



# Senate

General Assembly

**File No. 186**

February Session, 2010

Substitute Senate Bill No. 54

*Senate, March 30, 2010*

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CONSUMER CREDIT LICENSES.***

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

1 Section 1. Section 36a-498a of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2010*):

4 (a) No mortgage lender licensee, [or] mortgage correspondent  
5 lender licensee or mortgage broker licensee under section 36a-489 and  
6 no person exempt from licensure under subsection (a) and  
7 subdivisions (1), (4) and (5) of subsection (b) of section 36a-487, as  
8 amended by this act, making or brokering a first mortgage loan may  
9 charge, impose or cause to be paid, directly or indirectly, prepaid  
10 finance charges that exceed in the aggregate, the greater of five per  
11 cent of the principal amount of the loan or two thousand dollars. If the  
12 proceeds of the loan are used to refinance an existing loan, the  
13 aggregate of the prepaid finance charges for the current refinancing  
14 and any previous financings by such licensee or exempt person or  
15 affiliate of such licensee or exempt person within two years of the

16 current refinancing shall not exceed the greater of five per cent of the  
17 principal amount of the initial loan or two thousand dollars. The  
18 provisions of this section shall not prohibit such licensee or exempt  
19 person from charging, imposing or causing to be paid, directly or  
20 indirectly, prepaid finance charges in addition to those permitted by  
21 this section in connection with any additional proceeds received by the  
22 borrower in the refinancing, provided such prepaid finance charges on  
23 the additional proceeds shall not exceed five per cent of the additional  
24 proceeds.

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

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

50 this subsection in a secondary mortgage loan transaction involving  
51 more than one borrower.

52 (c) For purposes of this section, "additional proceeds" has the same  
53 meaning as provided in subdivision (3) of section 36a-746e and  
54 "prepaid finance charge" has the same meaning as provided in  
55 subdivision (7) of section 36a-746a.

56 (d) Any mortgage deed to secure a secondary mortgage loan that is  
57 recorded in the land records of any town shall contain the word  
58 "Mortgage" in the heading, either in capital letters or underscored and  
59 shall contain the principal amount of the loan.

60 Sec. 2. Section 36a-537 of the 2010 supplement to the general statutes  
61 is repealed and the following is substituted in lieu thereof (*Effective*  
62 *October 1, 2010*):

63 The application for a license as a sales finance company shall be on a  
64 form prescribed by the commissioner, in writing and under oath,  
65 together with such exhibits and other pertinent information as the  
66 commissioner may require. The application shall include (1) the  
67 history of criminal convictions [for the ten-year period prior to the date  
68 of the application] of the applicant; and the partners, if the applicant is  
69 a partnership; the members, if the applicant is a limited liability  
70 company or association; or the officers, directors and principal  
71 employees if the applicant is a corporation; and (2) sufficient  
72 information pertaining to the history of criminal convictions, in a form  
73 acceptable to the commissioner, on such applicant, partners, directors,  
74 members, officers, and principal employees as the commissioner  
75 deems necessary to make findings under section 36a-541, as amended  
76 by this act. The commissioner, in the commissioner's discretion and in  
77 accordance with section 29-17a, may conduct a state and national  
78 criminal history records check of the applicant and of each partner,  
79 member, officer, director and principal employee of the applicant.

80 Sec. 3. Section 36a-541 of the 2010 supplement to the general statutes  
81 is repealed and the following is substituted in lieu thereof (*Effective*

82 *October 1, 2010*):

83 If the commissioner finds, upon the filing of an application for a  
84 license as a sales finance company, that the financial responsibility,  
85 character, reputation, integrity and general fitness of the applicant and  
86 of the partners thereof if the applicant is a partnership, of the members  
87 if the applicant is a limited liability company or association, and of the  
88 officers, directors and principal employees if the applicant is a  
89 corporation, are such as to warrant belief that the business will be  
90 operated soundly and efficiently, in the public interest and consistent  
91 with the purposes of sections 36a-535 to 36a-546, inclusive, as amended  
92 by this act, the commissioner may thereupon issue the applicant the  
93 license. If the commissioner fails to make such findings, or if the  
94 commissioner finds that the applicant has made any material  
95 misstatement in the application, the commissioner shall not issue a  
96 license, and shall notify the applicant of the denial and the reasons for  
97 such denial. The commissioner may deny an application if the  
98 commissioner finds that the applicant or any partner, member, officer,  
99 director or principal employee of the applicant has been convicted [,  
100 during the ten-year period prior to the date of application,] of any  
101 misdemeanor involving any aspect of the sales finance business, or any  
102 felony. Any denial of an application by the commissioner shall, when  
103 applicable, be subject to the provisions of section 46a-80. Withdrawal  
104 of an application for a license shall become effective upon receipt by  
105 the commissioner of a notice of intent to withdraw such application.  
106 The commissioner may deny a license up to the date one year after the  
107 date the withdrawal became effective.

108 Sec. 4. Section 36a-555 of the 2010 supplement to the general statutes  
109 is repealed and the following is substituted in lieu thereof (*Effective*  
110 *October 1, 2010*):

111 No person shall (1) engage in the business of making loans of  
112 money or credit; (2) make, offer, broker or assist a borrower in  
113 Connecticut to obtain such a loan; or (3) in whole or in part, arrange  
114 such loans through a third party or act as an agent for a third party,

115 regardless of whether approval, acceptance or ratification by the third  
116 party is necessary to create a legal obligation for the third party,  
117 through any method, including, but not limited to, mail, telephone,  
118 Internet or any electronic means, in the amount or to the value of  
119 fifteen thousand dollars or less for loans made under section 36a-563 or  
120 section 36a-565, and charge, contract for or receive a greater rate of  
121 interest, charge or consideration than twelve per cent per annum  
122 therefor, unless licensed to do so by the commissioner pursuant to  
123 sections 36a-555 to 36a-573, inclusive, as amended by this act. The  
124 provisions of this section shall not apply to (A) a bank, (B) an out-of-  
125 state bank, (C) a Connecticut credit union, (D) a federal credit union,  
126 (E) an out-of-state credit union, (F) a savings and loan association  
127 wholly owned subsidiary service corporation, (G) a person to the  
128 extent that such person makes loans for agricultural, commercial,  
129 industrial or governmental use or extends credit through an open-end  
130 credit plan, as defined in subdivision (8) of subsection (a) of section  
131 36a-676, for the retail purchase of consumer goods or services, (H) a  
132 mortgage lender, [or] mortgage correspondent lender or mortgage  
133 broker licensed pursuant to section 36a-489 when making or brokering  
134 residential mortgage loans, as defined in section 36a-485, or (I) a  
135 licensed pawnbroker.

136 Sec. 5. Section 36a-556 of the 2010 supplement to the general statutes  
137 is repealed and the following is substituted in lieu thereof (*Effective*  
138 *October 1, 2010*):

139 Upon the filing of the required application and license fee, the  
140 commissioner shall investigate the facts and, if the commissioner finds  
141 that (1) the experience, character and general fitness of the applicant,  
142 and of the members thereof if the applicant is a partnership, limited  
143 liability company or association, and of the officers and directors  
144 thereof if the applicant is a corporation, are satisfactory, (2) a license to  
145 such applicant will be for the convenience and advantage of the  
146 community in which the applicant's business is to be conducted, and  
147 (3) the applicant has the capital investment required by this section, the  
148 commissioner shall issue a license to the applicant to make loans in

149 accordance with sections 36a-555 to 36a-573, inclusive, as amended by  
150 this act. If the commissioner fails to make such findings or finds that  
151 the applicant made a material misstatement in the application, the  
152 commissioner shall not issue a license and shall notify the applicant of  
153 the denial and the reasons for such denial. The commissioner may  
154 deny an application if the commissioner finds that the applicant or any  
155 member, officer, or director of the applicant has been convicted [,  
156 during the ten-year period prior to the date of application,] of any  
157 misdemeanor involving any aspect of the small loan lender business,  
158 or any felony. Any denial of an application by the commissioner shall,  
159 when applicable, be subject to the provisions of section 46a-80.  
160 Withdrawal of an application for a license shall become effective upon  
161 receipt by the commissioner of a notice of intent to withdraw such  
162 application. The commissioner may deny a license up to the date one  
163 year after the date the withdrawal became effective. The capital  
164 investment shall be not less than twenty-five thousand dollars for each  
165 licensed location in a city or town with a population of ten thousand or  
166 more inhabitants and ten thousand dollars for each licensed location in  
167 a city or town with a smaller population. Population shall be  
168 determined according to the last United States census at the time a  
169 license is granted.

170 Sec. 6. Subsection (a) of section 36a-557 of the 2010 supplement to  
171 the general statutes is repealed and the following is substituted in lieu  
172 thereof (*Effective October 1, 2010*):

173 (a) An application for such license shall be in writing, under oath  
174 and in the form prescribed by the commissioner, and shall include (1)  
175 the history of criminal convictions [for the ten-year period prior to the  
176 date of the application] of the applicant; the members, if the applicant  
177 is a partnership, limited liability company or association; or the officers  
178 and directors, if the applicant is a corporation, and (2) sufficient  
179 information pertaining to the history of criminal convictions, in a form  
180 acceptable to the commissioner, on such applicant, members, officers  
181 and directors as the commissioner deems necessary to make the  
182 findings under section 36a-556, as amended by this act. The

183 commissioner, in the commissioner's discretion and in accordance with  
184 section 29-17a, may conduct a state and national criminal history  
185 records check of the applicant and of each member, officer and director  
186 of the applicant.

187 Sec. 7. Section 36a-581 of the 2010 supplement to the general statutes  
188 is repealed and the following is substituted in lieu thereof (*Effective*  
189 *October 1, 2010*):

190 (a) Except as provided for in section 36a-580, no person shall engage  
191 in the business of cashing checks, drafts or money orders for  
192 consideration without obtaining a license to operate a general facility  
193 or a license to operate a limited facility for each location where such  
194 business is to be conducted.

195 (b) Each licensee of a limited facility shall continuously maintain at  
196 least one operating general facility. A licensee of a limited facility shall  
197 not pay any compensation or consideration to any employer.

198 (c) An application for a check cashing license or renewal of such  
199 license shall be in writing, under oath and on a form provided by the  
200 commissioner. The application shall set forth: (1) The name and  
201 address of the applicant; (2) if the applicant is a firm or partnership,  
202 the names and addresses of each member of the firm or partnership;  
203 (3) if the applicant is a corporation, the names and addresses of each  
204 officer, director, authorized agent and each shareholder owning ten  
205 per cent or more of the outstanding stock of such corporation; (4) if the  
206 applicant is a limited liability company, the names and addresses of  
207 each member and authorized agent of such limited liability company;  
208 (5) (A) the history of criminal convictions [for the ten-year period prior  
209 to the date of the application] of the applicant; the members, if the  
210 applicant is a firm or partnership; the officers, directors, authorized  
211 agent and each shareholder owning ten per cent or more of the  
212 outstanding stock of the applicant, if the applicant is a corporation,  
213 and (B) sufficient information pertaining to the history of criminal  
214 convictions in a form acceptable to the commissioner on such  
215 applicant, members, officers, directors, authorized agent and

216 shareholders as the commissioner deems necessary to make the  
217 findings under subsection (e) of this section; (6) each location where  
218 the check cashing business is to be conducted and the type of facility  
219 that will be operated at that location; (7) the business plan, which shall  
220 include the proposed days and hours of operation; (8) the amount of  
221 liquid assets available for each location which shall not be less than the  
222 amount specified in subdivision (7) of subsection (e) of this section; (9)  
223 for each limited facility, a copy of the executed contract evidencing the  
224 proposed arrangement between the applicant and the employer; and  
225 (10) any other information the commissioner may require. The  
226 commissioner, in the commissioner's discretion and in accordance with  
227 section 29-17a, may conduct a state and national criminal history  
228 records check of the applicant and of each member, officer, director,  
229 authorized agent and shareholder owning at least ten per cent of the  
230 outstanding stock of the applicant.

231 (d) A licensee shall not change the name or the location specified on  
232 its license unless, prior to such change in name or location, the licensee  
233 files an application with the commissioner accompanied by the  
234 applicable name change fee or location transfer fee specified in section  
235 36a-582 and receives the approval of the commissioner. A licensee of a  
236 limited facility shall not change its approved days and hours of  
237 operation unless, prior to any such change, the licensee files an  
238 application with and receives the approval of the commissioner. No  
239 licensee shall use any name other than the name specified on the  
240 license issued by the commissioner.

241 (e) Upon the filing of the required application and the applicable  
242 license and location fees, the commissioner shall investigate the facts  
243 and may issue a license if the commissioner finds that (1) the applicant  
244 is in all respects properly qualified and of good character, (2) if the  
245 applicant is a firm or partnership, each member of the firm or  
246 partnership is in all respects properly qualified and of good character,  
247 (3) if the applicant is a corporation, each officer, director, authorized  
248 agent and each shareholder owning ten per cent or more of the  
249 outstanding stock of such corporation is in all respects properly

250 qualified and of good character, (4) if the applicant is a limited liability  
251 company, each member and authorized agent is in all respects  
252 properly qualified and of good character, (5) granting such license  
253 would not be against the public interest, (6) the applicant has a feasible  
254 plan for conducting business, and (7) the applicant has available and  
255 shall continuously maintain liquid assets of at least ten thousand  
256 dollars for each general facility location and at least two thousand five  
257 hundred dollars for each limited facility location specified in the  
258 application. The commissioner may deny an application if the  
259 commissioner finds that the applicant or any member, officer, director  
260 or authorized agent or shareholder owning ten per cent or more of the  
261 outstanding stock of the applicant has been convicted [, during the ten-  
262 year period prior to the date of application,] of any misdemeanor  
263 involving any aspect of the check cashing services business, or any  
264 felony. Any denial of an application by the commissioner shall, when  
265 applicable, be subject to the provisions of section 46a-80.

266 (f) An applicant or licensee shall promptly notify the commissioner,  
267 in writing, of any change in the information provided in its initial or  
268 renewal application for licensure or most recent renewal of such  
269 license.

270 Sec. 8. Section 36a-598 of the 2010 supplement to the general statutes  
271 is repealed and the following is substituted in lieu thereof (*Effective*  
272 *October 1, 2010*):

273 (a) Each application for an original or renewal license required  
274 under sections 36a-595 to 36a-610, inclusive, as amended by this act,  
275 shall be made in writing and under oath to the commissioner in such  
276 form as the commissioner may prescribe. The application shall include:

277 (1) The exact name of the applicant and, if incorporated, the date of  
278 incorporation and the state where incorporated;

279 (2) The complete address of the principal office from which the  
280 business is to be conducted and of the office where the books and  
281 records of the applicant are to be maintained;

282 (3) The complete name and address of each of the applicant's  
283 branches, subsidiaries, affiliates and agents, if any, engaging in this  
284 state in the business of selling or issuing Connecticut payment  
285 instruments, or engaging in the business of money transmission;

286 (4) The name, title, address and telephone number of the person to  
287 whom notice of the commissioner's approval or disapproval of the  
288 application shall be sent and to whom any inquiries by the  
289 commissioner concerning the application shall be directed;

290 (5) The name and residence address of the individual, if the  
291 applicant is an individual; the partners, if the applicant is a  
292 partnership; the directors, trustees, principal officers, and any  
293 shareholder owning ten per cent or more of each class of its securities,  
294 if the applicant is a corporation or association; or the members, if the  
295 applicant is a limited liability company;

296 (6) The most recently audited unconsolidated financial statement of  
297 the applicant, including its balance sheet and receipts and  
298 disbursements for the preceding year, prepared by an independent  
299 certified public accountant acceptable to the commissioner;

300 (7) A list of the applicant's permissible investments, the book and  
301 market values of such investments, and the dollar amount of the  
302 applicant's aggregate outstanding payment instruments (A) as of the  
303 date of the financial statement filed in accordance with subdivision (6)  
304 of this subsection; and (B) as of a date no earlier than thirty business  
305 days prior to the filing of the application;

306 (8) The history of material litigation for the five-year period prior to  
307 the date of the application of the individual, if the applicant is an  
308 individual; the partners, if the applicant is a partnership; the directors,  
309 trustees, principal officers and any shareholder owning ten per cent or  
310 more of each class of its securities, if the applicant is a corporation or  
311 association; or the members, if the applicant is a limited liability  
312 company, and sufficient information pertaining to the history of  
313 material litigation, in a form acceptable to the commissioner, on such

314 individual or the partners, directors, trustees, principal officers,  
315 members and any shareholder owning ten per cent or more of each  
316 class of the applicant's securities;

317 (9) (A) The history of criminal convictions [for the ten-year period  
318 prior to the date of the application] of the individual, if the applicant is  
319 an individual; the partners, if the applicant is a partnership; the  
320 directors, trustees, principal officers and any shareholder owning ten  
321 per cent or more of each class of its securities if the applicant is a  
322 corporation or association; or the members, if the applicant is a limited  
323 liability company, and (B) sufficient information pertaining to the  
324 history of criminal convictions, in a form acceptable to the  
325 commissioner, on such individual or the partners, directors, trustees,  
326 principal officers, members and any shareholder owning ten per cent  
327 or more of each class of the applicant's securities;

328 (10) (A) The surety bond required by subsection (a) of section 36a-  
329 602, if applicable;

330 (B) A list of the investments maintained in accordance with  
331 subsection (c) of section 36a-602, if applicable, and the book and  
332 market values of any such investments (i) as of the date of the financial  
333 statement filed in accordance with subdivision (6) of this subsection;  
334 and (ii) as of a date no earlier than thirty business days prior to the  
335 filing of the application;

336 (11) A statement of whether the applicant will engage in the  
337 business of issuing money orders, travelers checks or electronic  
338 payment instruments or engage in the business of money transmission  
339 in this state; and

340 (12) Any other information the commissioner may require.

341 (b) The commissioner, in the commissioner's discretion and in  
342 accordance with section 29-17a, may conduct a state and national  
343 criminal history records check of the individual applicant and of each  
344 partner, director, trustee, principal officer, member and shareholder

345 owning at least ten per cent of each class of the securities of the  
346 applicant.

347 [(b)] (c) An applicant or licensee shall promptly notify the  
348 commissioner, in writing, of any change in the information provided  
349 in the application for license or most recent renewal of such license.

350 [(c)] (d) A licensee shall not change the name specified on its license  
351 unless, prior to such change in name, the licensee files an application  
352 with the commissioner accompanied by the name change fee specified  
353 in subsection (a) of section 36a-599 and receives the approval of the  
354 commissioner.

355 [(d)] (e) A licensee shall provide a written notice to the  
356 commissioner no later than one business day after the licensee has  
357 reason to know of the occurrence of any of the following events:

358 (1) The filing of a petition by or against the licensee under the  
359 United States Bankruptcy Code for bankruptcy or reorganization;

360 (2) The filing of a petition by or against the licensee for receivership,  
361 the commencement of any other judicial or administrative proceeding  
362 for its dissolution or reorganization, or the making of a general  
363 assignment for the benefit of its creditors;

364 (3) The commencement of a proceeding to revoke or suspend its  
365 license to engage in money transmission in another state or a foreign  
366 country, or other formal or informal regulatory action by any  
367 governmental agency against the licensee and the reasons therefor;

368 (4) The commencement of any action by the Attorney General or the  
369 attorney general of any other state and the reasons therefor;

370 (5) The cancellation or other impairment of the licensee's bond or  
371 other security, including notice of claims filed against the licensee's  
372 bond or other security;

373 (6) A conviction of the licensee or of a partner, director, trustee,

374 principal officer, member or shareholder owning ten per cent or more  
375 of each class of the licensee's securities for a misdemeanor involving  
376 the money transmission business or the business of issuing  
377 Connecticut payment instruments, or a felony; or

378 (7) A conviction of its agent for a felony.

379 Sec. 9. Subsection (c) of section 36a-600 of the 2010 supplement to  
380 the general statutes is repealed and the following is substituted in lieu  
381 thereof (*Effective October 1, 2010*):

382 (c) The commissioner may deny an application if the commissioner  
383 finds that the applicant or any of its partners, directors, trustees,  
384 principal officers or shareholders owning ten per cent or more of the  
385 shares of the applicant or members have been convicted [, during the  
386 ten-year period prior to the date of application,] of any misdemeanor  
387 involving any aspect of the money transmission business or the  
388 business of issuing [Connecticut] payment instruments, or any felony.  
389 Any denial of an application by the commissioner shall, when  
390 applicable, be subject to the provisions of section 46a-80.

391 Sec. 10. Section 36a-656 of the 2010 supplement to the general  
392 statutes is repealed and the following is substituted in lieu thereof  
393 (*Effective October 1, 2010*):

394 (a) No person shall engage in the business of debt adjustment in this  
395 state without a debt adjuster license. Any person desiring to obtain  
396 such a license shall file with the commissioner an application under  
397 oath, setting forth such information as the commissioner may require.  
398 Each applicant for a license and each licensee shall notify the  
399 commissioner of any change in the applicant's business from that  
400 stated in the application for the license.

401 (b) An application for a debt adjuster license or renewal of such  
402 license shall be in writing on a form provided by the commissioner  
403 and shall include (1) the history of criminal convictions [for the ten-  
404 year period prior to the date of the application] of the applicant; the

405 partners, if the applicant is a partnership; the members, if the applicant  
406 is a limited liability company or association; or the officers, directors  
407 and principal employees if the applicant is a corporation, and (2)  
408 sufficient information pertaining to the history of criminal convictions,  
409 in a form acceptable to the commissioner, on such applicant, partners,  
410 [directors,] members, officers, directors and principal employees as the  
411 commissioner deems necessary to make the findings under subsection  
412 (c) of this section. The commissioner, in the commissioner's discretion  
413 and in accordance with section 29-17a, may conduct a state and  
414 national criminal history records check of the applicant and of each  
415 partner, member, officer, director and principal employee of the  
416 applicant.

417 (c) If the commissioner finds, upon the filing of an application for a  
418 debt adjuster license, that: (1) The financial responsibility, character,  
419 reputation, integrity and general fitness of the applicant and of the  
420 partners thereof if the applicant is a partnership, of the members if the  
421 applicant is a limited liability company or association, and of the  
422 officers, directors and principal employees if the applicant is a  
423 corporation, are such as to warrant belief that the business will be  
424 operated soundly and efficiently, in the public interest and consistent  
425 with the purposes of sections 36a-655 to 36a-665, inclusive, as amended  
426 by this act; and (2) the applicant is solvent and no proceeding in  
427 bankruptcy, receivership or assignment for the benefit of creditors has  
428 been commenced against the applicant, the commissioner may  
429 thereupon issue the applicant a debt adjuster license. If the  
430 commissioner fails to make such findings, the commissioner shall not  
431 issue a license and shall notify the applicant of the reasons for such  
432 denial. The commissioner may deny an application if the  
433 commissioner finds that the applicant or any partner, member, officer,  
434 director or principal employee of the applicant has been convicted [,  
435 during the ten-year period prior to the date of application,] of any  
436 misdemeanor involving any aspect of the debt adjuster business, or  
437 any felony. Any denial of an application by the commissioner shall,  
438 when applicable, be subject to the provisions of section 46a-80.  
439 Withdrawal of an application for a license shall become effective upon

440 receipt by the commissioner of a notice of intent to withdraw such  
441 application. The commissioner may deny a license up to the date one  
442 year after the effective date of withdrawal.

443 (d) Each applicant for an original debt adjuster license that is a bona  
444 fide nonprofit organization shall, at the time of making such  
445 application, pay to the commissioner an application fee of two  
446 hundred fifty dollars. Each applicant for an original or a renewal of a  
447 debt adjuster license that is not a bona fide nonprofit organization  
448 shall, at the time of making such application, pay to the commissioner  
449 an application fee of one thousand six hundred dollars or, in the case  
450 of an application that is filed not earlier than the date one year before  
451 the date of expiration of such license, a license fee of eight hundred  
452 dollars. Each such license shall expire at the close of business on  
453 September thirtieth of the odd-numbered year following its issuance  
454 unless such license is renewed. Each licensee shall, on or before  
455 September first of the year in which the license expires, file such  
456 renewal application as the commissioner may require.

457 (e) If the commissioner determines that a check filed with the  
458 commissioner to pay an application fee has been dishonored, the  
459 commissioner shall automatically suspend the license or a renewal  
460 license that has been issued but is not yet effective. The commissioner  
461 shall give the licensee notice of the automatic suspension pending  
462 proceedings for revocation or refusal to renew and an opportunity for  
463 a hearing on such actions in accordance with section 36a-51.

464 (f) No abatement of the license fee shall be made if the license is  
465 surrendered, revoked or suspended prior to the expiration of the  
466 period for which it was issued. The fee required by subsection (d) of  
467 this section shall be nonrefundable.

468 Sec. 11. Subsections (c) and (d) of section 36a-671 of the 2010  
469 supplement to the general statutes are repealed and the following is  
470 substituted in lieu thereof (*Effective October 1, 2010*):

471 (c) An application for an original or renewal debt negotiation license

472 shall be in writing on a form provided by the commissioner and shall  
473 include (1) the history of criminal convictions [for the ten-year period  
474 prior to the date of the application] of the (A) applicant, (B) partners, if  
475 the applicant is a partnership, (C) members, if the applicant is a limited  
476 liability company or association, or (D) officers, directors and principal  
477 employees, if the applicant is a corporation; and (2) sufficient  
478 information pertaining to the history of criminal convictions, in a form  
479 acceptable to the commissioner, on such applicant, partners, members,  
480 officers, directors and principal employees as the commissioner deems  
481 necessary to make the findings under subsection (d) of this section.  
482 The commissioner, in the commissioner's discretion and in accordance  
483 with section 29-17a, may conduct a state and national criminal history  
484 records check of the applicant and of each partner, member, officer,  
485 director and principal employee of the applicant.

486 (d) If the commissioner finds, upon the filing of an application for a  
487 debt negotiation license, that: (1) The financial responsibility, character,  
488 reputation, integrity and general fitness of the (A) applicant, (B)  
489 partners thereof, if the applicant is a partnership, (C) members, if the  
490 applicant is a limited liability company or association, and (D) officers,  
491 directors and principal employees, if the applicant is a corporation, are  
492 such as to warrant belief that the business will be operated soundly  
493 and efficiently, in the public interest and consistent with the purposes  
494 of sections 36a-671 to 36a-671d, inclusive, as amended by this act; and  
495 (2) the applicant is solvent and no proceeding in bankruptcy,  
496 receivership or assignment for the benefit of creditors has been  
497 commenced against the applicant, the commissioner may thereupon  
498 issue the applicant a debt negotiation license. Such debt negotiation  
499 license shall not be transferable. Any change of location of a licensee  
500 shall require prior written notice to the commissioner. No licensee  
501 shall use any name unless such name has been approved by the  
502 commissioner. If the commissioner fails to make such findings, the  
503 commissioner shall not issue a license and shall notify the applicant of  
504 the reasons for such denial. The commissioner may deny an  
505 application if the commissioner finds that the applicant or any partner,  
506 member, officer, director or principal employee of the applicant has

507 been convicted [, during the ten-year period prior to the date of  
508 application,] of any misdemeanor involving any aspect of the debt  
509 negotiation business or any felony. Any denial of an application by the  
510 commissioner shall, when applicable, be subject to the provisions of  
511 section 46a-80. Withdrawal of an application for a license shall become  
512 effective upon receipt by the commissioner of a notice of intent to  
513 withdraw such application. The commissioner may deny a license up  
514 to the date one year after the effective date of withdrawal.

515 Sec. 12. Subdivision (1) of subsection (b) of section 36a-801 of the  
516 2010 supplement to the general statutes is repealed and the following  
517 is substituted in lieu thereof (*Effective October 1, 2010*):

518 (b) (1) Any person desiring to act within this state as a consumer  
519 collection agency shall make a written application to the commissioner  
520 for such license in such form as the commissioner prescribes. Such  
521 application shall be accompanied by (A) a financial statement prepared  
522 by a certified public accountant or a public accountant, the accuracy of  
523 which is sworn to under oath before a notary public by the proprietor,  
524 a general partner or a corporate officer or a member duly authorized to  
525 execute such documents, (B) (i) the history of criminal convictions [for  
526 the ten-year period prior to the date of the application] of the (I)  
527 applicant; (II) partners, if the applicant is a partnership; (III) members,  
528 if the applicant is a limited liability company or association; or (IV)  
529 officers, directors and principal employees, if the applicant is a  
530 corporation, and (ii) sufficient information pertaining to the history of  
531 criminal convictions of such applicant, partners, members, officers,  
532 directors and principal employees in a form acceptable to the  
533 commissioner, (C) a license fee of eight hundred dollars, or in the case  
534 of an initial application that is filed not earlier than one year before the  
535 date such license will expire, a license fee of four hundred dollars, and  
536 (D) an investigation fee of one hundred dollars. The commissioner  
537 shall cause to be made such inquiry and examination as to the  
538 qualifications of each such applicant or any partner, member, officer,  
539 director or principal employee of the applicant as the commissioner  
540 deems necessary. The commissioner, in the commissioner's discretion

541 and in accordance with section 29-17a, may conduct a state and  
542 national criminal history records check of the applicant, and of each  
543 partner, member, officer, director and principal employee of the  
544 applicant. Each applicant shall furnish satisfactory evidence to the  
545 commissioner that the applicant is a person of good moral character  
546 and is financially responsible. If the commissioner is satisfied that such  
547 applicant is in all respects properly qualified and trustworthy and that  
548 the granting of such license is not against the public interest, the  
549 commissioner may issue to such applicant a license, in such form as  
550 the commissioner may adopt, to act within this state as a consumer  
551 collection agency. The commissioner may deny an application if the  
552 commissioner finds that the applicant or any partner, member, officer,  
553 director or principal employee of the applicant has been convicted [,  
554 during the ten-year period prior to the date of application,] of any  
555 misdemeanor involving any aspect of the consumer collection agency  
556 business, or any felony. Any denial of an application by the  
557 commissioner shall, when applicable, be subject to the provisions of  
558 section 46a-80. Any such license issued by the commissioner shall  
559 expire at the close of business on September thirtieth of the odd-  
560 numbered year following its issuance, unless such license is renewed.  
561 The commissioner may renew such application, in the commissioner's  
562 discretion, upon filing of a proper renewal application accompanied by  
563 a license fee of eight hundred dollars, and satisfactory proof that such  
564 applicant at that time possesses the required qualifications for the  
565 license. The commissioner may deny a renewal application if the  
566 commissioner finds that the applicant has been convicted [, during the  
567 ten-year period prior to the date of application,] of any misdemeanor  
568 involving any aspect of the consumer collection agency business, or  
569 any felony. Any denial of an application by the commissioner shall,  
570 when applicable, be subject to the provisions of section 46a-80. Such  
571 renewal application shall be filed with the commissioner on or before  
572 September first of the year in which the license expires. Any renewal  
573 application filed with the commissioner after September first shall be  
574 accompanied by a one-hundred-dollar late fee and any such filing shall  
575 be deemed to be timely and sufficient for purposes of subsection (b) of

576 section 4-182. Whenever an application for a license, other than a  
 577 renewal application, is filed under sections 36a-800 to 36a-810,  
 578 inclusive, as amended by this act, by any person who was a licensee  
 579 under said sections 36a-800 to 36a-810, inclusive, as amended by this  
 580 act, and whose license expired less than sixty days prior to the date  
 581 such application was filed, such application shall be accompanied by a  
 582 one-hundred-dollar processing fee in addition to the application fee.  
 583 To further the enforcement of this section and to determine the  
 584 eligibility of any person holding a license, the commissioner may, as  
 585 often as the commissioner deems necessary, examine the licensee's  
 586 books and records, and may, at any time, require the licensee to submit  
 587 such a financial statement for the examination of the commissioner, so  
 588 that the commissioner may determine whether the licensee is  
 589 financially responsible to carry on a consumer collection agency  
 590 business within the intents and purposes of sections 36a-800 to 36a-  
 591 810, inclusive, as amended by this act. Any financial statement  
 592 submitted by a licensee shall be confidential and shall not be a public  
 593 record unless introduced in evidence at a hearing conducted by the  
 594 commissioner. The applicant or licensee shall notify the commissioner,  
 595 in writing, of any change in the information provided in its initial  
 596 application for license or most recent renewal application for such  
 597 license, as applicable, not later than ten business days after the  
 598 occurrence of the event that results in such information becoming  
 599 inaccurate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	36a-498a
Sec. 2	October 1, 2010	36a-537
Sec. 3	October 1, 2010	36a-541
Sec. 4	October 1, 2010	36a-555
Sec. 5	October 1, 2010	36a-556
Sec. 6	October 1, 2010	36a-557(a)
Sec. 7	October 1, 2010	36a-581
Sec. 8	October 1, 2010	36a-598
Sec. 9	October 1, 2010	36a-600(c)

Sec. 10	<i>October 1, 2010</i>	36a-656
Sec. 11	<i>October 1, 2010</i>	36a-671(c) and (d)
Sec. 12	<i>October 1, 2010</i>	36a-801(b)(1)

**BA**      *Joint Favorable Subst.*

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.

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

The bill makes various technical and clarifying changes to the laws concerning banking and results in no fiscal impact.

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

**OLR Bill Analysis****sSB 54*****AN ACT CONCERNING CONSUMER CREDIT LICENSES.*****SUMMARY:**

The bill expands the current requirement for applicants for various Department of Banking licenses to provide a history of their criminal convictions and those of certain individuals connected to the applicant. It also (1) allows the banking commissioner to conduct state and national criminal background checks of such applicants and individuals and (2) expands the commissioner's authority to deny applications on the basis of criminal convictions. The bill applies to applications for a sales finance company, small loan lender, check cashing service, money transmission or payment instrument issuer, debt adjuster, debt negotiator, or consumer collection agency license. It makes additional changes applicable to money transmission or payment instrument lenders and consumer collection agency licensees.

The bill prohibits mortgage brokers, when brokering a first mortgage, secondary mortgage, or refinance loan, from directly or indirectly charging prepaid finance charges that exceed amounts prescribed by law for mortgage lenders. It allows mortgage brokers, when brokering a secondary mortgage that includes prepaid finance charges, to include a loan provision permitting the lender to demand payment of the entire balance before maturity only if a payment is more than 60 days late or another condition of default exists as outlined in the mortgage. The bill also specifies the potential liability of mortgage brokers who fail to comply with these provisions. These limits already apply to mortgage lenders and mortgage correspondent lenders, and in some instances, to individuals exempt from licensure.

The bill exempts a person licensed as a mortgage broker from also

having to obtain a small loan lender license when acting as a broker for residential mortgage loans of \$15,000 or less with interest rates greater than 12%.

EFFECTIVE DATE: October 1, 2010

## **CRIMINAL CONVICTIONS AND BACKGROUND CHECKS**

### **§§ 2, 6, 7, 8, 10, 11, 12 — *Criminal History Information***

The bill requires applicants for a sales finance company, small loan lender, check cashing service, money transmission or payment instrument issuer, debt adjuster, debt negotiator, or consumer collection agency license to include a complete history of criminal convictions for the applicant and specified individuals connected with the applicant. Current law requires applicants to submit a history of criminal convictions for only the 10-year period preceding the application.

### **§§ 2, 6, 7, 8, 10, 11, 12 — *Criminal Background Checks***

The bill also authorizes the banking commissioner to conduct state and national criminal background checks on applicants for the aforementioned licenses, and certain other individuals connected to the applicants. The criminal background check must comply with current requirements for background checks.

By law, state background checks are conducted by the State Police Bureau of Identification. National background checks are conducted by the Federal Bureau of Investigation.

### **§§ 3, 5, 7, 9, 10, 11, 12 — *Banking Commissioner's Authority to Deny Application Based on Criminal Convictions***

The bill allows the commissioner to deny applications for these licenses if the commissioner finds that the applicant or specified individuals connected with the applicant have been convicted of (1) a misdemeanor involving any aspect of the business for which the applicant seeks licensure or (2) a felony. Current law authorizes the commissioner to deny an application only if the conviction falls within the 10 years preceding the application. Any such license denial must

comply with current law on license denials due to criminal convictions.

**§ 9 — Money Transmission or Payment Instrument Issuer Applicants**

The bill also expands the type of misdemeanor that could lead to denial of a license for money transmission or payment instrument issuer applicants. Current law specifies that the misdemeanor must involve an aspect of the money transmission business or the business of issuing Connecticut payment instruments. The bill allows a misdemeanor involving the business of issuing any payment instrument, not just a Connecticut instrument, to serve as the basis to deny the application.

**§ 12 — Consumer Collection Agency Applicants**

The bill adds to the list of people required to submit criminal history information in connection with an application for a consumer collection agency license. Depending on the form of the proposed business, partners, members, officers, directors, and principal employees, as well as applicants, must submit (1) a history of their criminal convictions and (2) sufficient information about that history in a form acceptable to the banking commissioner. Current law imposes these requirements only for applicants. The bill requires the commissioner to inquire into the qualifications of such individuals, as well as the applicant. The commissioner can deny an application due to an applicant's criminal conviction as well as the convictions of the applicant's partner, member, officer, director, or principal employees.

**PREPAID FINANCE CHARGES**

**§ 1 — Limits on prepaid finance charges**

By law, the limits on prepaid finance charges are:

1. First mortgage—the greater of 5% of the principal or \$2,000;
2. Refinance loan—prepaid finance charges on the current refinancing and any financings within previous two years cannot exceed the greater of 5% of the principal of the original

loan or \$2,000, plus prepaid finance charges on any additional proceeds received by a borrower in the refinancing cannot exceed 5% of such additional proceeds.

3. Secondary mortgage—8% of the principal.

### **§ 1 — Liability for Noncompliance**

The bill specifies that mortgage brokers who fail to comply with the limits on prepaid finance charges or with the restrictions on allowable provisions for demanding the entire payment on a secondary mortgage before maturity are liable to borrowers in an amount equal to the sum of: (1) the amount of prepaid finance charges that exceeds 8% of the principal; (2) the lesser of 8% of the principal or \$2,500; and (3) the borrower's costs in bringing a lawsuit, including attorney's fees. However, in a secondary mortgage loan involving more than one borrower, a mortgage broker's total liability is limited to the above formula. Current law already applies these liability provisions to mortgage lenders and correspondent lenders.

### **COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/16/2010)