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**State of Connecticut**

*TESTIMONY OF  
ATTORNEY GENERAL GEORGE JEPSEN  
BEFORE THE BANKS COMMITTEE  
MARCH 1, 2011*

I appreciate the opportunity to speak in favor of HB 6350, An Act Concerning the Attorney General's Authority to Enforce Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I strongly support this proposal and urge the committee to report favorably upon it.

Last year, following one of the most severe financial crises our nation has ever faced, Congress passed, and President Obama signed into law, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), Public Law 111-203, H.R. 4173. This new federal law represents the most sweeping overhaul to financial regulation in the United States since the Great Depression. The stated aim of the Dodd-Frank Act is "to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."

Section 1042 of the Dodd-Frank Act, excerpts of which are attached hereto for your convenience, authorizes state attorneys generals to bring civil actions to enforce provisions of the Dodd-Frank Act, as well as certain regulations that soon will be promulgated by the federal Bureau of Consumer Financial Protection. In particular, the Dodd-Frank Act authorizes state attorneys general to enforce the new federal laws and regulations designed to protect consumers from unfair, deceptive or abusive mortgage or mortgage broker practices, check cashing and pay-day lending practices, debt collection practices, and prepaid debit card practices.

HB 6350 simply states that the Connecticut Attorney General, like all other state attorneys general, has the authority to do what Congress has explicitly empowered state attorneys general to do: enforce the provisions of the Dodd-Frank Act in accordance with the requirements and conditions set forth in that law. Because the Dodd-Frank Act itself vests this power in all state attorneys general, there is a strong argument that no such authorization is even required.

Nevertheless, because state enforcement is such a significant component of the Dodd-Frank Act and because those who violate that law may seek to thwart enforcement proceedings by raising baseless jurisdictional challenges, the most prudent course to protect Connecticut residents is to pass HB 6350 and thereby remove any doubt about whether Connecticut law permits the Connecticut Attorney General to perform the function Congress has assigned to all state attorneys general.

State attorneys general are often the first to become aware of financial practices that harm ordinary citizens. Connecticut residents deserve, and under the Dodd-Frank Act, are entitled to the same level of state enforcement as residents of other states. This bill will permit my office to ensure that happens.

Thank you once again for your efforts on this important matter. I look forward to working with all of the members of the committee and welcome any questions you may have.



PUBLIC LAW 111-203—JULY 21, 2010

DODD-FRANK WALL STREET REFORM AND  
CONSUMER PROTECTION ACT

Public Law 111-203  
111th Congress

An Act

July 21, 2010  
[H.R. 4173]

To promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Dodd-Frank Wall  
Street Reform  
and Consumer  
Protection Act.  
12 USC 5301  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Dodd-Frank Wall Street Reform and Consumer Protection Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Severability.
- Sec. 4. Effective date.
- Sec. 5. Budgetary effects.
- Sec. 6. Antitrust savings clause.

**TITLE I—FINANCIAL STABILITY**

- Sec. 101. Short title.
- Sec. 102. Definitions.

**Subtitle A—Financial Stability Oversight Council**

- Sec. 111. Financial Stability Oversight Council established.
- Sec. 112. Council authority.
- Sec. 113. Authority to require supervision and regulation of certain nonbank financial companies.
- Sec. 114. Registration of nonbank financial companies supervised by the Board of Governors.
- Sec. 115. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies.
- Sec. 116. Reports.
- Sec. 117. Treatment of certain companies that cease to be bank holding companies.
- Sec. 118. Council funding.
- Sec. 119. Resolution of supervisory jurisdictional disputes among member agencies.
- Sec. 120. Additional standards applicable to activities or practices for financial stability purposes.
- Sec. 121. Mitigation of risks to financial stability.
- Sec. 122. GAO Audit of Council.
- Sec. 123. Study of the effects of size and complexity of financial institutions on capital market efficiency and economic growth.

**Subtitle B—Office of Financial Research**

- Sec. 151. Definitions.
- Sec. 152. Office of Financial Research established.
- Sec. 153. Purpose and duties of the Office.
- Sec. 154. Organizational structure; responsibilities of primary programmatic units.
- Sec. 155. Funding.
- Sec. 156. Transition oversight.

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) EXPLANATION OF CONSIDERATIONS.—The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(4) RESERVATION OF AUTHORITY.—No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.

(5) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.

(6) DEFINITION.—For purposes of this subsection, the term “consumer protection regulation” means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

Federal Register,  
publication.

12 USC 5552.

**SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.**

(a) IN GENERAL.—

(1) ACTION BY STATE.—Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity.

## (2) ACTION BY STATE AGAINST NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION TO ENFORCE RULES.—

(A) IN GENERAL.—Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association to enforce a provision of this title.

(B) ENFORCEMENT OF RULES PERMITTED.—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under other law.

(3) RULE OF CONSTRUCTION.—No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

## (b) CONSULTATION REQUIRED.—

## (1) NOTICE.—

Records.

(A) IN GENERAL.—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title, including any regulation prescribed by the Bureau under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) EMERGENCY ACTION.—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) CONTENTS OF NOTICE.—The notification required under this paragraph shall, at a minimum, describe—

- (i) the identity of the parties;
- (ii) the alleged facts underlying the proceeding;

and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) BUREAU RESPONSE.—In any action described in paragraph (1), the Bureau may—

(A) intervene in the action as a party;

(B) upon intervening—

- (i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

(ii) be heard on all matters arising in the action;  
and  
(C) appeal any order or judgment, to the same extent  
as any other party in the proceeding may.

(c) REGULATIONS.—The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) PRESERVATION OF STATE AUTHORITY.—

(1) STATE CLAIMS.—No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) STATE SECURITIES REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) STATE INSURANCE REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.

12 USC 5553.

**SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.**

This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of enactment of this Act, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.

**SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

12 USC 25b.

**“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**

“(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) NATIONAL BANK.—The term ‘national bank’ includes—  
“(A) any bank organized under the laws of the United States; and

“(B) any Federal branch established in accordance with the International Banking Act of 1978.

“(2) STATE CONSUMER FINANCIAL LAWS.—The term ‘State consumer financial law’ means a State law that does not directly or indirectly discriminate against national banks and that