



General Assembly

February Session, 2012

Raised Bill No. 5418

LCO No. 1797

01797_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

**AN ACT CONCERNING THE MODERNIZATION OF CERTAIN
BANKING STATUTES.**

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 2012 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

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 notify
16 the commissioner of any material change in its electronic data

17 processing services. In the case of a material change which triggers a
18 notice requirement under 12 USC 1867, a Connecticut bank may satisfy
19 the notice requirements of this subsection by providing the
20 commissioner with a copy of the notice provided to the Federal
21 Deposit Insurance Corporation under 12 USC 1867. The commissioner
22 may examine the books, records and computer systems of any
23 electronic data processing servicer that performs electronic data
24 processing services for a Connecticut bank, Connecticut credit union or
25 Connecticut credit union service organization, if such services
26 substantially impact the operations of the Connecticut bank,
27 Connecticut credit union or Connecticut credit union service
28 organization as determined by the commissioner, in order to (1)
29 determine whether such servicer has the capacity to protect the
30 customer information of such bank, credit union or credit union
31 service organization, and (2) assess such servicer's potential for
32 continued service. The commissioner may assess a fee of one hundred
33 fifty dollars per day plus costs for each examiner who conducts such
34 examination, the total cost of which the commissioner may allocate on
35 a pro rata basis to all Connecticut banks, Connecticut credit unions and
36 Connecticut credit union service organizations under contract with
37 such servicer.

38 Sec. 2. Section 36a-760j of the 2012 supplement to the general
39 statutes is repealed and the following is substituted in lieu thereof
40 (*Effective from passage*):

41 No person shall influence real estate appraisals of residential
42 property. For the purposes of this section, "influence [residential] real
43 estate appraisals" means to directly or indirectly [coerce, influence or
44 otherwise encourage an appraiser to misstate or misrepresent the
45 value of residential property and includes, but is not limited to: (1)
46 Refusal, or intentional failure, to pay an appraiser for an appraisal that
47 reflects a fair market value estimate that is less than the sale contract
48 price; or (2) refusal, or intentional failure, to utilize, or encouraging
49 other mortgage brokers not to utilize, an appraiser based solely on the

50 fact that the appraiser provided an appraisal reflecting a fair market
51 value estimate that was less than the sale contract price.] cause or
52 attempt to cause, through coercion, extortion, inducement, bribery,
53 intimidation, compensation, instruction or collusion, the value
54 assigned to the residential property to be based on any factor other
55 than the independent judgment of the person who prepares the
56 appraisal.

57 Sec. 3. Subdivision (7) of section 36a-330 of the 2012 supplement to
58 the general statutes is repealed and the following is substituted in lieu
59 thereof (*Effective from passage*):

60 (7) "Qualified public depository" or "depository" means a bank,
61 Connecticut credit union, federal credit union or an out-of-state bank
62 that maintains in this state a branch, as defined in section 36a-410,
63 which receives or holds public deposits and, to the extent applicable,
64 (A) segregates eligible collateral for public deposits as described in
65 section 36a-333, as amended by this act, or (B) arranges for a letter of
66 credit to be issued in accordance with section 36a-337, as amended by
67 this act.

68 Sec. 4. Section 36a-330 of the 2012 supplement to the general statutes
69 is amended by adding subdivision (8) as follows (*Effective from passage*):

70 (NEW) (8) "Uninsured public deposit" means the portion of a public
71 deposit which is not insured or guaranteed by the Federal Deposit
72 Insurance Corporation or by the National Credit Union
73 Administration, but shall not include amounts in a qualified public
74 depository that have been, with the authorization of the public
75 depositor, redeposited into deposit accounts in one or more federally
76 insured banks, out-of-state banks, Connecticut credit unions or federal
77 credit unions, including the qualified public depository, provided the
78 full amounts so included are eligible for insurance coverage by the
79 Federal Deposit Insurance Corporation or by the National Credit
80 Union Administration.

81 Sec. 5. Subsection (a) of section 36a-333 of the 2012 supplement to
82 the general statutes is repealed and the following is substituted in lieu
83 thereof (*Effective from passage*):

84 (a) To secure public deposits, each qualified public depository shall
85 at all times maintain, segregated from its other assets as provided in
86 subsection (b) of this section, eligible collateral in an amount at least
87 equal to the following percentage of uninsured public deposits held by
88 the depository: (1) For any qualified public depository having a risk-
89 based capital ratio of ten per cent or greater, a sum equal to ten per
90 cent of all uninsured public deposits held by the depository; (2) for any
91 qualified public depository having a risk-based capital ratio of less
92 than ten per cent but greater than or equal to eight per cent, a sum
93 equal to twenty-five per cent of all uninsured public deposits held by
94 the depository; (3) for any qualified public depository having a risk-
95 based capital ratio of less than eight per cent but greater than or equal
96 to three per cent, a sum equal to one hundred per cent of all uninsured
97 public deposits held by the depository; (4) for any qualified public
98 depository having a risk-based capital ratio of less than three per cent,
99 and, notwithstanding the provisions of subdivisions (1) to (3),
100 inclusive, of this subsection, for any qualified public depository which
101 has been conducting business in this state for a period of less than two
102 years except for a qualified public depository that is a successor
103 institution to a qualified public depository which conducted business
104 in this state for two years or more, a sum equal to one hundred twenty
105 per cent of all uninsured public deposits held by the depository;
106 provided, the qualified public depository and the public depositor
107 may agree on an amount of eligible collateral to be maintained by the
108 depository that is greater than the minimum amounts required under
109 subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding
110 the risk-based capital ratio provisions of subdivisions (1) to (3),
111 inclusive, of this subsection, for any qualified public depository that is
112 an uninsured bank, a sum equal to one hundred twenty per cent of all
113 public deposits held by the depository; and (6) notwithstanding the
114 risk-based capital ratio provisions of subdivisions (1) to (3), inclusive,

115 of this subsection, for any qualified public depository that is subject to
116 an order to cease and desist, consent order or a preliminary warning
117 letter, or has entered into a stipulation and agreement, memorandum
118 of understanding or a letter of understanding and agreement with a
119 bank or credit union supervisor, a sum equal to one hundred twenty
120 per cent of all uninsured public deposits held by the depository,
121 provided, the commissioner has reasonably determined, after
122 consultation with the relevant institution to the extent permitted by
123 law, and based on the events or circumstances that are the subject of
124 such order, agreement, memorandum or letter, that the current
125 collateral requirements are not adequate to protect public depositors
126 because such events or circumstances have had, or are likely to have, a
127 material adverse impact on the safety and soundness of the institution.
128 Notwithstanding the provisions of this subsection, the qualified public
129 depository and the public depositor may agree on an amount of
130 eligible collateral to be maintained by the depository that is greater
131 than the minimum amounts required under subdivisions (1) to (6),
132 inclusive, of this subsection. For purposes of this subsection, the
133 amount of all uninsured public deposits held by the depository shall
134 be determined at the close of business on the day of receipt of any
135 public deposit and any deficiency in the amount of eligible collateral
136 required under this section shall be cured not later than the close of
137 business on the following business day. For purposes of this
138 subsection, the depository's risk-based capital ratio shall be
139 determined, in accordance with applicable federal regulations and
140 regulations adopted by the commissioner in accordance with chapter
141 54, based on the most recent quarterly call report, provided (A) if,
142 during any calendar quarter after the issuance of such report, the
143 depository experiences a decline in its risk-based capital ratio to a level
144 that would require the depository to maintain a higher amount of
145 eligible collateral under subdivisions (1) to (4), inclusive, of this
146 subsection, the depository shall increase the amount of eligible
147 collateral maintained by it to the minimum required under
148 subdivisions (1) to (4), inclusive, of this subsection based on such lower

149 risk-based capital ratio and shall notify the commissioner of its actions;
150 and (B) if, during any calendar quarter after the issuance of such
151 report, the commissioner reasonably determines that the depository's
152 risk-based capital ratio is likely to decline to a level that would require
153 the depository to maintain a higher amount of eligible collateral under
154 subdivisions (1) to (4), inclusive, of this subsection, the commissioner
155 may require that the depository increase the amount of eligible
156 collateral maintained by it to the minimum required under
157 subdivisions (1) to (4), inclusive, of this subsection based on the
158 commissioner's determination of such lower risk-based capital ratio.
159 For purposes of determining the minimum market value of the eligible
160 collateral under subsection (e) of this section, a qualified public
161 depository shall apply the collateral ratio using uninsured public
162 deposits.

163 Sec. 6. Subsection (c) of section 36a-333 of the 2012 supplement to
164 the general statutes is repealed and the following is substituted in lieu
165 thereof (*Effective from passage*):

166 (c) The depository shall have the right to make substitutions of
167 eligible collateral at any time without notice. The depository shall have
168 the right to reduce the amount of eligible collateral maintained under
169 subsection (a) of this section provided such reduction shall be
170 determined based on the amount of all uninsured public deposits held
171 by the depository and the depository's risk-based capital ratio as
172 determined in accordance with said subsection (a). The depository
173 shall provide written notice to its public depositors of any such
174 reduction in the amount of eligible collateral maintained under
175 subsection (a) of this section.

176 Sec. 7. Subsection (c) of section 36a-337 of the general statutes is
177 repealed and the following is substituted in lieu thereof (*Effective from*
178 *passage*):

179 (c) In lieu of eligible collateral required under section 36a-333, as
180 amended by this act, all or any part of the uninsured public deposits

181 held by any qualified public depository may be secured solely by an
182 irrevocable letter of credit issued by [the Federal Home Loan Bank of
183 Boston, provided such] a federal home loan bank that has a credit
184 rating of the highest rating level from a rating service recognized by
185 the commissioner [and] or by a federal home loan bank that has
186 otherwise been deemed acceptable for such purposes by the
187 commissioner, provided [further] the amount of the letter of credit, as
188 a percentage of the uninsured public deposits, is no less than the
189 amount required by section 36a-333, as amended by this act, for
190 eligible collateral for the particular depository.

191 Sec. 8. Section 36a-334 of the 2012 supplement to the general statutes
192 is repealed and the following is substituted in lieu thereof (*Effective*
193 *from passage*):

194 When the commissioner determines that a loss has occurred, the
195 commissioner shall as soon as possible make payment to the proper
196 public officers of all public deposits subject to such loss, pursuant to
197 the following procedure: (1) For the purposes of determining the sums
198 to be paid, the commissioner or receiver shall, within twenty days after
199 issuance of a restraining order or taking possession of any qualified
200 public depository, ascertain the amount of public deposits held by the
201 depository as disclosed by its records and the amount thereof [covered
202 by deposit insurance] that are uninsured deposits and certify the
203 amounts to each public depositor having public funds on deposit in
204 the depository; (2) within ten days after receipt of such certification,
205 each such public depositor shall furnish to the commissioner verified
206 statements of its deposits in the depository as disclosed by its records
207 plus information concerning any letters of credit issued to the public
208 depositor or any private insurance policy used to secure public
209 deposits, pursuant to section 36a-337, as amended by this act; (3) upon
210 receipt of such certificate and statements, the commissioner shall
211 ascertain and fix the amount of such uninsured public deposits, net
212 after deduction of any [deposit insurance and any] amount received or
213 to be received by the public depositor pursuant to a letter of credit or

214 private insurance policy issued in accordance with section 36a-337, as
215 amended by this act, and assess the same against the depository in
216 which the loss occurred; (4) the assessment made by the commissioner
217 shall be payable on the second business day following demand, and in
218 case of the failure of the qualified public depository so to pay, the
219 commissioner shall immediately take possession of the eligible
220 collateral, if any, segregated by the depository pursuant to sections
221 36a-330 to 36a-338, inclusive, as amended by this act, and liquidate the
222 same for the purpose of paying such assessment; (5) upon receipt of
223 the assessment, the commissioner shall reimburse the public
224 depositors of the depository in which the loss occurred to the extent of
225 the depository's net deposit liability to them.

226 Sec. 9. Section 36a-338 of the general statutes is repealed and the
227 following is substituted in lieu thereof (*Effective from passage*):

228 On each call report date, each qualified public depository shall file
229 with the commissioner a written report, certified under oath,
230 indicating [its] (1) the qualified public depository's risk-based capital
231 ratio and total capital, as determined in accordance with applicable
232 federal regulations and regulations adopted by the commissioner in
233 accordance with chapter 54, (2) the total amount of public deposits
234 held by [it and] the qualified public depository other than deposits that
235 have been redeposited into the qualified public depository by another
236 insured depository institution pursuant to a reciprocal deposit
237 arrangement that makes such funds eligible for insurance coverage by
238 the Federal Deposit Insurance Corporation or the National Credit
239 Union Administration, (3) the amount and nature of [the] any eligible
240 collateral segregated and designated to secure the uninsured public
241 deposits in accordance with sections 36a-330 to 36a-338, inclusive, as
242 amended by this act, and (4) the amount and the name of the issuer of
243 any letter of credit issued pursuant to section 36a-337, as amended by
244 this act. Each depository shall furnish a copy of its most recent report
245 to any public depositor having public funds on deposit in the
246 depository, upon request of the depositor. Any public depository

247 which refuses or neglects to furnish any report or give any information
 248 as required by this section shall no longer be a qualified public
 249 depository and shall be excluded from the right to receive public
 250 deposits.

251 Sec. 10. Subsection (h) of section 36a-498 of the 2012 supplement to
 252 the general statutes is repealed and the following is substituted in lieu
 253 thereof (*Effective from passage*):

254 (h) No mortgage lender or mortgage correspondent lender shall
 255 include in a residential mortgage loan for which an application is
 256 received by such lender on or after October 1, 2009, a provision that
 257 increases the interest rate as a result of a default other than (1) a failure
 258 to comply with a provision to maintain an automatic electronic
 259 payment feature where such maintenance provision has been provided
 260 in return for an interest rate reduction and the increase is no greater
 261 than such reduction, or (2) a provision included in connection with the
 262 refinancing of a troubled loan or loan modification where the interest
 263 rate is reduced or eliminated, provided the borrower complies with the
 264 terms of the refinanced or modified loan obligation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-17(b)
Sec. 2	<i>from passage</i>	36a-760j
Sec. 3	<i>from passage</i>	36a-330(7)
Sec. 4	<i>from passage</i>	36a-330
Sec. 5	<i>from passage</i>	36a-333(a)
Sec. 6	<i>from passage</i>	36a-333(c)
Sec. 7	<i>from passage</i>	36a-337(c)
Sec. 8	<i>from passage</i>	36a-334
Sec. 9	<i>from passage</i>	36a-338
Sec. 10	<i>from passage</i>	36a-498(h)

Statement of Purpose:

To (1) require banks to send notice of a material change in a data processor contract to the Department of Banking, (2) conform

requirements concerning appraiser independence with federal requirements set forth in the Federal Truth-in-Lending Act, 15 USC Section 1601 et seq., (3) ensure that any public deposits that are fully insured by the Federal Deposit Insurance Corporation do not require additional collateral to be pledged against them, (4) eliminate the requirement that, in lieu of eligible collateral, public deposits held by a qualified public depository may be secured solely by an irrevocable letter of credit issued by the Federal Home Loan Bank of Boston, and (5) clarify when regulatory letters require additional collateralization.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]