



# Senate

General Assembly

**File No. 211**

January Session, 2011

Substitute Senate Bill No. 1109

*Senate, March 28, 2011*

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

## **AN ACT CONCERNING BANKS.**

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

1 Section 1. Subsection (b) of section 36a-17 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2011*):

4 (b) Any Connecticut bank, Connecticut credit union or Connecticut  
5 credit union service organization which causes or has caused any  
6 electronic data processing services to be performed for such bank,  
7 credit union or credit union service organization either on or off its  
8 premises by an electronic data processing servicer shall enter into a  
9 written contract with such servicer. Such contract shall specify the  
10 duties and responsibilities of the bank, credit union or credit union  
11 service organization and such servicer and provide that such servicer  
12 shall allow the commissioner to examine such servicer's books, records  
13 and computer systems in accordance with this subsection, if required  
14 by the commissioner. The Connecticut bank, Connecticut credit union  
15 or Connecticut credit union service organization shall promptly [send

16 a copy of such contract to] notify the commissioner of any material  
17 change in its electronic data processing services. The commissioner  
18 may examine the books, records and computer systems of any  
19 electronic data processing servicer that performs electronic data  
20 processing services for a Connecticut bank, Connecticut credit union or  
21 Connecticut credit union service organization, if such services  
22 substantially impact the operations of the Connecticut bank,  
23 Connecticut credit union or Connecticut credit union service  
24 organization as determined by the commissioner, in order to (1)  
25 determine whether such servicer has the capacity to protect the  
26 customer information of such bank, credit union or credit union  
27 service organization, and (2) assess such servicer's potential for  
28 continued service. The commissioner may assess a fee of one hundred  
29 fifty dollars per day plus costs for each examiner who conducts such  
30 examination, the total cost of which the commissioner may allocate on  
31 a pro rata basis to all Connecticut banks, Connecticut credit unions and  
32 Connecticut credit union service organizations under contract with  
33 such servicer.

34 Sec. 2. Subsection (a) of section 36a-59 of the general statutes is  
35 repealed and the following is substituted in lieu thereof (*Effective from*  
36 *passage*):

37 (a) The commissioner may enter into one or more stipulations and  
38 agreements, [or] memoranda of understanding or consent orders with  
39 a Connecticut bank, either alone or in conjunction with the Federal  
40 Deposit Insurance Corporation, a Federal Reserve Bank or [its] their  
41 successor [agency] agencies, or may enter into one or more letters of  
42 understanding and agreement, [or] memoranda of understanding or  
43 consent orders with, or issue preliminary warning letters to, a  
44 Connecticut credit union or Connecticut credit union service  
45 organization, either alone or in conjunction with the National Credit  
46 Union Administration or its successor agency, if the commissioner  
47 finds as a result of an examination or investigation that the  
48 Connecticut bank, Connecticut credit union or Connecticut credit  
49 union service organization: (1) Has failed to file a report when due, (2)

50 is insolvent, (3) has violated any provisions of the general statutes  
51 within the jurisdiction of the commissioner, or any regulation, rule or  
52 order adopted or issued thereunder, or (4) has engaged or participated  
53 in, or is engaging or participating in, any unsafe and unsound practice.

54 Sec. 3. Subdivision (1) of subsection (d) of section 36a-65 of the  
55 general statutes is repealed and the following is substituted in lieu  
56 thereof (*Effective from passage*):

57 (d) (1) The fee for investigating and processing each application is as  
58 follows:

59 (A) Establishment of (i) a branch under subdivision (1) of subsection  
60 (b) of section 36a-145, two thousand dollars; (ii) a mobile branch under  
61 subdivision (1) of subsection (d) of section 36a-145, one thousand five  
62 hundred dollars; (iii) a limited branch under subdivision (1) of  
63 subsection (c) of section 36a-145, one thousand five hundred dollars;  
64 (iv) a special need limited branch under subdivision (4) of subsection  
65 (c) of section 36a-145, five hundred dollars; (v) an out-of-state branch  
66 under subsection (j) of section 36a-145, a reasonable fee not to exceed  
67 two thousand dollars from which any fees paid to a state other than  
68 this state or to a foreign country in connection with the establishment  
69 shall be deducted; and (vi) an out-of-state limited branch or mobile  
70 branch under subsection (j) of section 36a-145, a reasonable fee not to  
71 exceed one thousand five hundred dollars from which any fees paid to  
72 a state other than this state or to a foreign country in connection with  
73 the establishment shall be deducted.

74 (B) Sale of (i) a branch under subsection (i) of section 36a-145, two  
75 thousand dollars, except there shall be no fee for the sale of a branch of  
76 a Connecticut bank to another Connecticut bank or to a Connecticut  
77 credit union; and (ii) a limited branch, including a special need limited  
78 branch or mobile branch under subsection (i) of section 36a-145, a fee  
79 not to exceed one thousand five hundred dollars.

80 (C) Relocation of (i) a main office of a Connecticut bank under  
81 subsection (a) of section 36a-81, two thousand dollars; and (ii) a branch

82 or a limited branch under [subsection] subsections (g) and (k) of  
83 section 36a-145, five hundred dollars.

84 (D) Conversions from (i) a branch to a limited branch under  
85 subdivision (3) of subsection (c) of section 36a-145; and (ii) a limited  
86 branch to a branch under subdivision (3) of subsection (b) of section  
87 36a-145, five hundred dollars.

88 (E) Merger or consolidation involving a Connecticut bank under  
89 section 36a-125 or subsection (a) of section 36a-126, two thousand five  
90 hundred dollars if two institutions are involved and five thousand  
91 dollars if three or more institutions are involved.

92 (F) Acquisition of assets or business under section 36a-210, two  
93 thousand five hundred dollars.

94 (G) Organization of a holding company under section 36a-181, two  
95 thousand five hundred dollars.

96 (H) Organization of any Connecticut bank under section 36a-70, as  
97 amended by this act, including the conditional preliminary approval  
98 for an expedited bank, fifteen thousand dollars, except no fee shall be  
99 required for the organization of an interim Connecticut bank.

100 (I) Reorganization of a mutual savings bank or mutual savings and  
101 loan association into a mutual holding company under section 36a-192,  
102 five thousand dollars.

103 (J) Conversions under (i) sections 36a-135 to 36a-138, inclusive, five  
104 thousand dollars; (ii) sections 36a-139, 36a-139a and 36a-469c, two  
105 thousand five hundred dollars; and (iii) section 36a-139b, fifteen  
106 thousand dollars.

107 (K) Acquiring, altering or improving real estate for present or future  
108 use in the business of the bank or purchasing real estate adjoining any  
109 parcel of real estate owned by the bank under subdivision (33) of  
110 subsection (a) of section 36a-250, five hundred dollars, except that no  
111 fee shall be charged for such application if it is filed in connection with

112 an application to relocate a main office of a Connecticut bank under  
113 subsection (a) of section 36a-81 or establish (i) a branch in this state  
114 under subdivision (1) of subsection (b) of section 36a-145, (ii) a limited  
115 branch in this state under subdivision (1) of subsection (c) of section  
116 36a-145, or (iii) a branch or limited branch outside of this state under  
117 subsection (j) of section 36a-145.

118 (L) Investigation and processing an interstate banking transaction  
119 application filed under section 36a-411 or 36a-412, two thousand five  
120 hundred dollars, unless the transaction otherwise requires an  
121 investigation and processing fee under this section.

122 (M) Issuance of a final certificate of authority for an expedited  
123 Connecticut bank, [except for a conditional preliminary approval,]  
124 fifteen thousand dollars.

125 Sec. 4. Subsection (p) of section 36a-70 of the general statutes is  
126 repealed and the following is substituted in lieu thereof (*Effective from*  
127 *passage*):

128 (p) (1) One or more persons may organize an interim Connecticut  
129 bank solely (A) for the acquisition of an existing bank, whether by  
130 acquisition of stock, by acquisition of assets, or by merger or  
131 consolidation, or (B) to facilitate any other corporate transaction  
132 authorized by this title in which the commissioner has determined that  
133 such transaction has adequate regulatory supervision to justify the  
134 organization of an interim Connecticut bank. Such interim Connecticut  
135 bank shall not accept deposits or otherwise commence business.  
136 Subdivision (2) of subsection (c) and subsections (d), (f), (g), (h) and (o)  
137 of this section shall not apply to the organization of an interim bank,  
138 provided the commissioner may, in the commissioner's discretion,  
139 order a hearing under subsection (e) or require that the organizers  
140 publish or mail the proposed certificate of incorporation or both. The  
141 approving authority for an interim Connecticut bank shall be the  
142 commissioner acting alone. If the approving authority determines that  
143 the organization of the interim Connecticut bank complies with  
144 applicable law, the approving authority shall issue a temporary

145 certificate of authority conditioned on the approval by the appropriate  
146 supervisory agency of the corporate transaction for which the interim  
147 Connecticut bank is formed.

148 (2) (A) Notwithstanding any provision of this title, for the period  
149 from [October 1, 2009,] the effective date of this section to September  
150 30, [2011] 2013, inclusive, one or more persons may apply to the  
151 commissioner for the conditional preliminary approval of [an] one or  
152 more expedited Connecticut [bank] banks organized primarily for the  
153 purpose of assuming liabilities and purchasing assets from the Federal  
154 Deposit Insurance Corporation when the Federal Deposit Insurance  
155 Corporation is acting as receiver or conservator of an insured  
156 depository institution. The [person or persons organizing an expedited  
157 Connecticut bank shall execute, acknowledge and file with the  
158 commissioner an application to organize. Such] application shall be  
159 made on a form acceptable to the commissioner and shall be executed  
160 and acknowledged by the applicant or applicants. Such application  
161 shall contain sufficient information for the commissioner to evaluate (i)  
162 the amount, type and sources of capital that would be available to the  
163 bank or banks; (ii) the ownership structure and holding companies, if  
164 any, over the bank or banks; (iii) the identity, biographical information  
165 and banking experience of each of the initial organizers and  
166 prospective initial directors, senior executive officers and any  
167 individual, group or proposed shareholders of the bank that will own  
168 or control ten per cent or more of the stock of the bank or banks; (iv)  
169 the overall strategic plan of the organizers and investors for the bank  
170 or banks; and (v) a preliminary business plan outlining intended  
171 product and business lines, retail branching plans and capital, earnings  
172 and liquidity projections. The commissioner, acting alone, shall grant  
173 conditional preliminary approval of such application to organize if the  
174 commissioner determines that the organizers have available sufficient  
175 committed funds to invest in the bank or banks; the organizers and  
176 proposed directors possess capacity and fitness for the duties and  
177 responsibilities with which they will be charged; the proposed bank  
178 [charter has] or banks have a reasonable chance of success and will be  
179 operated in a safe and sound manner; and the fee for investigating and

180 processing the application has been paid in accordance with  
181 subparagraph (H) of subdivision (1) of subsection (d) of section 36a-65,  
182 as amended by this act. Such preliminary approval shall be subject to  
183 such conditions as the commissioner deems appropriate, including the  
184 requirements that the bank or banks not commence the business of a  
185 Connecticut bank until after [its] their bid or application for a  
186 particular insured depository institution is accepted by the Federal  
187 Deposit Insurance Corporation, that the background checks are  
188 satisfactory, and that the organizers submit, for the safety and  
189 soundness review by the commissioner, more detailed operating plans  
190 and current financial statements as potential acquisition transactions  
191 are considered, and such plans and statements are satisfactory to the  
192 commissioner. The commissioner may alter, suspend or revoke the  
193 conditional preliminary approval if the commissioner deems any  
194 interim development warrants such action. The conditional  
195 preliminary approval shall expire eighteen months from the date of  
196 approval, unless extended by the commissioner. [ if the bank has not  
197 commenced business and consummated an initial acquisition.]

198 (B) The commissioner shall not issue a final certificate of authority  
199 to commence the business of a Connecticut bank or banks under this  
200 subdivision until all conditions and preopening requirements and  
201 applicable state and federal regulatory requirements have been met  
202 and the fee for [assuming liabilities and purchasing assets] issuance of  
203 a final certificate of authority for an expedited Connecticut bank has  
204 been paid in accordance with subparagraph (M) of subdivision (1) of  
205 subsection (d) of section 36a-65, as amended by this act. The  
206 commissioner may waive any requirement under this title or  
207 regulations adopted under this title that is necessary for the  
208 consummation of [a bank] an acquisition involving an expedited  
209 Connecticut bank if the commissioner finds that such waiver is  
210 advisable and in the interest of depositors or the public, provided the  
211 commissioner shall not waive the requirement that the institution's  
212 insurable accounts or deposits be federally insured. Any such waiver  
213 granted by the commissioner under this subparagraph shall be in  
214 writing and shall set forth the reason or reasons for the waiver. The

215 commissioner may impose conditions on the final certificate of  
216 authority as the commissioner deems necessary to ensure that the bank  
217 will be operated in a safe and sound manner. The commissioner shall  
218 cause notice of the issuance of the final certificate of authority to be  
219 published in the department's weekly bulletin.

220 Sec. 5. Subsection (j) of section 36a-261 of the general statutes is  
221 repealed and the following is substituted in lieu thereof (*Effective*  
222 *October 1, 2011*):

223 (j) Loans made under this section may be for the purpose of  
224 building upon or improving the property of the borrower, and may be  
225 made in installments advanced at the discretion of the lending  
226 institution as the work progresses; provided at no time shall the ratio  
227 of the amount loaned to the then total value exceed [fifty per cent or]  
228 the ratio the final loan is to bear to the value of the completed  
229 property. [, whichever is the greater.] Loans made to finance the  
230 construction of buildings and having a maturity of not more than  
231 twenty-four months or having a maturity of not more than thirty-six  
232 months if approved by the commissioner are not subject to the  
233 limitations imposed by this subsection.

234 Sec. 6. Subsection (a) of section 36a-263 of the general statutes is  
235 repealed and the following is substituted in lieu thereof (*Effective*  
236 *October 1, 2011*):

237 (a) As used in this section, "executive officer" has the meaning given  
238 to such term in [12 CFR 215.2 of Subpart A] Section 215.2 of Federal  
239 Reserve Board Regulation O, 12 CFR Part 215, as from time to time  
240 amended. With the exception of [Sections] Section 215.7 [and 215.13 of  
241 Subpart A] of Federal Reserve Board Regulation O, 12 CFR Part 215, as  
242 from time to time amended, Connecticut banks are subject to and shall  
243 comply with the restrictions contained in 12 CFR [Sections] Section  
244 337.3, [and 349,] as from time to time amended, and no executive  
245 officer, director or principal shareholder of a Connecticut bank or any  
246 of its affiliates shall knowingly receive, or knowingly permit any of  
247 such person's related interests to receive, from a Connecticut bank,

248 directly or indirectly, any extension of credit that violates such  
249 restrictions. No executive officer, director, employee, agent or other  
250 person shall participate in any conduct of the affairs of the bank that  
251 violates this subsection.

252 Sec. 7. Subsections (d) and (e) of section 36a-276 of the general  
253 statutes are repealed and the following is substituted in lieu thereof  
254 (*Effective from passage*):

255 (d) In addition to other investments authorized by sections 36a-275  
256 to 36a-277, inclusive, and 36a-280, any Connecticut bank, with the  
257 approval of the commissioner, may purchase or hold for its own  
258 account, without regard to any other liability to the Connecticut bank  
259 of the issuer, a controlling interest in a corporation or other entity, the  
260 functions of which are limited to one or more of the functions which  
261 the bank may carry on directly in the exercise of its express or  
262 incidental powers. For purposes of this subsection and subsection (e)  
263 of this section, a "controlling interest" means at least fifty-one per cent  
264 of the equity securities issued by the corporation or other entity, unless  
265 the commissioner determines that under the circumstances, a lesser  
266 percentage constitutes effective working control of the corporation or  
267 other entity.

268 (e) The bank shall notify the commissioner, in writing, twenty-four  
269 hours prior to making any investment under subsections (b) and (c) of  
270 this section which would result in such bank having invested in the  
271 aggregate in twenty-five per cent or more of the equity securities of a  
272 corporation. Notwithstanding the provisions of this subsection, any  
273 investment in a controlling interest in a corporation or other entity, the  
274 functions of which are limited to one or more of the functions that the  
275 bank may carry on directly in the exercise of its express or incidental  
276 powers, shall be made in accordance with subsection (d) of this  
277 section.

278 Sec. 8. Section 36a-330 of the general statutes is repealed and the  
279 following is substituted in lieu thereof (*Effective from passage*):

280 As used in sections 36a-330 to 36a-338, inclusive, unless the context  
281 otherwise requires:

282 (1) "Business day" means any day other than a Saturday, Sunday or  
283 day on which a financial institution is closed as required or authorized  
284 by state or federal law;

285 (2) "Close of business" means the time at which a financial  
286 institution closes for regular business operations on any business day;

287 ~~[(1)]~~ (3) "Eligible collateral" means (A) United States treasury bills,  
288 notes and bonds, (B) United States government agency securities, (C)  
289 United States agency variable-rate securities, (D) mortgage pass-  
290 through or participation certificates or similar securities, (E)  
291 performing one-to-four-family residential mortgage loans that meet  
292 the following criteria: (i) The mortgage loan has a loan-to-value ratio  
293 which is less than or equal to eighty per cent for loans without private  
294 mortgage insurance, or a loan-to-value ratio which is less than or equal  
295 to ninety-five per cent for loans with private mortgage insurance; and  
296 (ii) the mortgage loan has a payment history of not more than one  
297 payment over thirty days in arrears during the past twelve consecutive  
298 months or, if the loan has a payment history of less than twelve  
299 months in duration, the loan meets the documentation requirements of  
300 the Federal National Mortgage Association or the Federal Home Loan  
301 Mortgage Corporation; provided, in the case of a subsequent default  
302 under any such mortgage loan that continues uncured for more than  
303 sixty days, such loan shall no longer qualify as eligible collateral and  
304 shall be replaced by a performing mortgage loan that meets the criteria  
305 set forth in this subdivision, and (F) state and municipal bonds;

306 ~~[(2)]~~ (4) "Financial institution" means a bank, Connecticut credit  
307 union, federal credit union or an out-of-state bank that maintains in  
308 this state a branch as defined in section 36a-410;

309 ~~[(3)]~~ (5) "Loss" means issuance of an order of supervisory authority  
310 restraining a qualified public depository from making payments of  
311 deposit liabilities or the appointment of a receiver for a qualified

312 public depository;

313 [(4)] (6) "Public deposit" means (A) moneys of this state or of any  
314 governmental subdivision of this state or any commission, committee,  
315 board or officer thereof, any housing authority or any court of this  
316 state and (B) moneys held by the Judicial Department in a fiduciary  
317 capacity;

318 [(5)] (7) "Qualified public depository" or "depository" means a bank,  
319 Connecticut credit union, federal credit union or an out-of-state bank  
320 that maintains in this state a branch, as defined in section 36a-410,  
321 which receives or holds public deposits and (A) segregates eligible  
322 collateral for public deposits as described in section 36a-333, as  
323 amended by this act, or (B) arranges for a letter of credit to be issued in  
324 accordance with section 36a-337.

325 Sec. 9. Subsection (a) of section 36a-333 of the general statutes is  
326 repealed and the following is substituted in lieu thereof (*Effective from*  
327 *passage*):

328 (a) To secure public deposits, each qualified public depository shall  
329 at all times maintain, segregated from its other assets as provided in  
330 subsection (b) of this section, eligible collateral in an amount at least  
331 equal to the following percentage of public deposits held by the  
332 depository: (1) For any qualified public depository having a risk-based  
333 capital ratio of ten per cent or greater, a sum equal to ten per cent of all  
334 public deposits held by the depository; (2) for any qualified public  
335 depository having a risk-based capital ratio of less than ten per cent  
336 but greater than or equal to eight per cent, a sum equal to twenty-five  
337 per cent of all public deposits held by the depository; (3) for any  
338 qualified public depository having a risk-based capital ratio of less  
339 than eight per cent but greater than or equal to three per cent, a sum  
340 equal to one hundred per cent of all public deposits held by the  
341 depository; (4) for any qualified public depository having a risk-based  
342 capital ratio of less than three per cent, and, notwithstanding the  
343 provisions of subdivisions (1) to (3), inclusive, of this subsection, for  
344 any qualified public depository which has been conducting business in

345 this state for a period of less than two years except for a qualified  
346 public depository that is a successor institution to a qualified public  
347 depository which conducted business in this state for two years or  
348 more, a sum equal to one hundred and twenty per cent of all public  
349 deposits held by the depository; provided, the qualified public  
350 depository and the public depositor may agree on an amount of  
351 eligible collateral to be maintained by the depository that is greater  
352 than the minimum amounts required under subdivisions (1) to (4),  
353 inclusive, of this subsection; (5) notwithstanding the risk-based capital  
354 ratio provisions of subdivisions (1) to (3), inclusive, of this subsection,  
355 for any qualified public depository that is an uninsured bank, a sum  
356 equal to one hundred twenty per cent of all public deposits held by the  
357 depository; and (6) notwithstanding the risk-based capital ratio  
358 provisions of subdivisions (1) to (3), inclusive, of this subsection, for  
359 any qualified public depository that is subject to an order to cease and  
360 desist, consent order or a preliminary warning letter, or has entered  
361 into a stipulation and agreement, memorandum of understanding or a  
362 letter of understanding and agreement with a bank or credit union  
363 supervisor, a sum equal to one hundred twenty per cent of all public  
364 deposits held by the depository, provided, the qualified public  
365 depository and the public depositor may agree on an amount of  
366 eligible collateral to be maintained by the depository that is greater  
367 than the minimum amounts required under subdivisions (1) to (6),  
368 inclusive, of this subsection. For purposes of this subsection, the  
369 amount of all public deposits held by the depository shall be  
370 determined [based on either the public deposits reported on the most  
371 recent written report filed with the commissioner pursuant to section  
372 36a-338 or the average of the public deposits reported on the four such  
373 most recent written reports, whichever amount is greater] at the close  
374 of business on the day of receipt of any public deposit and any  
375 deficiency in the amount of eligible collateral required under this  
376 section shall be cured not later than the close of business on the  
377 following business day. For purposes of this subsection, the  
378 depository's risk-based capital ratio shall be determined, in accordance  
379 with applicable federal regulations and regulations adopted by the

380 commissioner in accordance with chapter 54, based on the most recent  
381 quarterly call report, provided (A) if, during any calendar quarter after  
382 the issuance of such report, the depository experiences a decline in its  
383 risk-based capital ratio to a level that would require the depository to  
384 maintain a higher amount of eligible collateral under subdivisions (1)  
385 to (4), inclusive, of this subsection, the depository shall increase the  
386 amount of eligible collateral maintained by it to the minimum required  
387 under subdivisions (1) to (4), inclusive, of this subsection based on  
388 such lower risk-based capital ratio and shall notify the commissioner  
389 of its actions; and (B) if, during any calendar quarter after the issuance  
390 of such report, the commissioner reasonably determines that the  
391 depository's risk-based capital ratio is likely to decline to a level that  
392 would require the depository to maintain a higher amount of eligible  
393 collateral under subdivisions (1) to (4), inclusive, of this subsection, the  
394 commissioner may require that the depository increase the amount of  
395 eligible collateral maintained by it to the minimum required under  
396 subdivisions (1) to (4), inclusive, of this subsection based on the  
397 commissioner's determination of such lower risk-based capital ratio.

398 Sec. 10. Section 36a-334 of the general statutes is repealed and the  
399 following is substituted in lieu thereof (*Effective from passage*):

400 When the commissioner determines that a loss has occurred, the  
401 commissioner shall as soon as possible make payment to the proper  
402 public officers of all public deposits subject to such loss, pursuant to  
403 the following procedure: (1) For the purposes of determining the sums  
404 to be paid, the commissioner or receiver shall, within twenty days after  
405 issuance of a restraining order or taking possession of any qualified  
406 public depository, ascertain the amount of public deposits held by the  
407 depository as disclosed by its records and the amount thereof covered  
408 by deposit insurance and certify the amounts to each public depositor  
409 having public funds on deposit in the depository; (2) within ten days  
410 after receipt of such certification, each such public depositor shall  
411 furnish to the commissioner verified statements of its deposits in the  
412 depository as disclosed by its records plus information concerning any  
413 letters of credit issued to the public depositor or any private insurance

414 policy used to secure public deposits, pursuant to section 36a-337; (3)  
415 upon receipt of such certificate and statements, the commissioner shall  
416 ascertain and fix the amount of such public deposits, net after  
417 deduction of any deposit insurance and any amount received or to be  
418 received by the public depositor pursuant to a letter of credit or private  
419 insurance policy issued in accordance with section 36a-337, and assess  
420 the same against the depository in which the loss occurred; (4) the  
421 assessment made by the commissioner shall be payable on the second  
422 business day following demand, and in case of the failure of the  
423 qualified public depository so to pay, the commissioner shall  
424 immediately take possession of the eligible collateral, if any,  
425 segregated by the depository pursuant to sections 36a-330 to 36a-338,  
426 inclusive, as amended by this act, and liquidate the same for the  
427 purpose of paying such assessment; (5) upon receipt of the assessment,  
428 the commissioner shall reimburse the public depositors of the  
429 depository in which the loss occurred to the extent of the depository's  
430 net deposit liability to them.

431 Sec. 11. Subsection (b) of section 36a-380 of the general statutes is  
432 repealed and the following is substituted in lieu thereof (*Effective July*  
433 *1, 2011*):

434 (b) (1) Application for such license shall be in writing upon forms to  
435 be furnished by the commissioner and shall contain the full name and  
436 address of the applicant corporation and of each of its officers and a  
437 statement of the assets and liabilities of such corporation in such form  
438 as the commissioner requires. If, upon examination of such application  
439 and upon any further investigation that the commissioner deems  
440 necessary, the commissioner is satisfied that such corporation is  
441 solvent and conducting its business according to law, the  
442 commissioner may issue to such corporation a license to receive  
443 property in trust and to execute and administer trusts to the extent and  
444 in the manner authorized by the charter of such corporation or by any  
445 general or special law of this state, but not otherwise. If it appears to  
446 the commissioner that any such applicant corporation is insolvent, or  
447 that its business is being conducted contrary to law or to the provisions

448 of its charter, the commissioner shall refuse to issue such license.

449 (2) In connection with an application for such license and at any  
450 other time, the commissioner may, in accordance with section 29-17a,  
451 arrange for a criminal history records check requiring the  
452 fingerprinting of each principal, executive officer and director of the  
453 corporation or conducting of any other method of positive  
454 identification of such individuals required by the State Police Bureau  
455 of Identification.

456 Sec. 12. Subsection (c) of section 36a-437a of the general statutes is  
457 repealed and the following is substituted in lieu thereof (*Effective July*  
458 *1, 2011*):

459 (c) In connection with an application to organize and at any other  
460 time the commissioner requests, each organizer, director, [and]  
461 appointed director and member of senior management of a  
462 Connecticut credit union shall provide fingerprints to the  
463 commissioner for use in conducting criminal history records checks.  
464 Such criminal history records checks shall be conducted in accordance  
465 with section 29-17a.

466 Sec. 13. Subdivision (3) of section 36a-455a of the general statutes is  
467 repealed and the following is substituted in lieu thereof (*Effective from*  
468 *passage*):

469 (3) Make and use its best efforts to make secured and unsecured  
470 loans and other extensions of credit to its members in accordance with  
471 section 36a-265 and sections 36a-457a, 36a-457b and 36a-458a;

472 Sec. 14. Section 36a-628 of the general statutes is amended by adding  
473 subsection (c) as follows (*Effective July 1, 2011*):

474 (NEW) (c) In connection with an application for such license and at  
475 any other time, the commissioner may, in accordance with section 29-  
476 17a, arrange for a criminal history records check requiring the  
477 fingerprinting of each principal, executive officer and director of the  
478 business and individual development corporation or for conducting

479 any other method of positive identification of such individuals  
480 required by the State Police Bureau of Identification.

481 Sec. 15. (NEW) (*Effective from passage*) A Connecticut bank may  
482 merge with one or more of its affiliates that are not banks or out-of-  
483 state banks, provided the resulting institution is a Connecticut bank.  
484 Such merger shall be effected in accordance with the provisions of  
485 section 36a-125 of the general statutes, except, with respect to any  
486 provision therein governing corporate procedure, including the rights  
487 of dissenting members or shareholders who assert existing appraisal  
488 rights, such affiliate shall comply with the laws of the state or other  
489 jurisdiction under which such affiliate is organized. Any such affiliate  
490 shall also comply with other applicable laws of the state or other  
491 jurisdiction under which such affiliate is organized concerning such  
492 mergers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	36a-17(b)
Sec. 2	<i>from passage</i>	36a-59(a)
Sec. 3	<i>from passage</i>	36a-65(d)(1)
Sec. 4	<i>from passage</i>	36a-70(p)
Sec. 5	<i>October 1, 2011</i>	36a-261(j)
Sec. 6	<i>October 1, 2011</i>	36a-263(a)
Sec. 7	<i>from passage</i>	36a-276(d) and (e)
Sec. 8	<i>from passage</i>	36a-330
Sec. 9	<i>from passage</i>	36a-333(a)
Sec. 10	<i>from passage</i>	36a-334
Sec. 11	<i>July 1, 2011</i>	36a-380(b)
Sec. 12	<i>July 1, 2011</i>	36a-437a(c)
Sec. 13	<i>from passage</i>	36a-455a(3)
Sec. 14	<i>July 1, 2011</i>	36a-628
Sec. 15	<i>from passage</i>	New section

**Statement of Legislative Commissioners:**

In section 6(a), "12 CFR 215.2 [of Subpart A]" was changed to "[12 CFR 215.2 of Subpart A] Section 215.2" and "Sections 215.7" was changed to "[Sections] Section 215.7" for consistency and accuracy in citation form

in the subsection. In sections 11(b)(2) and 14(c) "State Police Bureau of Investigation" was changed to "State Police Bureau of Identification" for accuracy.

**BA**      *Joint Favorable Subst.*

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

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Banking Dept.	BF - Revenue Gain	less than \$1,000	less than \$1,000

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain of less than \$1,000 as it extends the current \$500 fee for relocation of an in-state branch of a Connecticut bank to the relocation of an out-of-state branch of a Connecticut bank. It is anticipated that two or fewer relocations will occur in any one year.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of relocations.

**OLR Bill Analysis**

**sSB 1109**

***AN ACT CONCERNING BANKS.***

**SUMMARY:**

This bill makes various changes to the banking law.

The bill authorizes a Connecticut bank to merge with its non-bank affiliates, as long as the result of the merger is a Connecticut bank.

It changes reporting requirements for Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services.

The bill expands the types of agreements that the banking commissioner may enter into, alone or with federal agencies, regarding Connecticut banks, credit unions, and credit union service organizations that are insolvent or meet other specified criteria. In regards to a Connecticut bank, the bill allows the commissioner to enter such agreements in conjunction with the Federal Reserve.

It extends the current \$500 fee for relocation of an in-state branch of a Connecticut bank to the relocation of an out-of-state branch of a Connecticut bank.

The bill extends by two years the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, from September 30, 2011 to September 30, 2013. It permits a single application for the conditional preliminary approval of more than one such bank. Current law requires a separate application for each conditional preliminary approval. The bill also applies the current 18-month expiration of the conditional preliminary approval to all such banks, not just those that

have not begun business or consummated an initial acquisition. By law, the commissioner can extend the approval beyond 18 months.

The bill amends loan-to-value limits for installments made by Connecticut banks for construction loans.

The bill removes certain references to federal regulations in the restrictions on Connecticut banks making loans to insiders.

It changes the notice requirement for Connecticut banks that invest a controlling interest in entities that are limited to banking functions.

The bill:

1. adds to the list of regulatory orders or agreements that trigger higher collateral requirements for qualified public depositories,
2. deletes a provision regarding how to determine the amount of public deposits held for purposes of those requirements,
3. adds provisions regarding when the amounts must be determined and when deficiencies must be cured, and
4. provides that any private insurance used to secure public deposits must be taken into account upon the failure of a qualified public depository.

It authorizes the banking commissioner to require criminal background checks for the principals, executive officers, and directors of (1) nonbank corporations authorized to act as trustees and (2) business and industrial development corporations. It also extends to senior management the commissioner's authority to require fingerprints for criminal background checks of key personnel in Connecticut credit unions.

The bill also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2011 for the provisions regarding background checks; October 1, 2011 for the provisions regarding

electronic data processing, construction loan installments, and insider loans; upon passage for the remaining provisions.

### **§ 1 — ELECTRONIC DATA PROCESSING**

By law, Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services must enter into a written contract with the servicer, whether the work is done on- or off-premises. Current law requires such entities to promptly send to the banking commissioner a copy of the contract. The bill eliminates this requirement, instead requiring such entities to promptly notify the commissioner of any material change in their electronic data processing services.

### **§ 2 — BANKING COMMISSIONER AGREEMENTS FOLLOWING INVESTIGATION**

By law, the banking commissioner may enter into various agreements with Connecticut banks, credit unions, or credit union service organizations, either alone or in conjunction with specified federal agencies, if the commissioner makes certain findings after examining or investigating the financial entity (see below). The bill expands the list of permissible agreements to include (1) consent orders for such financial entities and (2) the issuance of preliminary warning letters to Connecticut credit unions or credit union service organizations. It also adds the Federal Reserve Bank or its successor as a permissible federal agency with which the commissioner may act in regards to an agreement or other specified arrangement with a Connecticut bank.

By law, the commissioner may take such actions upon finding that the entity (1) has failed to file a report on time; (2) is insolvent; (3) has violated any banking law, regulation, rule, or order; or (4) has engaged or participated in, or is engaging or participating in, an unsafe and unsound practice.

### **§ 5 — CONSTRUCTION LOANS BY CONNECTICUT BANKS**

The law allows Connecticut banks to make construction mortgage

loans in installments as the work progresses, at the lender's discretion. The law also sets loan-to-value ratio limits for such installments. Current law prohibits the ratio of the installment total to the property's current value from exceeding the greater of (1) 50% or (2) the final loan's proportion to the completed property value. The bill deletes option (1).

By law, these limits do not apply to loans of up to 24 months, or 36 months if approved by the banking commissioner. Different limits apply for loans insured by the Federal Housing Administration (CGS § 36a-261(k)). Different limits also apply for loans where the borrower has an agreement with a housing authority, secured by a commitment of the U.S. Department of Housing and Urban Development, to construct housing and sell the property to the housing authority upon completion (CGS § 36a-261(o)).

#### **§ 6 — INSIDER LOANS**

State law subjects Connecticut banks to federal regulations limiting insider loans. The bill repeals an exception that refers to a federal regulation on civil penalties. It also makes a technical change.

State law prohibits a Connecticut bank's or its affiliates' executive officers, directors, or principal shareholders from knowingly receiving, or knowingly permitting any of that person's related interests to receive, from a Connecticut bank, directly or indirectly, any extension of credit that violates the federal restrictions. It further prohibits an executive officer, director, employee, agent, or other person from participating in bank affairs that violate the federal restrictions.

#### **§ 7 — NOTICE REQUIREMENT FOR BANK INVESTMENTS IN CONTROLLING INTEREST IN ENTITIES LIMITED TO BANKING FUNCTIONS**

By law, subject to certain restrictions, Connecticut banks may purchase or hold for their own accounts equity securities and equity mutual funds. A bank must notify the commissioner, in writing, 24 hours before making such an investment that would result in the bank having invested in the aggregate in 25% or more of a corporation's

equity securities. The bill excludes from the notice requirement a bank's investment in a controlling interest in an entity whose functions are limited to those that the bank may carry on directly in the exercise of its express or incidental powers. By law, such investments require the banking commissioner's approval.

For this purpose, the law defines a controlling interest as at least 51% of the equity securities issued by the entity, unless the commissioner determines that under the circumstances, a lesser percentage constitutes effective working control of the entity.

## **§§ 8-10 — PUBLIC DEPOSITS AND QUALIFIED PUBLIC DEPOSITORIES**

### ***Definitions***

The bill adds two new definitions to the law's provisions regarding the protection of public deposits. It defines "business day" as any day other than a Saturday, Sunday, or day when a financial institution is closed as required or authorized by federal or state law. It defines "close of business" as the time at which a financial institution closes for regular business operations on a business day.

### ***Collateral Requirement***

By law, a qualified public depository is a bank, Connecticut or federal credit union, or out-of-state bank with a Connecticut branch that receives or holds public deposits and (1) segregates eligible collateral for public deposits or (2) arranges for a letter of credit to be issued.

The bill adds to the list of regulatory orders or agreements that trigger higher collateral requirements for public depositories. The law requires qualified public depositories to maintain collateral equal to a specified percentage of their public deposits. The percentage is based primarily on their risk-based capital ratio. Qualified public depositories must maintain collateral equal to at least 120% of public deposits they hold if they are subject to a cease and desist order or have entered into a stipulation and agreement or a letter of

understanding and agreement with a bank or credit union supervisor. The bill also imposes this collateral requirement on qualified public depositories that are subject to a consent order or preliminary warning letter, or have entered into a memorandum of understanding with a bank or credit union supervisor.

The bill changes the method for determining these collateral requirements. Under current law, the amount of public deposits a depository holds must be determined based on the greater of (1) the public deposits reported on the most recent written report filed with the banking commissioner pursuant to law or (2) the average of the public deposits reported on the four most recent written reports. The bill eliminates these methods and instead provides that the amount must be determined at the close of business on the day the depository receives a public deposit. It further provides that deficiencies in the required collateral requirements must be cured by the close of business on the following business day.

### ***Procedure Upon Loss***

By law, the banking commissioner must pay public officers of public deposits, pursuant to specified procedures, when the commissioner determines that there has been (1) an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or (2) the appointment of a receiver for a qualified public depository.

The bill adds to the list of insurance policies the commissioner must consider upon the failure of a public depository. Among other required procedures after such an event, each public depositor having funds on deposit in the depository must provide the banking commissioner with verified statements of such deposits disclosed by its records, plus information concerning letters of credit issued to the public depositor. The bill also requires such public depositors to provide the commissioner with information about private insurance policies used to secure public deposits.

By law, the commissioner must then determine the net amount of such public deposits after deducting deposit insurance and amounts received or to be received by the public depositor pursuant to a letter of credit. The bill also requires the commissioner to deduct amounts received pursuant to private insurance policies.

## **§§ 11, 12, AND 14 — CRIMINAL BACKGROUND CHECKS**

### ***Nonbank Corporations Authorized to Act as Trustees and Business and Industrial Development Corporations***

The bill permits the banking commissioner to require criminal background checks for the principals, executive officers, and directors of nonbank corporations authorized to act as trustees and business and industrial development corporations at any time, including when the corporations or organizations are applying for licenses. The commissioner may require fingerprinting or any other method of positive identification the State Police requires to conduct the background check. The background check must comply with existing law on procedures for background checks.

By law, a business and industrial development corporation is a person approved or seeking approval by the federal Small Business Administration (SBA) as a participating lender under the SBA's loan guarantee programs.

### ***Connecticut Credit Unions***

The bill allows the banking commissioner to require fingerprints from a Connecticut credit union's senior management, for use in criminal background checks. By law, the senior management includes the credit union's president or chief executive officer, vice president or vice CEO, chief financial officer, credit manager, and anyone occupying a similar status or performing a similar function (CGS § 36a-435b(18)). The law already authorizes the commissioner to require background checks of credit union organizers, directors, and appointed directors.

The law specifies that the commissioner may require the

fingerprinting at any time, including in connection with an application to organize the credit union. The background check must comply with existing law on procedures for background checks.

**§ 15 — MERGER OF BANK WITH NON-BANK AFFILIATE**

The bill allows a Connecticut bank to merge with one or more of its non-bank affiliates, as long as the result of the merger is a Connecticut bank. The bill provides that the merger must comply with current law on bank mergers, with the following exception: regarding corporate procedure, including the rights of dissenting members or shareholders asserting appraisal rights, the bill requires the merging affiliate to comply with the laws of its state or jurisdiction of organization. The merging affiliate must also comply with other applicable laws regarding mergers in the affiliate’s state or jurisdiction of organization.

**COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 17    Nay 0    (03/15/2011)