



General Assembly

Amendment

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LCO No. 5712

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Offered by:

REP. BARRY, 12th Dist.
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To: Subst. House Bill No. 5186

File No. 178

Cal. No. 115

"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."

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

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4 the general statutes is repealed and the following is substituted in lieu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

6 (a) The commissioner may, by order, deny, suspend or revoke any
7 registration or, by order, restrict or impose conditions on the securities
8 or investment advisory activities that an applicant or registrant may
9 perform in this state if the commissioner finds that (1) the order is in
10 the public interest, and (2) the applicant or registrant or, in the case of a

11 broker-dealer or investment adviser, any partner, officer, or director,
12 any person occupying a similar status or performing similar functions,
13 or any person directly or indirectly controlling the broker-dealer or
14 investment adviser: (A) Has filed an application for registration which
15 as of its effective date, or as of any date after filing in the case of an
16 order denying effectiveness, was incomplete in any material respect or
17 contained any statement which was, in light of the circumstances
18 under which it was made, false or misleading with respect to any
19 material fact; (B) has wilfully violated or wilfully failed to comply with
20 any provision of sections 36b-2 to 36b-33, inclusive, as amended by this
21 act, or a predecessor statute or any regulation or order under said
22 sections or a predecessor statute; (C) has been convicted, within the
23 past ten years, of any misdemeanor involving a security, any aspect of
24 a business involving securities, commodities, investments, franchises,
25 business opportunities, insurance, banking or finance, or any felony, or
26 has been released from incarceration, within the past ten years,
27 following such conviction, provided (i) the commissioner did not
28 previously deny, suspend or revoke such registration or restrict or
29 impose conditions on such securities or investment advisory activities
30 for reasons relating to such conviction, and (ii) any denial, suspension
31 or revocation of such registration shall be in accordance with the
32 provisions of section 46a-80; (D) is permanently or temporarily
33 enjoined by any court of competent jurisdiction from engaging in or
34 continuing any conduct or practice involving any aspect of a business
35 involving securities, commodities, investments, franchises, business
36 opportunities, insurance, banking or finance; (E) is the subject of a
37 cease and desist order of the commissioner or an order of the
38 commissioner denying, suspending, or revoking registration as a
39 broker-dealer, agent, investment adviser or investment adviser agent;
40 (F) is the subject of any of the following sanctions that are currently
41 effective or were imposed within the past ten years: (i) An order issued
42 by the securities administrator of any other state or [by] the Securities
43 and Exchange Commission or the Commodity Futures Trading
44 Commission denying, suspending or revoking registration as a
45 broker-dealer, agent, investment adviser, investment adviser agent or a

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

81 registered under the Commodity Exchange Act, 7 USC 1 et seq., as
82 from time to time amended, and the rules and regulations
83 promulgated thereunder, or the substantial equivalent of those terms
84 as defined in sections 36b-2 to 36b-33, inclusive, as amended by this
85 act; (H) has engaged in fraudulent, dishonest or unethical practices in
86 the securities, commodities, investment, franchise, business
87 opportunity, banking, finance or insurance business, including abusive
88 sales practices in the business dealings of such applicant, registrant or
89 person with current or prospective customers or clients; (I) is insolvent,
90 either in the sense that the liabilities of such applicant, registrant or
91 person exceed the assets of such applicant, registrant or person, or in
92 the sense that such applicant, registrant or person cannot meet the
93 obligations of such applicant, registrant or person as they mature; but
94 the commissioner may not enter an order against a broker-dealer or
95 investment adviser under this subparagraph without a finding of
96 insolvency as to the broker-dealer or investment adviser; (J) is not
97 qualified on the basis of such factors as training, experience, and
98 knowledge of the securities business, except as otherwise provided in
99 subsection (b) of this section; (K) has failed reasonably to supervise: (i)
100 The agents or investment adviser agents of such applicant or
101 registrant, if the applicant or registrant is a broker-dealer or investment
102 adviser; or (ii) the agents of a broker-dealer or investment adviser
103 agents of an investment adviser, if such applicant, registrant or other
104 person is or was an agent, investment adviser agent or other person
105 charged with exercising supervisory authority on behalf of a
106 broker-dealer or investment adviser; (L) in connection with any
107 investigation conducted pursuant to section 36b-26 or any examination
108 under subsection (d) of section 36b-14, has made any material
109 misrepresentation to the commissioner or upon request made by the
110 commissioner, has withheld or concealed material information from,
111 or refused to furnish material information to the commissioner,
112 provided, there shall be a rebuttable presumption that any records,
113 including, but not limited to, written, visual, audio, magnetic or
114 electronic records, computer printouts and software, and any other
115 documents, that are withheld or concealed from the commissioner in

116 connection with any such investigation or examination are material,
117 unless such presumption is rebutted by substantial evidence; (M) has
118 wilfully aided, abetted, counseled, commanded, induced or procured a
119 violation of any provision of sections 36b-2 to 36b-33, inclusive, as
120 amended by this act, or a predecessor statute or any regulation or
121 order under such sections or a predecessor statute; (N) after notice and
122 opportunity for a hearing, has been found within the previous ten
123 years: (i) By a court of competent jurisdiction, to have wilfully violated
124 the laws of a foreign jurisdiction under which the business of
125 securities, commodities, investments, franchises, business
126 opportunities, insurance, banking or finance is regulated; (ii) to have
127 been the subject of an order of a securities regulator of a foreign
128 jurisdiction denying, revoking or suspending the right to engage in the
129 business of securities as a broker-dealer, agent, investment adviser,
130 investment adviser agent or similar person; or (iii) to have been
131 suspended or expelled from membership by or participation in a
132 securities exchange or securities association operating under the
133 securities laws of a foreign jurisdiction. As used in this subparagraph,
134 "foreign" means a jurisdiction outside of the United States; or (O) has
135 failed to pay the proper filing fee; but the commissioner may enter
136 only a denial order under this subparagraph, and the commissioner
137 shall vacate any such order when the deficiency has been corrected.
138 The commissioner may not institute a suspension or revocation
139 proceeding on the basis of a fact or transaction known to the
140 commissioner when the registration became effective unless the
141 proceeding is instituted within one hundred eighty days of the
142 effective date of such registration.

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

146 (g) Every applicant for registration under sections 36b-2 to 36b-33,
147 inclusive, as amended by this act, every investment adviser exempt
148 under subsection (e) of section 36b-6, and every issuer, other than the
149 United States, any state, Canada, any other foreign government with

150 which the United States currently maintains diplomatic relations, or
151 any issuer of covered securities under Section 18(b)(1) of the Securities
152 Act of 1933, which proposes to offer a security in this state through any
153 person acting on an agency basis in the common-law sense shall file
154 with the commissioner, in such form as the commissioner by
155 regulation prescribes, an irrevocable consent appointing the
156 commissioner or the commissioner's successor in office to be his or her
157 attorney to receive service of any lawful process in any noncriminal
158 suit, action, or proceeding against him or her or his or her successor
159 executor or administrator which arises under sections 36b-2 to 36b-33,
160 inclusive, as amended by this act, or any regulation or order
161 thereunder after the consent has been filed, with the same force and
162 validity as if served personally on the person filing the consent. A
163 person who has filed such a consent in connection with a previous
164 registration need not file another. Service may be made by leaving a
165 copy of the process in the office of the commissioner, but it is not
166 effective unless (1) the plaintiff, who may be the commissioner in a
167 suit, action, or proceeding instituted by the commissioner, forthwith
168 sends notice of the service and a copy of the process by registered mail
169 or certified mail, return receipt requested, or by any express delivery
170 carrier that provides a dated delivery receipt, to the defendant or
171 respondent at the defendant's or respondent's last address on file with
172 the commissioner or take other steps which are reasonably calculated
173 to give actual notice, and (2) the plaintiff's affidavit of compliance with
174 this subsection is filed in the case on or before the return day of the
175 process, if any, or within such further time as the court allows.

176 (h) When any person, including any nonresident of this state,
177 engages in conduct prohibited or made actionable by sections 36b-2 to
178 36b-33, inclusive, as amended by this act, or any regulation or order
179 thereunder, and such person has not filed a consent to service of
180 process under subsection (g) of this section and personal jurisdiction
181 over such person cannot otherwise be obtained in this state, that
182 conduct shall be considered equivalent to such person's appointment
183 of the commissioner or the commissioner's successor in office to be

184 such person's attorney to receive service of any lawful process in any
185 noncriminal suit, action, or proceeding against such person or such
186 person's successor executor or administrator which grows out of that
187 conduct and which is brought under said sections or any regulation or
188 order thereunder, with the same force and validity as if served on such
189 person personally. Service may be made by leaving a copy of the
190 process in the office of the commissioner, and it is not effective unless
191 (1) the plaintiff, who may be the commissioner in a suit, action, or
192 proceeding instituted by the commissioner, forthwith sends notice of
193 the service and a copy of the process by registered mail or certified
194 mail, return receipt requested, or by any express delivery carrier that
195 provides a dated delivery receipt, to the defendant or respondent at
196 the defendant's or respondent's last known address or takes other
197 steps which are reasonably calculated to give actual notice, and (2) the
198 plaintiff's affidavit of compliance with this subsection is filed in the
199 case on or before the return day of the process, if any, or within such
200 further time as the court allows.

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

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

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

213 (2) "Business opportunity" means the sale or lease, or offer for sale
214 or lease, of any product, equipment, supply or service which is sold or
215 offered for sale to the purchaser-investor for the purpose of enabling

216 the purchaser-investor to start a business, and in which the seller
217 represents that: (A) The seller will provide locations or assist the
218 purchaser-investor in finding locations for the use or operation of
219 vending machines, racks, display cases or other similar devices, or
220 currency-operated amusement machines or devices, or any other
221 devices within the intent of sections 36b-60 to 36b-80, inclusive, as
222 amended by this act, as the commissioner shall by regulation or order
223 determine, on premises neither owned nor leased by the purchaser-
224 investor or seller; or (B) the seller will purchase any or all products
225 made, produced, fabricated, grown, bred or modified by the
226 purchaser-investor using, in whole or in part, the supplies, services or
227 chattels sold to the purchaser-investor; or (C) the seller guarantees,
228 either conditionally or unconditionally, that the purchaser-investor
229 will derive income from the business opportunity, or that the seller
230 will refund all or part of the price paid for the business opportunity or
231 repurchase any of the products, equipment, supplies or chattels
232 supplied by the seller, if the purchaser-investor is unsatisfied with the
233 business opportunity; or (D) the seller will provide a sales program or
234 marketing program to the purchaser-investor, provided sections 36b-
235 60 to 36b-80, inclusive, as amended by this act, shall not apply to the
236 sale of a marketing program made in conjunction with the licensing of
237 a registered trademark or service mark, provided (i) such trademark or
238 service mark has been effectively registered under federal law; and (ii)
239 for such trademark or service mark initially registered under federal
240 law on or after October 1, 1996, the seller files with the commissioner a
241 copy of the trademark or service mark certificate prior to any offer or
242 sale in [the] this state, provided further that failure to file such
243 certificate shall not, in and of itself, preclude reliance on this exclusion.
244 "Business opportunity" does not include the sale of an ongoing
245 business where the owner of that business sells and intends to sell only
246 that one business opportunity, nor does it include the not-for-profit
247 sale of sales demonstration equipment, materials or samples, for a total
248 price of five hundred dollars or less to any one person;

249 (3) "Commissioner" means the Banking Commissioner or any

250 person appointed or designated by the Banking Commissioner to
251 administer said sections;

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

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

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

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

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

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

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

278 (b) Prior to the sale or offer for sale of a business opportunity the
279 seller shall register the business opportunity with the commissioner by

280 filing with the commissioner:

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

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

284 (3) In accordance with subsection (e) of this section, an irrevocable
285 consent appointing the commissioner to be such seller's attorney to
286 receive service of any lawful process in any noncriminal suit, action or
287 proceeding which arises under sections 36b-60 to 36b-80, inclusive, as
288 amended by this act, or any regulation or order adopted or issued
289 under the provisions of said sections;

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

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

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

296 (C) The business experience of the seller, including the length of
297 time such seller has: (i) Conducted a business of the type to be
298 operated by the purchaser-investor, (ii) sold any business opportunity
299 for such business, and (iii) sold any business opportunity in any other
300 line of business;

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

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

306 (F) A statement describing any services, supplies, products, signs,
307 fixtures or equipment relating to the establishment or the operation of

308 the business opportunity that the purchaser-investor is required to
309 purchase, lease or rent directly or indirectly from the seller;

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

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

340 (I) Any other information that the commissioner in the

341 commissioner's discretion reasonably requires;

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

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

346 Sec. 5. Subsections (e) and (f) of section 36b-62 of the 2010
347 supplement to the general statutes are repealed and the following is
348 substituted in lieu thereof (*Effective from passage*):

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

373 as the court allows.

374 (f) When any person, including any nonresident of this state,
375 engages in conduct prohibited or made actionable by sections 36b-60 to
376 36b-80, inclusive, as amended by this act, or any regulation or order
377 adopted or issued under said sections, and such person has not filed a
378 consent to service of process under subsection (e) of this section and
379 personal jurisdiction over such person cannot otherwise be obtained in
380 this state, such conduct shall be considered equivalent to such person's
381 appointment of the commissioner to be such person's attorney to
382 receive service of any lawful process in any noncriminal suit, action or
383 proceeding against such person or such person's successor, executor or
384 administrator that grows out of such conduct and that is brought
385 under said sections or any regulation or order adopted or issued under
386 said sections, with the same force and validity as if served on such
387 person personally. Service may be made by leaving a copy of the
388 process in the office of the commissioner, but such service shall not be
389 effective unless (1) the plaintiff, who may be the commissioner in a
390 suit, action or proceeding instituted by the commissioner, forthwith
391 sends notice of the service and a copy of the process by registered mail
392 or certified mail, return receipt requested, or by any express delivery
393 carrier that provides a dated delivery receipt, to the defendant or
394 respondent at the defendant's or respondent's last known address or
395 takes other steps which are reasonably calculated to give actual notice,
396 and (2) the plaintiff's affidavit of compliance with this subsection is
397 filed in the case on or before the return day of the process, if any, or
398 within such further time as the court allows.

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

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

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

407

408 (Name and address of surety company)

409 a surety company authorized to do business in this state. Before
410 signing a contract to purchase this business opportunity, you should
411 check with the surety company to determine the bond's current status,"
412 or

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

415

416 (Number of account)

417 with

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

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

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

425 (a) The following business opportunities are exempt from
426 subsection (a) of section 36b-62, [; section] sections 36b-63, as amended
427 by this act, [and section] 36b-64, [; section] 36b-66 and subdivision (1)
428 of section 36b-67: (1) (A) Subject to the provisions of subparagraph (B)
429 of this subdivision, any business opportunity for which the initial
430 payment made by the purchaser-investor per business opportunity
431 does not exceed two hundred dollars, if no representations are made
432 that the seller guarantees, either conditionally or unconditionally, that

433 the purchaser-investor will derive income from the business
434 opportunity. For purposes of this subparagraph, "initial payment"
435 means the total amount the purchaser-investor becomes obligated to
436 pay to the seller or to any third party either prior to or at the time of
437 delivery of the products, equipment, supplies or services or within one
438 year of the commencement of operation of the business by the
439 purchaser-investor. If payment is over a period of time, "initial
440 payment" includes the sum of the down payment and the total
441 periodic payments. "Initial payment" does not include periodic
442 payments where the amount or rate of the payment is based on net
443 revenue or gross revenue generated by the business. (B) The
444 commissioner may, by regulation, adopted pursuant to section 36b-77,
445 or order as to any business opportunity or type of business
446 opportunity or transaction exempt under subdivision (1)(A) of this
447 subsection, modify, withdraw, further condition or waive such
448 conditions, in whole or in part, conditionally or unconditionally, on a
449 finding that such regulation or order is necessary and appropriate, in
450 the public interest or for the protection of purchaser-investors; (2) any
451 business opportunity sold in this state exclusively to purchaser-
452 investors each of whom has a net worth of not less than one million
453 dollars exclusive of principal residence, home furnishings, and
454 personal automobiles; and (3) any other business opportunity that the
455 commissioner by regulation, adopted pursuant to section 36b-77, or
456 order may exempt, conditionally or unconditionally, if the
457 commissioner finds that enforcement of all the provisions of sections
458 36b-60 to 36b-80, inclusive, as amended by this act, with respect to
459 such business opportunity is not necessary to protect the public
460 interest, and for the protection of purchaser-investors due to the
461 limited character of the business opportunity, or because such business
462 opportunity is, in the judgment of the commissioner, adequately
463 regulated by federal law. The commissioner may by order deny,
464 suspend or revoke any exemption with respect to a particular offering
465 of one or more business opportunities in accordance with the
466 provisions of section 36b-68. No order under this subsection may
467 operate retroactively. No person may be considered to have violated

468 any order issued under this subsection by reason of any offer or sale
469 effected after the entry of such order if such person sustains the burden
470 of proof that such person did not know, and in the exercise of
471 reasonable care could not have known, of such order.

472 Sec. 8. (NEW) (*Effective January 1, 2011*) (a) As used in this section,
473 "private investment fund" means any investment company, as defined
474 in Section 3(a)(1) of the Investment Company Act of 1940, (1) that
475 claims an exemption under Section 3(c)(1) or Section 3(c)(7) of the
476 Investment Company Act of 1940; (2) whose offering of securities is
477 exempt under the private offering safe harbor criteria in Rule 506 of
478 Regulation D of the Securities Act; (3) that offers or sells securities in
479 this state or is located in this state; and (4) that meets any other criteria
480 as may be established by the Banking Commissioner. A private
481 investment fund is located in this state if such fund has an office in this
482 state where employees regularly conduct business on behalf of the
483 private investment fund.

484 (b) Any investment adviser to a private investment fund, regardless
485 of whether such investment adviser is registered with the United
486 States Securities and Exchange Commission, shall comply with the
487 disclosure requirements of Rule 204-3 under the Investment Advisers
488 Act of 1940, provided nothing in this subsection shall require the
489 disclosure of any information other than material conflicts of interest
490 of the investment adviser, provided such adviser manages more than
491 one hundred million dollars in assets. In the event that federal
492 regulations or changes to the Investment Advisers Act of 1940,
493 resulting in the regulation of investment advisers to private investment
494 funds, are enacted on or before December 31, 2010, then no private
495 investment fund or investment adviser to a private investment fund
496 shall be required to comply with the provisions of this subsection.

497 Sec. 9. Section 36b-3 of the general statutes is repealed and the
498 following is substituted in lieu thereof (*Effective January 1, 2011*):

499 As used in sections 36b-2 to 36b-33, inclusive, and section 8 of this

500 act, unless the context otherwise requires:

501 (1) "Agent" means any individual, other than a broker-dealer, who
502 represents a broker-dealer or issuer in effecting or attempting to effect
503 purchases or sales of securities. "Agent" does not include an individual
504 who represents an issuer in (A) effecting transactions in a security
505 exempted by subdivision (1), (2), (3), (4), (6), (9), (10), (11) or (22) of
506 subsection (a) of section 36b-21, (B) effecting transactions exempted by
507 subsection (b) of section 36b-21, except for transactions exempted by
508 subdivisions (10), (13) or (14) of said subsection, (C) effecting
509 transactions with existing employees, partners or directors of the
510 issuer if no commission or other remuneration is paid or given directly
511 or indirectly for soliciting any person in this state, or (D) effecting
512 transactions in any covered security, except for covered securities
513 within the meaning of Sections 18(b)(2) or 18(b)(4)(D) of the Securities
514 Act of 1933. "Agent" does not include such other persons not within
515 the intent of this subdivision as the commissioner may by regulation or
516 order determine. A general partner, officer or director of a broker-
517 dealer or issuer, or a person occupying a similar status or performing
518 similar functions, is an agent only if such person otherwise comes
519 within this definition and any compensation that such person receives
520 is directly or indirectly related to purchases or sales of securities.

521 (2) "Associated person" has the meaning given to that term in
522 Section 3(a)(21) of the Securities Exchange Act of 1934.

523 (3) "Blank check company" means any company that (A) devotes
524 substantially all of its efforts to establishing a new business in which
525 planned principal operations have not commenced or, that has
526 commenced planned principal operations, but has not derived
527 significant revenue from such operations; and (B) has no specific
528 business plan or purpose or has indicated that its business plan is to
529 engage in a merger or acquisition with an unidentified company or
530 companies, or other entity or person.

531 (4) "Branch office" means any location other than the main office at

532 which an agent or investment adviser agent regularly conducts
533 business on behalf of a broker-dealer or investment adviser, or any
534 location that is held out as such, excluding: (A) Any location that is
535 established solely for customer service or back-office-type functions
536 where no sales activities are conducted and that is not held out to the
537 public as a branch office, (B) any location that is the agent's or
538 investment adviser agent's primary residence, provided (i) only agents
539 or investment adviser agents who reside at the location and are
540 members of the same immediate family conduct business at the
541 location, (ii) the location is not held out to the public as an office and
542 the agent or investment adviser agent does not meet with customers at
543 the location, (iii) neither customer funds nor securities are handled at
544 that location, (iv) the agent or investment adviser agent is assigned to a
545 designated branch office, and such designated branch office is reflected
546 on all business cards, stationery, advertisements and other
547 communications to the public by such agent or investment adviser
548 agent, (v) the agent's or investment adviser agent's correspondence
549 and communications with the public are subject to the supervision of
550 the broker-dealer or investment adviser with which such agent or
551 investment adviser agent is associated, (vi) electronic communications,
552 including e-mail, are made through the electronic system of the broker-
553 dealer or investment adviser, (vii) all orders for securities are entered
554 through the designated branch office or an electronic system
555 established by a broker-dealer that is reviewable at the branch office,
556 (viii) written supervisory procedures pertaining to supervision of
557 activities conducted at the residence are maintained by the broker-
558 dealer or investment adviser, and (ix) a list of the residence locations is
559 maintained by the broker-dealer or investment adviser, (C) any
560 location, other than a primary residence, that is used for securities or
561 investment advisory business for less than thirty business days in any
562 one calendar year, provided the broker-dealer or investment adviser
563 complies with the provisions of subparagraph (B)(ii), (iii), (iv), (v), (vi),
564 (vii) and (viii) of this subdivision, (D) any office of convenience, where
565 associated persons occasionally and exclusively by appointment meet
566 with customers, which is not held out to the public as an office, (E) any

567 location that is used primarily to engage in nonsecurities activities and
568 from which the agent or investment adviser agent effects no more than
569 twenty-five securities transactions in any one calendar year, provided
570 any advertisement or sales literature identifying such location also sets
571 forth the address and telephone number of the location from which the
572 agent or investment adviser agent conducting business at the
573 nonbranch locations is directly supervised, (F) the floor of a registered
574 national securities exchange where a broker-dealer conducts a direct
575 access business with public customers, (G) a temporary location
576 established in response to the implementation of a business continuity
577 plan, or (H) any other location not within the intent of this subdivision
578 as the commissioner may determine. As used in this subdivision, the
579 term "business day" does not include any partial business day,
580 provided the agent or investment adviser agent spends at least four
581 hours on such day at the designated branch office of such agent or
582 investment adviser agent during the hours that such office is normally
583 open for business.

584 (5) "Broker-dealer" means any person engaged in the business of
585 effecting transactions in securities for the account of others or for such
586 person's own account. "Broker-dealer" does not include (A) an agent,
587 (B) an issuer, (C) a bank, as defined in Section 3(a)(6) of the Securities
588 Exchange Act of 1934, when conducting activities that would except it
589 from the definitions of "broker" or "dealer" under Sections 3(a)(4) or
590 3(a)(5) of the Securities Exchange Act of 1934, (D) a person who has no
591 place of business in this state if such person effects transactions in this
592 state exclusively with or through (i) the issuers of the securities
593 involved in the transactions, (ii) other broker-dealers, or (iii) a bank
594 and trust company, a national banking association, a savings bank, a
595 savings and loan association, a federal savings bank, a federal savings
596 and loan association, a credit union, a federal credit union, a trust
597 company, an insurance company, an investment company as defined
598 in the Investment Company Act of 1940, a pension or profit-sharing
599 trust, or other financial institution or institutional buyer, whether
600 acting for itself or as trustee, or (E) such other persons not within the

601 intent of this subdivision as the commissioner may by regulation or
602 order determine.

603 (6) "Commissioner" means the Banking Commissioner or any
604 person appointed or designated by the Banking Commissioner to
605 administer sections 36b-2 to 36b-33, inclusive.

606 (7) "Covered security" has the meaning given to that term in Section
607 18(b) of the Securities Act of 1933.

608 (8) "Fraud", "deceit" and "defraud" are not limited to common-law
609 deceit.

610 (9) "Guaranteed" means guaranteed as to payment of principal,
611 interest or dividends.

612 (10) "International banking institution" means an international
613 financial institution, as defined in 22 USC 262r, as from time to time
614 amended, of which the United States is a member and whose securities
615 are exempt from registration under the Securities Act of 1933.

616 (11) "Investment adviser" means any person who, for compensation,
617 engages in the business of advising others, either directly or through
618 publications or writings, as to the value of securities or as to the
619 advisability of investing in, purchasing or selling securities, or who, for
620 compensation and as a part of a regular business, issues or
621 promulgates analyses or reports concerning securities. "Investment
622 adviser" does not include (A) an investment adviser agent; (B) a bank,
623 as defined in Section 202(a)(2) of the Investment Advisers Act of 1940,
624 or a bank holding company, as defined in the Bank Holding Company
625 Act of 1956, that is excepted from the definition of "investment
626 adviser" in Section 202(a)(11) of the Investment Advisers Act of 1940;
627 (C) a lawyer, accountant, engineer, or teacher whose performance of
628 these services is solely incidental to the practice of such person's
629 profession; (D) a broker-dealer whose performance of these services is
630 solely incidental to the conduct of such person's business as a broker-
631 dealer and who receives no special compensation for them; (E) a

632 publisher of any bona fide newspaper, news magazine, or business or
633 financial publication of general, regular, and paid circulation; (F) a
634 person whose advice, analyses or reports relate only to securities
635 exempted by subdivision (1) of subsection (a) of section 36b-21; (G) any
636 insurance company under the supervision of the Insurance
637 Commissioner or any affiliate thereof, as defined in subsection (b) of
638 section 38a-129, when providing services to separate accounts of that
639 insurance company or registered investment companies all of whose
640 shares are owned by such insurance company or its insurance
641 company affiliates or by the separate accounts of that insurance
642 company or its insurance company affiliates; and (H) such other
643 persons not within the intent of this subdivision as the commissioner
644 may by regulation or order designate.

645 (12) (A) "Investment adviser agent" includes (i) any individual,
646 including an officer, partner or director of an investment adviser, or an
647 individual occupying a similar status or performing similar functions,
648 employed, appointed or authorized by or associated with an
649 investment adviser to solicit business from any person for such
650 investment adviser in this state and who receives compensation or
651 other remuneration, directly or indirectly, for such solicitation; or (ii)
652 any partner, officer, or director of an investment adviser, or an
653 individual occupying a similar status or performing similar functions,
654 or other individual employed, appointed, or authorized by or
655 associated with an investment adviser, who makes any
656 recommendation or otherwise renders advice regarding securities to
657 clients and who receives compensation or other remuneration, directly
658 or indirectly, for such advisory services.

659 (B) "Investment adviser agent" does not include an individual
660 employed, appointed or authorized by, associated with or acting on
661 behalf of an investment adviser exempt from registration under
662 subdivision (1) or (2) of subsection (e) of section 36b-6, who is a
663 "supervised person", as defined in Section 202(a)(25) of the Investment
664 Advisers Act of 1940, unless such supervised person is an "investment
665 adviser representative", as defined in Securities and Exchange

666 Commission Rule 203A-3, 17 CFR 275.203A-3.

667 (C) "Investment adviser agent" does not include such other
668 individuals not within the intent of this subdivision as the
669 commissioner may by regulation or order designate.

670 (13) "Issuer" means any person who issues or proposes to issue any
671 security; except that (A) with respect to a certificate of deposit, a
672 voting-trust certificate, or a collateral-trust certificate, or with respect
673 to a certificate of interest or a share in an unincorporated investment
674 trust not having a board of directors or persons performing similar
675 functions or of the fixed, restricted management, or unit type, "issuer"
676 means any person performing the acts and assuming the duties of
677 depositor or manager pursuant to the provisions of the trust or other
678 agreement or instrument under which the security is issued; (B) with
679 respect to an equipment trust certificate or similar security serving the
680 same purpose, "issuer" means any person who uses or will use the
681 property, any person to whom the property or equipment is or will be
682 leased or conditionally sold or any person who is otherwise
683 contractually responsible for assuring payment of the certificate; and
684 (C) with respect to a fractional undivided interest in oil, gas or other
685 mineral leases or in payments out of production under a lease, right or
686 royalty, "issuer" means any owner of an interest in the lease or in
687 payments out of production under a lease, right or royalty, whether
688 whole or fractional, who creates fractional interests for the purpose of
689 sale.

690 (14) "Nonissuer" means not directly or indirectly for the benefit of
691 the issuer.

692 (15) "Person" means an individual, a corporation, a limited liability
693 company, a partnership, a limited partnership, a limited liability
694 partnership, an association, a joint-stock company, a trust where the
695 interests of the beneficiaries are evidenced by a security, an
696 unincorporated organization, a government or a political subdivision
697 of a government.

698 (16) (A) "Sale" or "sell" includes every contract of sale of, contract to
699 sell, or disposition of, a security or interest in a security for value. (B)
700 "Offer" or "offer to sell" includes every attempt or offer to dispose of, or
701 solicitation of an offer to buy, a security or interest in a security for
702 value. (C) Any security given or delivered with, or as a bonus on
703 account of, any purchase of securities or any other thing shall be
704 conclusively presumed to constitute a part of the subject of such
705 purchase and to have been sold for value. (D) Nothing in this
706 subdivision shall limit or diminish the full meaning of the terms "sale",
707 "sell", "offer" or "offer to sell" as construed by the courts of this state.
708 (E) A purported gift of assessable stock is considered to involve an
709 offer and sale. (F) Every sale or offer of a warrant or right to purchase
710 or subscribe to another security of the same or another issuer, as well
711 as every sale or offer of a security which gives the holder a present or
712 future right or privilege to convert into another security of the same or
713 another issuer, is considered to include an offer of the other security.
714 (G) The terms defined in this subdivision do not include: (i) Any bona
715 fide pledge or loan; (ii) any stock dividend, whether the corporation
716 distributing the dividend is the issuer of the stock or not, if nothing of
717 value is given by stockholders for the dividend other than the
718 surrender of a right to a cash or property dividend when each
719 stockholder may elect to take the dividend in cash or property or in
720 stock; (iii) any act incident to a class vote by security holders on a
721 merger, exchange of securities for securities, consolidation,
722 reclassification of securities, or sale of assets in consideration of the
723 issuance of securities or securities and cash of another person other
724 than an individual; or (iv) any security which is issued in exchange for
725 one or more bona fide outstanding securities, claims or property
726 interests, or partly in such exchange and partly for cash, where the
727 terms and conditions of such issuance and exchange are approved by
728 any state or federal court.

729 (17) "Securities Act of 1933", "Securities Exchange Act of 1934",
730 "Public Utility Holding Company Act of 1935", "Investment Advisers
731 Act of 1940" and "Investment Company Act of 1940" mean the federal

732 statutes of those names, as from time to time amended.

733 (18) "Securities and Exchange Commission" means the United States
734 Securities and Exchange Commission.

735 (19) "Security" means any note, stock, treasury stock, security future,
736 bond, debenture, evidence of indebtedness, certificate of interest or
737 participation in any profit-sharing agreement, interests of limited
738 partners in a limited partnership, collateral-trust certificate,
739 preorganization certificate or subscription, transferable share,
740 investment contract, voting-trust certificate, certificate of deposit for a
741 security, fractional undivided interest in oil, gas or other mineral
742 rights, put, call, straddle, option, or privilege on any security or group
743 or index of securities, including any interest in or based on the value of
744 such security, group or index, put, call, straddle, option or privilege
745 entered into on a national securities exchange relating to foreign
746 currency, or, in general, any interest or instrument commonly known
747 as a "security", or any certificate of interest or participation in,
748 temporary or interim certificate for, receipt for, guarantee of, or
749 warrant or right to subscribe to or purchase, any of the foregoing.
750 "Security" includes (A) a certificated and an uncertificated security,
751 and (B) as an "investment contract", an interest in a limited liability
752 company or limited liability partnership, but does not include any
753 insurance or endowment policy or annuity contract issued by an
754 insurance company that is subject to regulation by the Insurance
755 Commissioner.

756 (20) "Self-regulatory organization" means a national securities
757 exchange, a national securities association of broker-dealers or a
758 clearing agency registered under the Securities Exchange Act of 1934
759 or the Municipal Securities Rulemaking Board established under the
760 Securities Exchange Act of 1934.

761 (21) "Shell company" or "dormant company" means any company
762 which does not pursue nor has the financial capacity to pursue a
763 business plan or purpose.

764 (22) "State" means any state, territory or possession of the United
765 States, the District of Columbia and Puerto Rico.

766 Sec. 10. Subdivision (1) of subsection (b) of section 36a-486 of the
767 2010 supplement to the general statutes is repealed and the following
768 is substituted in lieu thereof (*Effective July 31, 2010*):

769 (b) (1) No person licensed as a mortgage lender, mortgage
770 correspondent lender or mortgage broker shall engage the services of a
771 mortgage loan originator unless such mortgage loan originator is
772 licensed under section 36a-489, as amended by this act. An individual,
773 unless specifically exempted under subdivision (2) of this subsection,
774 shall not engage in the business of a mortgage loan originator on
775 behalf of a licensee or a person exempt under section 36a-487, as
776 amended by this act, with respect to any dwelling, as defined in
777 Section 103 of the Consumer Credit Protection Act, 15 USC 1602,
778 located in this state without first obtaining and maintaining annually a
779 license as a mortgage loan originator under section 36a-489, as
780 amended by this act. Each licensed mortgage loan originator shall
781 register with and maintain a valid unique identifier issued by the
782 system. No individual may act as a mortgage loan originator for more
783 than one person at the same time. The license of a mortgage loan
784 originator is not effective during any period when such mortgage loan
785 originator is not sponsored by a licensed mortgage lender, mortgage
786 correspondent lender or mortgage broker, or by a person registered as
787 an exempt registrant under subsection (c) of section 36a-487, as
788 amended by this act, or during any period in which the license of the
789 mortgage lender, mortgage correspondent lender or mortgage broker
790 with whom such originator is associated has been suspended. Either
791 the mortgage loan originator or the [mortgage lender, mortgage
792 correspondent lender or mortgage broker] sponsor may file a
793 notification of the termination of sponsorship of a mortgage loan
794 originator with the system.

795 Sec. 11. Section 36a-487 of the 2010 supplement to the general
796 statutes is amended by adding subsection (c) as follows (*Effective July*

797 31, 2010):

798 (NEW) (c) Any person exempt from licensure under this section
799 may register on the system as an exempt registrant for purposes of
800 sponsoring a mortgage loan originator pursuant to subdivision (1) of
801 subsection (b) of section 36a-486, as amended by this act, and for
802 purposes of satisfying the mortgage loan originator bonding
803 requirements set forth in section 36a-492, as amended by this act. Such
804 registration shall not affect the exempt status of such person.

805 Sec. 12. Subsection (a) of section 36a-488 of the 2010 supplement to
806 the general statutes is repealed and the following is substituted in lieu
807 thereof (*Effective from passage*):

808 (a) (1) The commissioner shall not issue a mortgage lender license, a
809 mortgage correspondent lender license or a mortgage broker license to
810 any person unless such person meets the following tangible net worth
811 and experience requirements, as applicable: (A) The minimum tangible
812 net worth requirement for a mortgage lender shall be two hundred
813 fifty thousand dollars and the minimum tangible net worth
814 requirement for a mortgage correspondent lender and a mortgage
815 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,
816 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a
817 mortgage lender, mortgage correspondent lender or mortgage broker
818 shall have, at the main office for which the license is sought, a qualified
819 individual and, at each branch office, a branch manager who have
820 supervisory authority over the lending or brokerage activities who
821 have at least three years' experience in the mortgage business within
822 the five years immediately preceding the date of the application for the
823 license and who, effective April 1, 2010, have completed the
824 prelicensing education requirement described in section 36a-489a, as
825 amended by this act, and passed a written test that meets the test
826 requirement described in section 36a-489a, as amended by this act,
827 except that such qualified individual and branch manager shall pass
828 the state-specific component of such test on or before a date to be
829 determined by the commissioner, which date shall be published by the

830 commissioner in information provided to the system and on the
831 department's Internet web site not later than sixty days prior to such
832 date. As used in this subdivision, "experience in the mortgage
833 business" means paid experience in the origination, processing or
834 underwriting of residential mortgage loans, the marketing of such
835 loans in the secondary market or in the supervision of such activities,
836 or any other relevant experience as determined by the commissioner.

837 (2) Each licensee shall maintain the net worth required by this
838 subsection.

839 (3) Not later than April 1, 2010, each qualified individual and
840 branch manager shall have completed the prelicensing education
841 requirement described in section 36a-489a, as amended by this act, and
842 passed a written test that meets the test requirement described in
843 section 36a-489a, as amended by this act, except that (A) such qualified
844 individual and branch manager shall pass the state-specific component
845 of the test on or before a date to be determined by the commissioner,
846 which date shall be published by the commissioner in information
847 provided to the system and on the department's Internet web site not
848 later than sixty days prior to such date, and (B) a qualified individual
849 or branch manager who was a qualified individual or branch manager
850 as of July 9, 2009, and was a licensed mortgage loan originator as of
851 July 9, 2009, shall have completed such prelicensing education
852 requirement and passed such written test not later than October 31,
853 2010.

854 Sec. 13. Subsection (b) of section 36a-488 of the 2010 supplement to
855 the general statutes is repealed and the following is substituted in lieu
856 thereof (*Effective July 31, 2010*):

857 (b) The commissioner may issue a mortgage lender license, a
858 mortgage correspondent lender license, or a mortgage broker license.
859 Each mortgage lender licensee may also act as a mortgage
860 correspondent lender and a mortgage broker, and each mortgage
861 correspondent lender licensee may also act as a mortgage broker. On

862 and after July 1, 2008, an application for a license as a mortgage lender,
863 mortgage correspondent lender or mortgage broker office or renewal
864 of such license shall be filed, in a form prescribed by the commissioner,
865 with the system. Each such form shall contain content as set forth by
866 instruction or procedure of the commissioner and may be changed or
867 updated as necessary by the commissioner in order to carry out the
868 purpose of sections 36a-21, 36a-485 to 36a-498f, inclusive, 36a-534a and
869 36a-534b. The applicant shall, at a minimum, furnish to the system
870 information concerning the identity of the applicant, any control
871 person of the applicant, the qualified individual and any branch
872 manager, including personal history and experience in a form
873 prescribed by the system and information related to any
874 administrative, civil or criminal findings by any governmental
875 jurisdiction. The following supplementary information shall be filed
876 directly with the commissioner: (1) In the case of an initial application
877 for a license for the main office, (A) a financial statement as of a date
878 not more than twelve months prior to the filing of the application
879 which reflects tangible net worth, and if such financial statement is
880 unaudited, the proprietor, general partner, or duly authorized officer,
881 trustee or member shall swear to its accuracy under oath before a
882 notary public, ~~;~~ ~~(2)~~ and (B) a bond as required by section 36a-492, as
883 amended by this act; ~~[(3)]~~ (2) evidence that the qualified individual or
884 branch manager meets the experience required by subsection (a) of this
885 section; and ~~[(4)]~~ (3) such other information pertaining to the applicant,
886 the applicant's background, the background of its principals,
887 employees, and mortgage loan originators, and the applicant's
888 activities as the commissioner may require. For the purpose of this
889 subsection, evidence of experience of the qualified individual or
890 branch manager shall include: (A) A statement specifying the duties
891 and responsibilities of such person's employment, the term of
892 employment, including month and year, and the name, address and
893 telephone number of a supervisor, employer or, if self-employed, a
894 business reference; and (B) if required by the commissioner, copies of
895 W-2 forms, 1099 tax forms or, if self-employed, 1120 corporate tax
896 returns, signed letters from the employer on the employer's letterhead

897 verifying such person's duties and responsibilities and term of
898 employment including month and year, and if such person is unable to
899 provide such letters, other proof satisfactory to the commissioner that
900 such person meets the experience requirement. The commissioner may
901 conduct a criminal history records check of the applicant, any control
902 person of the applicant and the qualified individual or branch manager
903 with supervisory authority at the office for which the license is sought
904 and require the applicant to submit the fingerprints of such persons
905 and authorization of such persons for the system and the
906 commissioner to obtain an independent credit report from a consumer
907 reporting agency, as described in Section 603(p) of the Fair Credit
908 Reporting Act, 15 USC 1681a, as part of the application.

909 Sec. 14. Subsection (b) of section 36a-489 of the 2010 supplement to
910 the general statutes is repealed and the following is substituted in lieu
911 thereof (*Effective from passage*):

912 (b) (1) The commissioner shall not issue an initial license for a
913 mortgage loan originator unless the commissioner, at a minimum,
914 finds that the applicant has: (A) Never had a mortgage loan originator
915 license revoked in any governmental jurisdiction, except that a
916 subsequent formal vacating of such revocation shall not be deemed a
917 revocation; (B) notwithstanding the provisions of section 46a-80, not
918 been convicted of, or pled guilty or nolo contendere to, a felony in a
919 domestic, foreign or military court during the seven-year period
920 preceding the date of the application for licensing or at any time
921 preceding such date of application if such felony involved an act of
922 fraud, dishonesty, a breach of trust, or money laundering, provided
923 any pardon of a conviction shall not be a conviction for purposes of
924 this subdivision; (C) demonstrated financial responsibility, character
925 and general fitness so as to command the confidence of the community
926 and to warrant a determination that the mortgage loan originator will
927 operate honestly, fairly and efficiently within the purpose of sections
928 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and
929 36a-534b; (D) effective April 1, 2010, completed the prelicensing
930 education requirement described in section 36a-489a, as amended by

931 this act, and passed a written test that meets the test requirement
932 described in section 36a-489a, as amended by this act, except that the
933 applicant shall pass the state-specific component of the test by a date to
934 be determined by the commissioner, which date shall be published by
935 the commissioner in information provided to the system and on the
936 department's Internet web site not later than sixty days prior to such
937 date; (E) effective July 31, 2010, met the surety bond requirement under
938 section 36a-492, as amended by this act; and (F) not made a material
939 misstatement in the application. If the commissioner denies an
940 application for a mortgage loan originator license, the commissioner
941 shall notify the applicant and may notify the sponsor or any other
942 person the commissioner deems appropriate of the denial and the
943 reasons for such denial.

944 (2) (A) The minimum standards for license renewal for a mortgage
945 loan originator shall include the following: (i) The mortgage loan
946 originator continues to meet the minimum standards for license
947 issuance under subdivision (1) of this subsection; (ii) the mortgage loan
948 originator has satisfied the annual continuing education requirements
949 described in subsection (c) of section 36a-489a, as amended by this act;
950 and (iii) the mortgage loan originator has paid all required fees for
951 renewal of the license.

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

956 (3) No later than April 1, 2010, each mortgage loan originator
957 licensee shall have completed the prelicensing education requirement
958 described in section 36a-489a, as amended by this act, and passed a
959 written test that meets the test requirement described in section 36a-
960 489a, as amended by this act, [provided] except that (A) the applicant
961 shall pass the state-specific component of the test by a date to be
962 determined by the commissioner, which date shall be published by the
963 commissioner in information provided to the system and on the

964 department's Internet web site not later than sixty days prior to such
965 date, and (B) a mortgage loan originator licensee who was licensed [as
966 of the enactment of public act 09-209] as of July 9, 2009, shall have
967 completed such prelicensing education requirement and passed such
968 written test not later than October 31, 2010.

969 Sec. 15. Subsection (e) of section 36a-489 of the 2010 supplement to
970 the general statutes is repealed and the following is substituted in lieu
971 thereof (*Effective from passage*):

972 (e) Notwithstanding the provisions of this section, the commissioner
973 may deem an application for a license as a mortgage lender, mortgage
974 correspondent lender, mortgage broker or mortgage loan originator
975 abandoned if the applicant fails to respond to any request for
976 information required under sections 36a-485 to [36a-498a] 36a-498f,
977 inclusive, 36a-534a and 36a-534b or the regulations adopted pursuant
978 to said sections. The commissioner shall notify the applicant, in
979 writing, on the system that if such information is not submitted within
980 sixty days the application shall be deemed abandoned. An application
981 filing fee paid prior to the date an application is deemed abandoned
982 pursuant to this subsection shall not be refunded. Abandonment of an
983 application pursuant to this subsection shall not preclude the applicant
984 from submitting a new application for a license under said sections
985 36a-485 to [36a-498a] 36a-498f, inclusive, 36a-534a and 36a-534b.

986 Sec. 16. Section 36a-492 of the 2010 supplement to the general
987 statutes is repealed and the following is substituted in lieu thereof
988 (*Effective July 31, 2010*):

989 [(a) (1) No mortgage lender, mortgage correspondent lender or
990 mortgage broker license, and no renewal thereof, shall be granted
991 unless the applicant has filed a bond with the commissioner written by
992 a surety authorized to write such bonds in this state, in the sum of
993 forty thousand dollars, the form of which shall be approved by the
994 Attorney General. Effective July 31, 2010, the penal sum of the bond
995 shall be maintained in an amount that reflects the dollar amount of the

996 loans originated by the mortgage lender, mortgage correspondent
997 lender or mortgage broker, as determined by the commissioner.

998 (2) Effective July 31, 2010, each person licensed as a mortgage loan
999 originator shall be covered by a surety bond in accordance with this
1000 section, provided such coverage shall be provided through the bond of
1001 the mortgage lender, mortgage correspondent lender or mortgage
1002 broker who sponsors such mortgage loan originator. The penal sum of
1003 the bond shall be maintained in an amount that reflects the dollar
1004 amount of loans originated by the mortgage loan originator, as
1005 determined by the commissioner.]

1006 (a) (1) Each licensed mortgage lender, mortgage correspondent
1007 lender and mortgage broker shall file with the commissioner a single
1008 surety bond written by a surety authorized to write such bonds in this
1009 state in a penal sum determined in accordance with subsection (d) of
1010 this section, provided the penal sum of the bond for licensed mortgage
1011 lenders and mortgage correspondent lenders shall be not less than one
1012 hundred thousand dollars, and the penal sum of the bond for
1013 mortgage brokers shall be not less than fifty thousand dollars. The
1014 bond shall cover all mortgage loan originators sponsored by such
1015 licensee.

1016 (2) Each mortgage loan originator licensee shall be covered by a
1017 surety bond with a penal sum in an amount that reflects the dollar
1018 amount of loans originated by such mortgage loan originator in
1019 accordance with this section, provided such coverage shall be
1020 provided through the bond of the person who sponsors such mortgage
1021 loan originator. In the case of a mortgage loan originator licensee
1022 sponsored by an exempt registrant, the mortgage loan originator
1023 licensee shall be covered by a single surety bond filed with the
1024 commissioner by the exempt registrant. Such surety bond shall cover
1025 all mortgage loan originators sponsored by such exempt registrant and
1026 shall be written by a surety authorized to write such bonds in this state
1027 in a sum determined in accordance with subsection (d) of this section,
1028 provided the penal sum of the bond shall be not less than one hundred

1029 thousand dollars for an exempt registrant under subsection (a) of
1030 section 36a-487 and not less than fifty thousand dollars for an exempt
1031 registrant under subsection (b) of section 36a-487.

1032 (3) The principal on a bond required by subsection (a) of this section
1033 shall file a bond rider or endorsement to the surety bond on file with
1034 the commissioner to reflect any changes necessary to maintain the
1035 surety bond coverage required by this section.

1036 (4) The commissioner may adopt regulations in accordance with
1037 chapter 54 with respect to the requirements for such surety bonds.

1038 (b) The bond required by subsection (a) of this section shall be (1) in
1039 a form approved by the Attorney General, and (2) conditioned upon
1040 [such] the mortgage lender, mortgage correspondent lender or
1041 mortgage broker licensee and [, effective July 31, 2010,] any mortgage
1042 loan originator [who is covered by the surety bond of a mortgage
1043 lender, mortgage correspondent lender or mortgage broker,] licensee
1044 sponsored by such mortgage lender, mortgage correspondent lender
1045 or mortgage broker or, in the case of a mortgage loan originator
1046 licensee sponsored by an exempt registrant, upon such mortgage loan
1047 originator licensee faithfully performing any and all written
1048 agreements or commitments with or for the benefit of borrowers and
1049 prospective borrowers, truly and faithfully accounting for all funds
1050 received from a borrower or prospective borrower by the licensee in
1051 the licensee's capacity as a mortgage lender, mortgage correspondent
1052 lender, [or a] mortgage broker or [, effective July 31, 2010, a] mortgage
1053 loan originator, and conducting such mortgage business consistent
1054 with the provisions of sections 36a-485 to 36a-498f, inclusive, as
1055 amended by this act, 36a-534a and 36a-534b. Any borrower or
1056 prospective borrower who may be damaged by failure to perform any
1057 written agreements or commitments, or by the wrongful conversion of
1058 funds paid by a borrower or prospective borrower to a licensee, may
1059 proceed on such bond against the principal or surety thereon, or both,
1060 to recover damages. Commencing August 1, 2009, any borrower or
1061 prospective borrower who may be damaged by a mortgage lender,

1062 mortgage correspondent lender, mortgage broker or mortgage loan
1063 originator licensee's failure to satisfy a judgment against the licensee
1064 arising from the making or brokering of a nonprime home loan, as
1065 defined in section 36a-760, as amended by this act, may proceed on
1066 such bond against the principal or surety thereon, or both, to recover
1067 the amount of the judgment. The commissioner may proceed on such
1068 bond against the principal or surety thereon, or both, to collect any
1069 civil penalty imposed upon [the] a licensee pursuant to subsection (a)
1070 of section 36a-50 and any unpaid costs of examination of [the] a
1071 licensee as determined pursuant to section 36a-65. The proceeds of the
1072 bond, even if commingled with other assets of the [licensee] principal,
1073 shall be deemed by operation of law to be held in trust for the benefit
1074 of such claimants against the [licensee] principal in the event of
1075 bankruptcy of the [licensee] principal and shall be immune from
1076 attachment by creditors and judgment creditors. The bond shall run
1077 concurrently with the period of the license [granted to the applicant,]
1078 for the main office and the aggregate liability under the bond shall not
1079 exceed the penal sum of the bond. The [licensee] principal shall notify
1080 the commissioner of the commencement of an action on the [licensee's]
1081 bond. When an action is commenced on a [licensee's] principal's bond,
1082 the commissioner may require the filing of a new bond and
1083 immediately on recovery on any action on the bond, the [licensee]
1084 principal shall file a new bond.

1085 (c) The surety company shall have the right to cancel the bond at
1086 any time by a written notice to the [licensee] principal stating the date
1087 cancellation shall take effect. Such notice shall be sent by certified mail
1088 to the [licensee] principal at least thirty days prior to the date of
1089 cancellation. A surety bond shall not be cancelled unless the surety
1090 company notifies the commissioner in writing not less than thirty days
1091 prior to the effective date of cancellation. After receipt of such
1092 notification from the surety company, the commissioner shall give
1093 written notice to the [licensee] principal of the date such bond
1094 cancellation shall take effect and, in the case where the principal is an
1095 exempt registrant, such notice shall be deemed notice to each mortgage

1096 loan originator licensee sponsored by such principal for the purposes
1097 of subsection (c) of section 4-182. The commissioner shall automatically
1098 suspend the [license] licenses of a mortgage lender, mortgage
1099 correspondent lender or mortgage broker on such date, and, in the case
1100 of a cancellation of an exempt registrant's bond, shall automatically
1101 suspend the licenses of the mortgage loan originators sponsored by
1102 such exempt registrant, unless prior to the date that the bond
1103 cancellation shall take effect, (1) the [licensee prior to such date]
1104 principal submits a letter of reinstatement of the bond from the surety
1105 company or a new bond, [or] (2) the mortgage lender, mortgage
1106 correspondent lender or mortgage broker licensee has ceased business
1107 and has surrendered [the license] all licenses in accordance with
1108 subsection (a) of section 36a-490, or (3) in the case of a mortgage loan
1109 originator licensee sponsored by an exempt registrant, the sponsorship
1110 has been terminated. After a mortgage lender, mortgage
1111 correspondent lender, mortgage broker or mortgage loan originator
1112 license has been automatically suspended pursuant to this section, the
1113 commissioner shall give [the] such licensee notice of the automatic
1114 suspension, pending proceedings for revocation or refusal to renew
1115 pursuant to section 36a-494 and an opportunity for a hearing on such
1116 action in accordance with section 36a-51 and require [the] such licensee
1117 to take or refrain from taking such action as in the opinion of the
1118 commissioner will effectuate the purposes of this section. The
1119 commissioner may provide information to an exempt registrant
1120 concerning actions taken by the commissioner pursuant to this
1121 subsection against any mortgage loan originator licensee that was
1122 sponsored and bonded by such exempt registrant.

1123 (d) The penal sum of the bond required by subsection (a) of this
1124 section shall be determined as follows:

1125 (1) (A) For mortgage lender licensees, mortgage correspondent
1126 lender licensees and exempt registrants under subsection (a) of section
1127 36a-487: (i) If the aggregate dollar amount of all residential mortgage
1128 loans originated by such licensee or exempt registrant in the preceding
1129 calendar year is less than thirty million dollars, the penal sum of the

1130 bond shall be one hundred thousand dollars; (ii) if the aggregate dollar
1131 amount of all residential mortgage loans originated by such licensee or
1132 exempt registrant in the preceding calendar year is thirty million
1133 dollars or more but less than one hundred million dollars, the penal
1134 sum of the bond shall be two hundred thousand dollars; (iii) if the
1135 aggregate dollar amount of all residential mortgage loans originated
1136 by such licensee or exempt registrant in the preceding calendar year is
1137 one hundred million dollars or more but less than two hundred fifty
1138 million dollars, the penal sum of the bond shall be three hundred
1139 thousand dollars; and (iv) if the aggregate dollar amount of all
1140 residential mortgage loans originated by such licensee or exempt
1141 registrant in the preceding calendar year is two hundred fifty million
1142 dollars or more, the penal sum of the bond shall be five hundred
1143 thousand dollars.

1144 (B) For mortgage broker licensees and exempt registrants under
1145 subsection (b) of section 36a-487: (i) If the aggregate dollar amount of
1146 all residential mortgage loans originated by such licensee or exempt
1147 registrant in the preceding calendar year is less than thirty million
1148 dollars, the penal sum of the bond shall be fifty thousand dollars; (ii) if
1149 the aggregate dollar amount of all residential mortgage loans
1150 originated by such licensee or exempt registrant in the preceding
1151 calendar year is thirty million dollars or more but less than fifty
1152 million dollars, the penal sum of the bond shall be one hundred
1153 thousand dollars; and (iii) if the aggregate dollar amount of all
1154 residential mortgage loans originated by such licensee or exempt
1155 registrant in the preceding calendar year is fifty million dollars or
1156 more, the penal sum of the bond shall be one hundred fifty thousand
1157 dollars;

1158 (2) For purposes of this subsection, the aggregate dollar amount of
1159 all residential mortgage loans originated by such licensee or exempt
1160 registrant in the preceding calendar year includes residential mortgage
1161 loan originations by third parties and shall be reflected in reports filed
1162 on the system and in accordance with subdivision (1) of this
1163 subsection. If such reports are not available on the system, the licensee

1164 and exempt registrant shall submit to the commissioner, at the time the
1165 bond is filed, such financial information in such form as the
1166 commissioner deems necessary to verify the aggregate dollar amount;
1167 and

1168 (3) The commissioner may require a change in the penal sum of the
1169 bond if the commissioner determines at any time that the aggregate
1170 dollar amount of all residential mortgage loans originated warrants a
1171 change in the penal sum of the bond.

1172 Sec. 17. Section 36a-489a of the 2010 supplement to the general
1173 statutes is repealed and the following is substituted in lieu thereof
1174 (*Effective from passage*):

1175 (a) (1) In order to meet the prelicensing education and testing
1176 [requirement] requirements referred to in [section] sections 36a-488, as
1177 amended by this act, and 36a-489, as amended by this act, an
1178 [applicant] individual shall complete at least twenty hours of
1179 education approved in accordance with subdivision (2) of this
1180 subsection, which shall include at least (A) three hours of instruction
1181 on relevant federal law and regulations; (B) three hours of ethics,
1182 including instruction on fraud, consumer protection and fair lending
1183 issues; and (C) two hours of training related to lending standards for
1184 the nontraditional mortgage product marketplace.

1185 (2) For purposes of subdivision (1) of this subsection, prelicensing
1186 education courses shall be reviewed and approved by the system
1187 based upon reasonable standards. Review and approval of a
1188 prelicensing education course shall include review and approval of the
1189 course provider.

1190 (3) Nothing in this subsection shall preclude any prelicensing
1191 education course, as approved by the system, that is provided by the
1192 individual's sponsor [of the applicant] or employer or an entity which
1193 is affiliated with the [applicant] individual by an agency contract, or
1194 any subsidiary or affiliate of such sponsor, employer or entity.

1195 (4) Prelicensing education may be offered either in a classroom,
1196 online or by any other means approved by the system.

1197 (5) When prelicensing education requirements described in
1198 subdivision (1) of this subsection are completed in another state, such
1199 out-of-state prelicensing education requirements shall be accepted as
1200 credit towards completion of the prelicensing education requirements
1201 of this state, provided such out-of-state prelicensing education
1202 requirements are approved by the system.

1203 (6) ~~(A) [A person]~~ An individual previously licensed under section
1204 36a-489, as amended by this act, subsequent to the applicable effective
1205 date of the prelicensing and testing requirements referred to in section
1206 36a-489, as amended by this act, who is applying to be [licensed again]
1207 relicensed shall prove that such [person] individual has completed all
1208 of the continuing education requirements for the year in which the
1209 license was last held.

1210 (B) An individual who previously held a position as a qualified
1211 individual or branch manager subsequent to the applicable effective
1212 date of the prelicensing and testing requirements referred to in section
1213 36a-488, as amended by this act, may not hold such position again
1214 until such individual has completed all of the continuing education
1215 requirements for the year in which such individual last held such
1216 position.

1217 (b) (1) In order to meet the written test [requirement] requirements
1218 referred to in [section] sections 36a-488, as amended by this act, and
1219 36a-489, as amended by this act, an individual shall pass, in accordance
1220 with the standards established under this subsection, a qualified
1221 written test developed by the system and administered by a test
1222 provider approved by the system based upon reasonable standards.

1223 (2) A written test shall not be treated as a qualified written test for
1224 purposes of subdivision (1) of this subsection unless the test
1225 adequately measures the [applicant's] individual's knowledge and
1226 comprehension in appropriate subject areas, including ethics, federal

1227 law and regulation pertaining to mortgage origination, state law and
1228 regulation pertaining to mortgage origination, and federal and state
1229 law and regulation, including instruction on fraud, consumer
1230 protection, the nontraditional mortgage marketplace and fair lending
1231 issues.

1232 (3) Nothing in this subsection shall prohibit a test provider
1233 approved by the system from providing a test at the location of the
1234 sponsor [of the applicant] or employer, any subsidiary or affiliate of
1235 the sponsor [of the applicant] or employer, or any entity with which
1236 the [applicant] individual holds an exclusive arrangement to conduct
1237 the business of a mortgage loan originator or acts as a qualified
1238 individual or branch manager.

1239 (4) (A) An individual shall not be considered to have passed a
1240 qualified written test unless the individual achieves a test score of not
1241 less than seventy-five per cent correct answers to questions.

1242 (B) An individual may retake a test [~~three~~] four consecutive times
1243 with each consecutive taking occurring at least thirty days after the
1244 preceding test. After failing [~~three~~] four consecutive tests, an
1245 individual shall wait at least six months before taking the test again.

1246 (C) [A licensed mortgage lender, mortgage correspondent lender,
1247 mortgage broker or] (i) An individual who has not been licensed as a
1248 mortgage loan originator [who fails to maintain a valid license for a
1249 period of five years or longer] within the five-year period preceding
1250 the date of the filing of such individual's application for a mortgage
1251 loan originator license, not taking into account any time during which
1252 such individual is a registered mortgage loan originator, shall retake
1253 such test, and (ii) a qualified individual or branch manager who has
1254 not held such position within the five-year period preceding the date
1255 of the filing on the system designating such individual as a qualified
1256 individual or branch manager shall retake such test, unless such
1257 individual was licensed as a mortgage loan originator during the five-
1258 year period preceding the date of the filing on the system designating

1259 such individual as a qualified individual or branch manger, not taking
1260 into account any time during which such individual is a registered
1261 mortgage loan originator. [, shall retake the test.]

1262 (c) (1) In order to meet the annual continuing education
1263 requirements referred to in [subdivision (2) of subsection] subsections
1264 (a) and (b) of section 36a-489, as amended by this act, a licensed
1265 mortgage loan originator or a qualified individual or branch manager
1266 shall complete at least eight hours of education approved in
1267 accordance with subdivision (2) of this subsection. Such courses shall
1268 include at least (A) three hours of instruction on relevant federal law
1269 and regulation; (B) two hours of ethics, including instruction on fraud,
1270 consumer protection and fair lending issues; and (C) two hours of
1271 training related to lending standards for the nontraditional mortgage
1272 product marketplace.

1273 (2) For purposes of subdivision (1) of this subsection, continuing
1274 education courses shall be reviewed and approved by the system
1275 based upon reasonable standards. Review and approval of a
1276 continuing education course shall include review and approval of the
1277 course provider.

1278 (3) Nothing in this subsection shall preclude any education course
1279 approved by the system that is provided by the sponsor [of the
1280 mortgage loan originator] or employer or an entity that is affiliated
1281 with the mortgage loan originator, qualified individual or branch
1282 manager by an agency contract, or by any subsidiary or affiliate of
1283 such sponsor, employer or entity.

1284 (4) Continuing education may be offered either in a classroom,
1285 online or by any other means approved by the system.

1286 (5) Except as [otherwise] provided in procedures adopted under
1287 [subparagraph (B) of subdivision (2) of subsection] subsections (a) and
1288 (b) of section 36a-489, as amended by this act, or in regulations
1289 adopted under subdivision (9) of this subsection, a licensed mortgage
1290 loan originator or a qualified individual or branch manager may only

1291 receive credit for a continuing education course in the year in which
1292 the course is taken, and may not take the same approved course in the
1293 same or successive years to meet the annual requirements for
1294 continuing education.

1295 (6) A licensed mortgage loan originator or a qualified individual or
1296 branch manager who is an approved instructor of an approved
1297 continuing education course may receive credit for the [licensee's]
1298 individual's own annual continuing education requirement at the rate
1299 of two hours credit for every one hour taught.

1300 (7) When education requirements described in subdivision (1) of
1301 subsection (a) of this section are completed in another state, such out-
1302 of-state education requirements shall be accepted as credit towards
1303 completion of the education requirements of this state, provided such
1304 out-of-state education requirements are approved by the system.

1305 (8) A licensed mortgage loan originator who subsequently becomes
1306 unlicensed must complete the continuing education requirements for
1307 the last year in which the license was held prior to issuance of an initial
1308 or renewed license. A qualified individual or branch manager who
1309 ceases to hold such position must complete the continuing education
1310 requirements for the last year in which such position was held prior to
1311 holding such position again.

1312 (9) A person who meets the requirements of subparagraphs (A)(i)
1313 and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489,
1314 as amended by this act, may compensate for any deficiency in
1315 continuing education requirements pursuant to regulations adopted
1316 by the commissioner.

1317 (d) For purposes of this section "nontraditional mortgage product"
1318 means any mortgage product other than a thirty-year fixed rate
1319 mortgage, [, and "system" has the same meaning as provided in section
1320 36a-485.]

1321 Sec. 18. Subsection (b) of section 36a-490 of the 2010 supplement to

1322 the general statutes is repealed and the following is substituted in lieu
1323 thereof (*Effective July 31, 2010*):

1324 (b) A mortgage lender, mortgage correspondent lender or mortgage
1325 broker licensee may change the name of the licensee or address of the
1326 office specified on the most recent filing with the system if (1) at least
1327 thirty calendar days prior to such change, the licensee files such
1328 change with the system and, in the case of a main office, provides,
1329 directly to the commissioner, a bond rider or endorsement to the
1330 surety bond on file with the commissioner that reflects the new name
1331 or address of the main office, and (2) the commissioner does not
1332 disapprove such change, in writing, or request further information
1333 within such thirty-day period. The licensee shall promptly file any
1334 change in the information most recently submitted in connection with
1335 the license with the system or, if the information cannot be filed on the
1336 system, directly notify the commissioner, in writing, of such change in
1337 the information.

1338 Sec. 19. Subsection (d) of section 36a-490 of the 2010 supplement to
1339 the general statutes is repealed and the following is substituted in lieu
1340 thereof (*Effective from passage*):

1341 (d) Each mortgage loan originator licensee shall promptly file with
1342 the system or, if the information cannot be filed on the system, directly
1343 notify the commissioner, in writing, of any change in the information
1344 most recently submitted in connection with the license and of the
1345 occurrence of any of the following developments:

1346 (1) Filing for bankruptcy of the mortgage loan originator licensee;

1347 (2) Filing of a criminal indictment against the mortgage loan
1348 originator licensee;

1349 (3) Receiving notification of the institution of license or registration
1350 denial, cease and desist, suspension or revocation procedures, or other
1351 formal or informal regulatory action by any governmental agency
1352 against the mortgage loan originator licensee and the reasons therefor;

1353 or

1354 (4) Receiving notification of the initiation of any action against the
1355 mortgage loan originator licensee by the Attorney General or the
1356 attorney general of any other state and the reasons therefor.

1357 Sec. 20. Subsection (a) of section 36a-760 of the 2010 supplement to
1358 the general statutes is repealed and the following is substituted in lieu
1359 thereof (*Effective from passage*):

1360 (a) As used in this section and sections 36a-760a to 36a-760j,
1361 inclusive:

1362 (1) "APR" has the same meaning as provided in section 36a-746a;

1363 (2) "CHFA loan" means a loan made, insured, purchased, subsidized
1364 or guaranteed by the Connecticut Housing Finance Authority;

1365 (3) "FHA loan" means a loan made, insured, purchased, subsidized
1366 or guaranteed by the Federal Housing Administration;

1367 (4) "First mortgage loan" has the same meaning as provided in
1368 section 36a-485;

1369 (5) "Lender" means any person engaged in the business of the
1370 making of mortgage loans who is required to be licensed by the
1371 Department of Banking under chapter 668, or their successors or
1372 assigns, and shall also mean any bank, out-of-state bank, Connecticut
1373 credit union, federal credit union, out-of-state credit union, or an
1374 operating subsidiary of a federal bank or a federally chartered out-of-
1375 state bank where such subsidiary engages in the business of making
1376 mortgage loans, and their successors and assigns, but shall not include
1377 any mortgage broker, as defined in this section, or any mortgage loan
1378 originator, as defined in section 36a-485;

1379 (6) "Mortgage broker" means any person, other than a lender, who
1380 (A) for a fee, commission or other valuable consideration, negotiates,
1381 solicits, arranges, places or finds a mortgage, and (B) who is required

1382 to be licensed by the Department of Banking under chapter 668, or
1383 their successors or assigns;

1384 (7) "Nonprime home loan" means any loan or extension of credit,
1385 excluding an open-end line of credit, and further excluding a reverse
1386 mortgage transaction, as defined in 12 CFR 226.33, as amended from
1387 time to time:

1388 (A) In which the borrower is a natural person;

1389 (B) The proceeds of which are to be used primarily for personal
1390 family or household purposes;

1391 (C) In which the loan is secured by a mortgage upon any interest in
1392 one-to-four family [~~residential~~] improved real property located in this
1393 state which is, or when the loan is made, intended to be used or
1394 occupied by the borrower as a principal residence;

1395 (D) In which the principal amount of the loan does not exceed [(i)]
1396 four hundred seventeen thousand dollars; [for a loan originated on or
1397 after July 1, 2008, but before July 1, 2010; and (ii) the then current
1398 conforming loan limit, as established from time to time by the Federal
1399 National Mortgage Association, for a loan originated on or after July 1,
1400 2010;]

1401 (E) Where the loan is not a CHFA loan; and

1402 (F) In which the conditions set forth in clauses (i) and (ii) of this
1403 subparagraph apply, subject to any adjustments made pursuant to
1404 clause [(iii)] (iv) of this subparagraph:

1405 (i) The difference, at the time of consummation, between the APR
1406 for the loan and the conventional mortgage rate is either equal to or
1407 greater than (I) one and three-quarters percentage points, if the loan is
1408 a first mortgage loan, or (II) three and three-quarters percentage
1409 points, if the loan is a secondary mortgage loan. For purposes of such
1410 calculation, "conventional mortgage rate" means the most recent
1411 contract interest rate on commitments for fixed-rate mortgages

1412 published by the Board of Governors of the Federal Reserve System in
1413 its statistical release H.15, or any publication that may supersede it,
1414 during the [week] weekly period preceding the [week] weekly period
1415 in which the interest rate for the loan is set. For purposes of
1416 determining the beginning of each weekly period, the first day of each
1417 weekly period shall be the effective date of the applicable prime offer
1418 rate, as of the date the interest rate is set.

1419 (ii) The difference, at the time of consummation, between the APR
1420 for the loan or extension of credit and the average prime offer rate for a
1421 comparable transaction, as of the date the interest rate is set, is greater
1422 than one and one-half percentage points if the loan is a first mortgage
1423 loan or three and one-half percentage points if the loan is a secondary
1424 mortgage loan. For purposes of this subparagraph, "average prime
1425 offer rate" has the meaning as provided in 12 CFR 226.35, as amended
1426 from time to time.

1427 (iii) For purposes of this clause and clause (i) of this subparagraph,
1428 the date the interest rate is set shall be the last date on which the rate is
1429 set if the rate is adjusted on or before consummation.

1430 [(iii)] (iv) The commissioner shall have the authority, after
1431 consideration of the relevant factors, to increase the percentages set
1432 forth in clauses (i) and (ii) of this subparagraph. [The authority of the
1433 commissioner, and any increases or decreases made under this clause,
1434 shall expire on August 31, 2010.] For purposes of this clause, the
1435 relevant factors to be considered by the commissioner shall include,
1436 but not be limited to, the existence and amount of increases in fees or
1437 charges in connection with purchases of mortgages by the Federal
1438 National Mortgage Association or the Federal Home Loan Mortgage
1439 Corporation and increases in fees or charges imposed by mortgage
1440 insurers and the impact, including the magnitude of the impact, that
1441 such increases have had, or will likely have, on APRs for mortgage
1442 loans in this state. When considering such factors, the commissioner
1443 shall focus on those increases that are related to the deterioration in the
1444 housing market and credit conditions. The commissioner may refrain

1445 from increasing such percentages if it appears that lenders are
1446 increasing interest rates or fees in bad faith or if increasing the
1447 percentages would be contrary to the purposes of sections 36a-760 to
1448 36a-760f, inclusive, as amended by this act. No increase authorized by
1449 the commissioner to a particular percentage shall exceed one-quarter
1450 of one percentage point, and the total of all increases to a particular
1451 percentage under this clause shall not exceed one-half of one
1452 percentage point. No increase shall be made unless: (I) The increase is
1453 noticed in the Banking Department Bulletin and the Connecticut Law
1454 Journal, and (II) a public comment period of twenty days is provided.
1455 Any increase made under this clause shall be reduced proportionately
1456 when the need for the increase has diminished or no longer exists. The
1457 commissioner, in the exercise of his discretion, may authorize an
1458 increase in the percentages with respect to all loans or just with respect
1459 to a certain class or classes of loans;

1460 (8) "Open-end line of credit" means a mortgage extended by a
1461 lender under a plan in which: (A) The lender reasonably contemplates
1462 repeated transactions; (B) the lender may impose a finance charge from
1463 time to time on an outstanding unpaid balance; (C) the amount of
1464 credit that may be extended to the consumer during the term of the
1465 plan, up to any limit set by the lender, is generally made available to
1466 the extent that any outstanding balance is repaid; and (D) none of the
1467 proceeds of the open-end line of credit are used at closing to (i)
1468 purchase the borrower's primary residence, or (ii) refinance a
1469 mortgage loan that had been used by the borrower to purchase the
1470 borrower's primary residence;

1471 [(9) "Residential property" has the same meaning as provided in
1472 section 36a-485;]

1473 [(10)] (9) "Secondary mortgage loan" has the same meaning as
1474 provided in section 36a-485.

1475 (b) The provisions of sections 36a-760a to 36a-760i, inclusive, as
1476 amended by this act, shall be applicable to nonprime home loans and

1477 mortgages, as appropriate, for which applications have been received
1478 on or after August 1, 2008.

1479 Sec. 21. Section 36a-760j of the 2010 supplement to the general
1480 statutes is repealed and the following is substituted in lieu thereof
1481 (*Effective from passage*):

1482 No person shall influence real estate appraisals of residential
1483 property. For the purposes of this section, "influence residential real
1484 estate appraisals" means to directly or indirectly coerce, influence, or
1485 otherwise encourage an appraiser to misstate or misrepresent the
1486 value of residential property and includes, but is not limited to: (1)
1487 Refusal, or intentional failure, to pay an appraiser for an appraisal that
1488 reflects a fair market value estimate that is less than the sale contract
1489 price; or (2) refusal, or intentional failure, to utilize, or encouraging
1490 other mortgage brokers not to utilize, an appraiser based solely on the
1491 fact that the appraiser provided an appraisal reflecting a fair market
1492 value estimate that was less than the sale contract price.

1493 Sec. 22. Subsection (h) of section 36a-498 of the 2010 supplement to
1494 the general statutes is repealed and the following is substituted in lieu
1495 thereof (*Effective from passage*):

1496 (h) No mortgage lender or mortgage correspondent lender shall
1497 include in a residential mortgage loan for which an application is
1498 received by such lender on or after October 1, 2009, a provision that
1499 increases the interest rate as a result of a default other than a failure to
1500 comply with a provision to maintain an automatic electronic payment
1501 feature where such maintenance provision has been provided in return
1502 for an interest rate reduction and the increase is no greater than such
1503 reduction.

1504 Sec. 23. Section 36a-299 of the general statutes is repealed and the
1505 following is substituted in lieu thereof (*Effective from passage*):

1506 (a) A Connecticut bank may permit unlimited transfers by
1507 negotiable withdrawal order from a savings account consisting of

1508 savings deposits deposited to the credit of, or in which the entire
 1509 beneficial interest is held by, one or more individuals, or by a
 1510 corporation, partnership, association or other organization operated
 1511 primarily for religious, philanthropic, charitable, educational, political,
 1512 or other similar purposes and not operated for profit or from deposits
 1513 of public funds by an officer, employee or agent of the United States or
 1514 of any state, county, municipality or political subdivision thereof.

1515 (b) A Connecticut bank may permit transfers by negotiable
 1516 withdrawal order from savings accounts in which any beneficial
 1517 interest is held by a corporation, partnership, association or other
 1518 organization operated for profit, provided under the terms of the
 1519 deposit contract or by practice of such bank, the depositor may make
 1520 no more [than three] transfers [by negotiable withdrawal order or
 1521 check made by the depositor during any month or statement cycle of at
 1522 least four weeks. The limitation on transfers in this subsection does not
 1523 apply to (1) preauthorized or automatic transfers made by a means
 1524 other than negotiable withdrawal order or check made by the
 1525 depositor; (2) telephone transfers; (3) transfers to the bank at which the
 1526 savings account is held to repay loans and associated expenses and to
 1527 cover overdrafts; or (4) transfers to another account the depositor has
 1528 at the bank and withdrawals when the transfers or withdrawals are
 1529 made by mail, messenger, automated teller machine or in person] than
 1530 the number permitted under Section 204.2 (d)(2) of Regulation D of the
 1531 Federal Reserve Board, 12 CFR 204, as amended from time to time."

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)
Sec. 8	<i>January 1, 2011</i>	New section

Sec. 9	<i>January 1, 2011</i>	36b-3
Sec. 10	<i>July 31, 2010</i>	36a-486(b)(1)
Sec. 11	<i>July 31, 2010</i>	36a-487
Sec. 12	<i>from passage</i>	36a-488(a)
Sec. 13	<i>July 31, 2010</i>	36a-488(b)
Sec. 14	<i>from passage</i>	36a-489(b)
Sec. 15	<i>from passage</i>	36a-489(e)
Sec. 16	<i>July 31, 2010</i>	36a-492
Sec. 17	<i>from passage</i>	36a-489a
Sec. 18	<i>July 31, 2010</i>	36a-490(b)
Sec. 19	<i>from passage</i>	36a-490(d)
Sec. 20	<i>from passage</i>	36a-760(a)
Sec. 21	<i>from passage</i>	36a-760j
Sec. 22	<i>from passage</i>	36a-498(h)
Sec. 23	<i>from passage</i>	36a-299