplied by the seller, if the purchaser-investor is unsatisfied with the
228 business opportunity; or (D) the seller will provide a sales program or
229 marketing program to the purchaser-investor, provided sections 36b-
230 60 to 36b-80, inclusive, as amended by this act, shall not apply to the
231 sale of a marketing program made in conjunction with the licensing of
232 a registered trademark or service mark, provided (i) such trademark or
233 service mark has been effectively registered under federal law; and (ii)
234 for such trademark or service mark initially registered under federal
235 law on or after October 1, 1996, the seller files with the commissioner a
236 copy of the trademark or service mark certificate prior to any offer or
237 sale in [the] this state, provided further that failure to file such
238 certificate shall not, in and of itself, preclude reliance on this exclusion.
239 "Business opportunity" does not include the sale of an ongoing
240 business where the owner of that business sells and intends to sell only
241 that one business opportunity, nor does it include the not-for-profit
242 sale of sales demonstration equipment, materials or samples, for a total
243 price of five hundred dollars or less to any one person;

244 (3) "Commissioner" means the Banking Commissioner or any
245 person appointed or designated by the Banking Commissioner to
246 administer said sections;

247 (4) "Not-for-profit sale" means a sale in which the seller recovers
248 only the actual costs of producing and shipping the goods or materials
249 sold. A sale shall not qualify as a not-for-profit sale if the price to the
250 purchaser-investor includes any commissions, rebates, fees or
251 overrides;

252 (5) "Person" means an individual, corporation, limited liability
253 company, trust, partnership, incorporated or unincorporated
254 association or any other legal entity;

255 (6) "Purchaser-investor" means a person who has purchased or is
256 solicited for the purchase of a business opportunity;

257 (7) (A) "Sale" or "sell" includes every contract of sale of, contract to
258 sell, or disposition of a business opportunity or interest in a business
259 opportunity for value; (B) "offer" or "offer to sell" includes every
260 attempt or offer to dispose of, or solicitation of an offer to buy, a
261 business opportunity or interest in a business opportunity for value.
262 Nothing in this subdivision shall limit or diminish the full meaning of
263 the terms "sale", "sell", "offer" or "offer to sell" as construed by the
264 courts of this state;

265 (8) "Seller" means a person who sells or offers to sell a business
266 opportunity or any agent or person who, directly or indirectly, acts on
267 behalf of such person; and

268 (9) "Trademark" or "service mark" includes a trademark, trade
269 name, service mark, logotype, advertising or other commercial symbol.

270 Sec. 4. Subsection (b) of section 36b-62 of the 2010 supplement to the
271 general statutes is repealed and the following is substituted in lieu
272 thereof (*Effective from passage*):

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

276 (1) A copy of the disclosure document required by section 36b-63, as
277 amended by this act;

278 (2) A bond as required by section 36b-64;

279 (3) In accordance with subsection (e) of this section, an irrevocable
280 consent appointing the commissioner to be such seller's attorney to

281 receive service of any lawful process in any noncriminal suit, action or
282 proceeding which arises under sections 36b-60 to 36b-80, inclusive, as
283 amended by this act, or any regulation or order adopted or issued
284 under the provisions of said sections;

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

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

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

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

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

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

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

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

307 (H) (i) A balance sheet, income statement and statement of changes
308 in financial condition of the seller as of a date not more than four
309 months prior to the filing under this subsection, which financial

310 statements may be unaudited, provided, if the seller has been in
311 business for less than twelve months from the date of such filing, such
312 financial statements shall be reviewed by an independent certified
313 public accountant and shall include a written opinion from such
314 accountant stating that the accountant is not aware of any material
315 modifications that should be made to the financial statements in order
316 for them to be in conformity with generally accepted accounting
317 principles; (ii) a balance sheet of the seller, an income statement and
318 statement of changes in financial position for the most recent fiscal
319 year audited by an independent public accountant or an independent
320 certified public accountant; (iii) a balance sheet of the seller, an income
321 statement and statement of changes in financial position for the prior
322 two fiscal years reviewed by an independent certified public
323 accountant who provides an opinion stating that such accountant is
324 not aware of any material modifications that should be made to the
325 financial statements in order for them to be in conformity with
326 generally accepted accounting principles; and (iv) if any material
327 changes in the financial condition of the seller occur after such
328 financial statements are prepared, the seller shall disclose such changes
329 and explain their significance to the operation of the business
330 opportunity. If the seller is controlled by any person who absolutely
331 and unconditionally guarantees to assume the duties and obligations
332 of the seller under the business opportunity agreement should the
333 seller become unable to perform, the commissioner may accept
334 consolidated financial statements from the seller and such person;

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

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

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

341 Sec. 5. Subsections (e) and (f) of section 36b-62 of the 2010
342 supplement to the general statutes are repealed and the following is

343 substituted in lieu thereof (*Effective from passage*):

344 (e) Every seller proposing to sell or offer for sale a business
345 opportunity in this state or from this state directly or through any
346 person acting on an agency basis, as determined by reference to the
347 principles of common law, shall file with the commissioner, in such
348 form as the commissioner by regulation, adopted pursuant to section
349 36b-77, or order prescribes, an irrevocable consent appointing the
350 commissioner to be the seller's attorney to receive service of any lawful
351 process in any noncriminal suit, action or proceeding against the seller
352 or the seller's successor, executor or administrator that arises under
353 sections 36b-60 to 36b-80, inclusive, as amended by this act, or any
354 regulation or order adopted or issued under said sections after the
355 consent has been filed, with the same force and validity as if served
356 personally on the person filing the consent. Service may be made by
357 leaving a copy of the process in the office of the commissioner, but
358 such service shall not be effective unless (1) the plaintiff, who may be
359 the commissioner in a suit, action or proceeding instituted by the
360 commissioner, forthwith sends notice of the service and a copy of the
361 process by registered mail or certified mail, return receipt requested, or
362 by any express delivery carrier that provides a dated delivery receipt,
363 to the defendant or respondent at the defendant's or respondent's last
364 address on file with the commissioner or takes other steps which are
365 reasonably calculated to give actual notice, and (2) the plaintiff's
366 affidavit of compliance with this subsection is filed in the case on or
367 before the return day of the process, if any, or within such further time
368 as the court allows.

369 (f) When any person, including any nonresident of this state,
370 engages in conduct prohibited or made actionable by sections 36b-60 to
371 36b-80, inclusive, as amended by this act, or any regulation or order
372 adopted or issued under said sections, and such person has not filed a
373 consent to service of process under subsection (e) of this section and
374 personal jurisdiction over such person cannot otherwise be obtained in
375 this state, such conduct shall be considered equivalent to such person's
376 appointment of the commissioner to be such person's attorney to

377 receive service of any lawful process in any noncriminal suit, action or
378 proceeding against such person or such person's successor, executor or
379 administrator that grows out of such conduct and that is brought
380 under said sections or any regulation or order adopted or issued under
381 said sections, with the same force and validity as if served on such
382 person personally. Service may be made by leaving a copy of the
383 process in the office of the commissioner, but such service shall not be
384 effective unless (1) the plaintiff, who may be the commissioner in a
385 suit, action or proceeding instituted by the commissioner, forthwith
386 sends notice of the service and a copy of the process by registered mail
387 or certified mail, return receipt requested, or by any express delivery
388 carrier that provides a dated delivery receipt, to the defendant or
389 respondent at the defendant's or respondent's last known address or
390 takes other steps which are reasonably calculated to give actual notice,
391 and (2) the plaintiff's affidavit of compliance with this subsection is
392 filed in the case on or before the return day of the process, if any, or
393 within such further time as the court allows.

394 Sec. 6. Subdivision (22) of subsection (c) of section 36b-63 of the 2010
395 supplement to the general statutes is repealed and the following is
396 substituted in lieu thereof (*Effective from passage*):

397 (22) If the business opportunity seller is required to secure a bond or
398 establish a trust [deposit] account pursuant to section 36b-64, the
399 document shall state either:

400 (A) "As required by Connecticut law, the seller has secured a bond
401 issued by

402

403 (Name and address of surety company)

404 a surety company authorized to do business in this state. Before
405 signing a contract to purchase this business opportunity, you should
406 check with the surety company to determine the bond's current status,"
407 or

408 (B) "As required by Connecticut law, the seller has established a
409 trust account

410

411 (Number of account)

412 with

413 (Name and address of bank or other financial institution)

414 before signing a contract to purchase this business opportunity, you
415 should check with the bank or other [depository] financial institution
416 to determine the current status of the trust account";

417 Sec. 7. Subsection (a) of section 36b-65 of the 2010 supplement to the
418 general statutes is repealed and the following is substituted in lieu
419 thereof (*Effective from passage*):

420 (a) The following business opportunities are exempt from
421 subsection (a) of section 36b-62, [; section] sections 36b-63, as amended
422 by this act, [and section] 36b-64, [; section] 36b-66 and subdivision (1)
423 of section 36b-67: (1) (A) Subject to the provisions of subparagraph (B)
424 of this subdivision, any business opportunity for which the initial
425 payment made by the purchaser-investor per business opportunity
426 does not exceed two hundred dollars, if no representations are made
427 that the seller guarantees, either conditionally or unconditionally, that
428 the purchaser-investor will derive income from the business
429 opportunity. For purposes of this subparagraph, "initial payment"
430 means the total amount the purchaser-investor becomes obligated to
431 pay to the seller or to any third party either prior to or at the time of
432 delivery of the products, equipment, supplies or services or within one
433 year of the commencement of operation of the business by the
434 purchaser-investor. If payment is over a period of time, "initial
435 payment" includes the sum of the down payment and the total
436 periodic payments. "Initial payment" does not include periodic
437 payments where the amount or rate of the payment is based on net
438 revenue or gross revenue generated by the business. (B) The

439 commissioner may, by regulation, adopted pursuant to section 36b-77,
 440 or order as to any business opportunity or type of business
 441 opportunity or transaction exempt under subdivision (1)(A) of this
 442 subsection, modify, withdraw, further condition or waive such
 443 conditions, in whole or in part, conditionally or unconditionally, on a
 444 finding that such regulation or order is necessary and appropriate, in
 445 the public interest or for the protection of purchaser-investors; (2) any
 446 business opportunity sold in this state exclusively to purchaser-
 447 investors each of whom has a net worth of not less than one million
 448 dollars exclusive of principal residence, home furnishings, and
 449 personal automobiles; and (3) any other business opportunity that the
 450 commissioner by regulation, adopted pursuant to section 36b-77, or
 451 order may exempt, conditionally or unconditionally, if the
 452 commissioner finds that enforcement of all the provisions of sections
 453 36b-60 to 36b-80, inclusive, as amended by this act, with respect to
 454 such business opportunity is not necessary to protect the public
 455 interest, and for the protection of purchaser-investors due to the
 456 limited character of the business opportunity, or because such business
 457 opportunity is, in the judgment of the commissioner, adequately
 458 regulated by federal law. The commissioner may by order deny,
 459 suspend or revoke any exemption with respect to a particular offering
 460 of one or more business opportunities in accordance with the
 461 provisions of section 36b-68. No order under this subsection may
 462 operate retroactively. No person may be considered to have violated
 463 any order issued under this subsection by reason of any offer or sale
 464 effected after the entry of such order if such person sustains the burden
 465 of proof that such person did not know, and in the exercise of
 466 reasonable care could not have known, of such order.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	36b-15(a)
Sec. 2	<i>from passage</i>	36b-33(g) and (h)
Sec. 3	<i>from passage</i>	36b-61
Sec. 4	<i>from passage</i>	36b-62(b)
Sec. 5	<i>from passage</i>	36b-62(e) and (f)

Sec. 6	<i>from passage</i>	36b-63(c)(22)
Sec. 7	<i>from passage</i>	36b-65(a)

Statement of Legislative Commissioners:

The title of the bill was changed for clarity.

BA *Joint Favorable Subst.-LCO*

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

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes various minor and technical revisions to the Securities and Business Investments Law and results in no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis

sHB 5186

AN ACT CONCERNING REVISIONS TO THE PROVISIONS OF THE SECURITIES AND BUSINESS INVESTMENTS LAW OF CONNECTICUT GOVERNING NOTICE, THE DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION, AND THE DISCLOSURE TO PURCHASER-INVESTORS.

SUMMARY:

This bill expands the banking commissioner's authority to (1) deny, suspend, or revoke the registration or (2) restrict or impose conditions on the securities or investment advisory activities of various individuals regulated by the Uniform Securities Act based on their criminal conviction history, if the commissioner determines any such action is in the public interest. Current law allows the commissioner to take these actions if the person has been convicted within the past 10 years of a (1) misdemeanor conviction involving securities and related matters or (2) felony. The bill allows him also to take such actions upon a finding that an individual has been released from incarceration within the past 10 years following a misdemeanor conviction involving securities and related matters or any felony conviction.

This bill expands the permissible forms of notice for service of process in civil suits and civil enforcement actions brought under the Uniform Securities Act and Business Opportunity Investment Act. It provides that notice of the service and process can be provided by registered mail, certified mail, express delivery, or other steps reasonably calculated to give the defendant actual notice. Current law allows notice by registered mail, express delivery, and in the case of enforcement actions brought under the Uniform Securities Act, other steps reasonably calculated to give actual notice.

This bill makes various minor and technical revisions to the

Securities and Business Investments Law.

EFFECTIVE DATE: Upon passage, except for the provision allowing the banking commissioner to suspend or restrict an individual’s securities activities following release from incarceration, which is effective October 1, 2010.

SUSPENSION OR RESTRICTION OF SECURITIES ACTIVITIES FOLLOWING RELEASE FROM INCARCERATION

§ 1 — Types of Convictions

The bill applies to any felony or a misdemeanor involving securities, any aspect of a business involving securities, commodities, investments, franchises, business opportunities, insurance, banking or finance. The denial, revocation, or suspension must comply with current law on the denial of licensing or registration due to criminal convictions.

§ 1 — Regulated Individuals

The bill’s provision regarding release from incarceration applies to an applicant or registrant under the Uniform Securities Act. The provision also applies to (1) any partner, officer, or director of a broker-dealer or investment adviser; (2) any person occupying a similar status or performing similar functions as a broker-dealer or investment adviser; and (3) any person directly or indirectly controlling a broker-dealer or investment adviser.

COMMITTEE ACTION

Banks Committee

Joint Favorable

Yea 17 Nay 0 (03/11/2010)