



Senate

General Assembly

File No. 156

February Session, 2012

Substitute Senate Bill No. 67

Senate, March 29, 2012

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 REVISIONS TO THE BANKING STATUTES.

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

1 Section 1. Subsection (e) of section 36a-489 of the 2012 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2012*):

4 (e) The commissioner may deem an application for a license under
5 this section abandoned if the applicant fails to respond to any request
6 for information required under sections 36a-485 to 36a-498f, inclusive,
7 as amended by this act, 36a-534a and 36a-534b, as amended by this act,
8 or the regulations adopted pursuant to said sections. The
9 commissioner shall notify the applicant [in writing] on the system that
10 if such information is not submitted not later than sixty days from the
11 date of such request the application shall be deemed abandoned. An
12 application filing fee paid prior to the date an application is deemed
13 abandoned pursuant to this subsection shall not be refunded.
14 Abandonment of an application pursuant to this subsection shall not
15 preclude the applicant from submitting a new application for a license

16 under said sections 36a-485 to 36a-498f, inclusive, as amended by this
17 act, 36a-534a and 36a-534b, as amended by this act.

18 Sec. 2. Subdivision (1) of subsection (a) of section 36a-534b of the
19 2012 supplement to the general statutes is repealed and the following
20 is substituted in lieu thereof (*Effective October 1, 2012*):

21 (a) (1) In addition to any other duties imposed upon the
22 commissioner by law, the commissioner shall require mortgage
23 lenders, mortgage correspondent lenders, mortgage brokers, mortgage
24 loan originators and loan processors or underwriters to be licensed
25 and registered through the system. In order to carry out this
26 requirement, the commissioner shall participate in the system and
27 permit the system to process applications for mortgage lender,
28 mortgage correspondent lender, mortgage broker, mortgage loan
29 originator and loan processor or underwriter licenses in this state and
30 receive and maintain records related to such licenses that are allowed
31 or required to be maintained by the commissioner. For this purpose,
32 the commissioner may establish requirements as necessary for
33 participation in the system, including: (A) Background checks for
34 criminal history through (i) fingerprint or other databases, (ii) civil or
35 administrative records, or (iii) credit history or any other information
36 as deemed necessary by the system; (B) the payment of fees to apply
37 for or renew licenses through the system; (C) the setting or resetting of
38 renewal or reporting dates; and (D) the requirements for amending or
39 surrendering a license or any other such activities as the commissioner
40 deems necessary for participation in the system. For the purpose of
41 participating in the system, the commissioner may waive or modify, in
42 whole or in part, by regulation or order, any requirement of this
43 section and sections 36a-485 to 36a-498f, inclusive, as amended by this
44 act, and 36a-534a and [36a-534b and to] establish new requirements as
45 reasonably necessary to participate in the system. For the purposes of
46 implementing an orderly and efficient licensing process, the
47 commissioner may adopt licensing regulations, in accordance with the
48 provisions of chapter 54, and interim procedures for licensing and
49 acceptance of applications. For previously licensed individuals, the

50 commissioner may establish expedited review and licensing
51 procedures.

52 Sec. 3. Subsection (c) of section 36a-628 of the 2012 supplement to
53 the general statutes is repealed and the following is substituted in lieu
54 thereof (*Effective from passage*):

55 (c) In connection with an application for such license and at any
56 other time, the commissioner may, in accordance with section 29-17a,
57 arrange for a criminal history records check requiring the
58 fingerprinting of each principal, executive officer and director of the
59 business and [individual] industrial development corporation or for
60 conducting any other method of positive identification of such
61 individuals required by the State Police Bureau of Identification.

62 Sec. 4. Section 36a-17 of the 2012 supplement to the general statutes
63 is repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2012*):

65 (a) The commissioner, in the commissioner's discretion, may, subject
66 to the provisions of section 36a-21 and the Freedom of Information
67 Act, as defined in section 1-200; (1) make such public or private
68 investigations or examinations within or outside this state, concerning
69 any person subject to the jurisdiction of the commissioner, as the
70 commissioner deems necessary to carry out the duties of the
71 commissioner, (2) require or permit any person to testify, produce a
72 record or file a statement in writing, under oath, or otherwise as the
73 commissioner determines, as to all the facts and circumstances
74 concerning the matter to be investigated or about which an action or
75 proceeding is pending, and (3) publish information concerning any
76 violation of any provision of the general statutes within the jurisdiction
77 of the commissioner or any regulation or order adopted or issued
78 under such provision.

79 (b) Any Connecticut bank, Connecticut credit union or Connecticut
80 credit union service organization which causes or has caused any
81 electronic data processing services to be performed for such bank,

82 credit union or credit union service organization either on or off its
83 premises by an electronic data processing servicer shall enter into a
84 written contract with such servicer. Such contract shall specify the
85 duties and responsibilities of the bank, credit union or credit union
86 service organization and such servicer and provide that such servicer
87 shall allow the commissioner to examine such servicer's books, records
88 and computer systems in accordance with this subsection, if required
89 by the commissioner. The Connecticut bank, Connecticut credit union
90 or Connecticut credit union service organization shall promptly notify
91 the commissioner of any material change in its electronic data
92 processing services. The commissioner may examine the books,
93 records and computer systems of any electronic data processing
94 servicer that performs electronic data processing services for a
95 Connecticut bank, Connecticut credit union or Connecticut credit
96 union service organization, if such services substantially impact the
97 operations of the Connecticut bank, Connecticut credit union or
98 Connecticut credit union service organization as determined by the
99 commissioner, in order to (1) determine whether such servicer has the
100 capacity to protect the customer information of such bank, credit union
101 or credit union service organization, and (2) assess such servicer's
102 potential for continued service. The commissioner may assess a fee of
103 one hundred fifty dollars per day plus costs for each examiner who
104 conducts such examination, the total cost of which the commissioner
105 may allocate on a pro rata basis to all Connecticut banks, Connecticut
106 credit unions and Connecticut credit union service organizations
107 under contract with such servicer.

108 (c) For the purpose of any investigation, examination or proceeding
109 under this title the commissioner may administer oaths and
110 affirmations, subpoena witnesses, compel attendance of witnesses,
111 take evidence, require written statements and require the production
112 of any records which the commissioner deems relevant or material.
113 The commissioner may require that certified copies of any such
114 records be provided to the commissioner at the commissioner's office.
115 The commissioner may issue subpoenas in this state at the request of
116 another state, provided (1) the activities concerning which the

117 information is sought would constitute a basis for an investigation,
118 examination or proceeding under this title had such activities occurred
119 in this state, and (2) such other state has reciprocal legal authority to
120 issue subpoenas in such state on behalf of the commissioner.

121 (d) Any person who is the subject of any such investigation,
122 examination or proceeding shall make its records available to the
123 commissioner in readable form; provide personnel and equipment
124 necessary, including, but not limited to, assistance in the analysis of
125 computer-generated records; provide copies or computer printouts of
126 records when so requested; furnish unrestricted access to all areas of
127 its principal place of business or wherever records may be located; and
128 otherwise cooperate with the commissioner.

129 (e) The superior court for the judicial district of Hartford, upon
130 application of the commissioner, may issue to any person refusing to
131 obey a subpoena issued pursuant to subsection (c) of this section an
132 order requiring that person to appear before the commissioner or any
133 officer designated by the commissioner to produce records so ordered
134 or to give evidence concerning the matter under investigation or in
135 question. Failure to obey the order of the court may be punished by the
136 court as a contempt of court.

137 (f) As used in this section, "records" includes, but is not limited to,
138 books, papers, correspondence, memoranda, agreements, diaries, logs,
139 notes, ledgers, journals, visual, audio, magnetic or electronic
140 recordings, computer printouts and software, and any other
141 documents.

142 Sec. 5. Section 36a-50 of the general statutes is repealed and the
143 following is substituted in lieu thereof (*Effective October 1, 2012*):

144 (a) (1) Whenever the commissioner finds as the result of an
145 investigation that any person has violated any provision of the general
146 statutes within the jurisdiction of the commissioner, or any regulation,
147 rule or order adopted or issued thereunder, the commissioner may
148 send a notice to such person by registered or certified mail, return

149 receipt requested, or by any express delivery carrier that provides a
150 dated delivery receipt. The notice shall be deemed received by the
151 person on the earlier of the date of actual receipt or seven days after
152 mailing or sending. Any such notice shall include: (A) A statement of
153 the time, place, and nature of the hearing; (B) a statement of the legal
154 authority and jurisdiction under which the hearing is to be held; (C) a
155 reference to the particular sections of the general statutes, regulations,
156 rules or orders alleged to have been violated; (D) a short and plain
157 statement of the matters asserted; (E) the maximum penalty that may
158 be imposed for such violation; and (F) a statement indicating that such
159 person may file a written request for a hearing on the matters asserted
160 [within] not later than fourteen days [of] after receipt of the notice.

161 (2) If a hearing is requested within the time specified in the notice,
162 the commissioner shall hold a hearing upon the matters asserted in the
163 notice unless such person fails to appear at the hearing. After the
164 hearing, if the commissioner finds that the person has violated any
165 such provision, regulation, rule or order, the commissioner may, in the
166 commissioner's discretion and in addition to any other remedy
167 authorized by law, order that a civil penalty not exceeding one
168 hundred thousand dollars per violation be imposed upon such person.
169 If such person does not request a hearing within the time specified in
170 the notice or fails to appear at the hearing, the commissioner may, as
171 the facts require, order that a civil penalty not exceeding one hundred
172 thousand dollars per violation be imposed upon such person.

173 (3) Each action undertaken by the commissioner under this
174 subsection shall be in accordance with the provisions of chapter 54.

175 (b) Whenever it appears to the commissioner that any such person
176 has violated, is violating or is about to violate any such provision,
177 regulation, rule or order, the commissioner may, in the commissioner's
178 discretion and in addition to any other remedy authorized by law: (1)
179 Bring an action in the superior court for the judicial district of Hartford
180 to enjoin the acts or practices and to enforce compliance with any such
181 provision, regulation, rule or order. Upon a proper showing, a

182 permanent or temporary injunction, restraining order or writ of
183 mandamus shall be granted and a receiver or conservator may be
184 appointed for such person or such person's assets. The court shall not
185 require the commissioner to post a bond; (2) seek a court order
186 imposing a penalty not to exceed one hundred thousand dollars per
187 violation against any such person found to have violated any such
188 provision, regulation, rule or order; or (3) apply to the superior court
189 for the judicial district of Hartford for an order of restitution whereby
190 such person shall be ordered to make restitution of any sums shown
191 by the commissioner to have been obtained by such person in violation
192 of any such provision, regulation, rule or order, plus interest at the rate
193 set forth in section 37-3a. Such restitution shall, at the option of the
194 court, be payable to the receiver or conservator appointed pursuant to
195 this subsection, or directly to the person whose assets were obtained in
196 violation of any such provision, regulation, rule or order. Whenever
197 the commissioner prevails in any action brought under this subsection,
198 the court may allow to the state its costs.

199 (c) Whenever the commissioner finds as the result of an
200 investigation that any person has violated any provision of the general
201 statutes within the jurisdiction of the commissioner, or any regulation,
202 rule or order adopted or issued under such provisions, the
203 commissioner may, in addition to any other remedy authorized by
204 law, order such person to (1) make restitution of any sums shown to
205 have been obtained in violation of any such provision, regulation, rule
206 or order plus interest at the legal rate set forth in section 37-1; (2)
207 provide disgorgement of any sums shown to have been obtained in
208 violation of any such provision, regulation, rule or order; or (3) both
209 make restitution and provide disgorgement in accordance with
210 subdivisions (1) and (2) of this subsection. After the commissioner
211 issues such an order, the person named in the order may, not later than
212 fourteen days after the receipt of such order, file a written request for a
213 hearing. The order shall be deemed received by the person on the
214 earlier of the date of actual receipt or seven days after mailing or
215 sending. Any such hearing shall be held in accordance with the
216 provisions of chapter 54.

217 [(c)] (d) The provisions of this section shall not apply to chapters
218 672a, 672b and 672c.

219 Sec. 6. Section 36a-3 of the general statutes is repealed and the
220 following is substituted in lieu thereof (*Effective October 1, 2012*):

221 Other definitions applying to this title or to specified parts thereof
222 and the sections in which they appear are:

- T1 "Account". Sections 36a-155 and 36a-365.
T2 "Additional proceeds". Section 36a-746e.
T3 "Administrative expense". Section 36a-237.
T4 "Advance fee". Sections 36a-485, as amended by this act, and 36a-615.
T5 "Advertise", [or] "advertisement" or "advertising". Section 36a-485, as
T6 amended by this act.
T7 "Agency bank". Section 36a-285.
T8 "Agent". Section 36a-494, as amended by this act.
T9 "Alternative mortgage loan". Section 36a-265.
T10 "Amount financed". Section 36a-690.
T11 "Annual percentage rate". Section 36a-690.
T12 "Annual percentage yield". Section 36a-316.
T13 "Annuities". Section 36a-455a.
T14 "Applicant". Section 36a-736.
T15 "APR". Section 36a-746a.
T16 "Assessment area". Section 36a-37.
T17 "Assets". Section 36a-70.
T18 "Associate". Section 36a-184.
T19 "Associated member". Section 36a-458a.
T20 "Bank". Section 36a-30.
T21 "Bankers' bank". Section 36a-70.
T22 "Banking business". Section 36a-425.
T23 "Basic services". Section 36a-437a.
T24 "Billing cycle". Section 36a-565.
T25 "Bona fide nonprofit organization". Section 36a-487, as amended by this
T26 act, and section 36a-655.
T27 "Branch". Sections 36a-145, as amended by this act, 36a-410 and 36a-435b.

- T28 "Branch office". Section 36a-485, as amended by this act.
- T29 "Branch or agency net payment entitlement". Section 36a-428n.
- T30 "Branch or agency net payment obligation". Section 36a-428n.
- T31 "Broker". Section 36a-746a.
- T32 "Business and industrial development corporation". Section 36a-626.
- T33 "Business and property in this state". Section 36a-428n.
- T34 "Capital". Section 36a-435b.
- T35 "Cash advance". Section 36a-564.
- T36 "Cash price". Section 36a-770.
- T37 "Certificate of incorporation". Section 36a-435b.
- T38 "CHFA loan". Section 36a-760.
- T39 "Clerical or support duties". Section 36a-485, as amended by this act.
- T40 "Closely related activities". Sections 36a-250 and 36a-455a.
- T41 "Collective managing agency account". Section 36a-365.
- T42 "Commercial vehicle". Section 36a-770.
- T43 "Community bank". Section 36a-70.
- T44 "Community credit union". Section 36a-37.
- T45 "Community development bank". Section 36a-70.
- T46 "Community reinvestment performance". Section 36a-37.
- T47 "Connecticut holding company". Sections 36a-53 and 36a-410.
- T48 "Consolidate". Section 36a-145, as amended by this act.
- T49 "Construction loan". Section 36a-458a.
- T50 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- T51 "Consumer Credit Protection Act". Section 36a-676.
- T52 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.
- T53 "Consumer collection agency". Section 36a-800.
- T54 "Consummation". Section 36a-746a.
- T55 "Control person". Section 36a-485, as amended by this act.
- T56 "Controlling interest". Section 36a-276.
- T57 "Conventional mortgage rate". Section 36a-760.
- T58 "Corporate". Section 36a-435b.
- T59 "Credit". Sections 36a-645 and 36a-676.
- T60 "Credit manager". Section 36a-435b.
- T61 "Creditor". Sections 36a-676, 36a-695 and 36a-800.
- T62 "Credit card", "cardholder" and "card issuer". Section 36a-676.

T63	"Credit clinic". Section 36a-700.
T64	"Credit rating agency". Section 36a-695.
T65	"Credit report". Section 36a-695.
T66	"Credit sale". Section 36a-676.
T67	"Credit union service organization". Section 36a-435b.
T68	"Credit union service organization services". Section 36a-435b.
T69	"De novo branch". Section 36a-410.
T70	"Debt". Section 36a-645.
T71	"Debt adjustment". Section 36a-655.
T72	"Debt mutual fund". Sections 36a-275 and 36a-459a.
T73	"Debt securities". Sections 36a-275 and 36a-459a.
T74	"Debtor". Section 36a-655.
T75	"Deliver". Section 36a-316.
T76	"Deposit". Section 36a-316.
T77	"Deposit account". Section 36a-316.
T78	"Deposit account charge". Section 36a-316.
T79	"Deposit account disclosures". Section 36a-316.
T80	"Deposit contract". Section 36a-316.
T81	"Deposit services". Section 36a-425.
T82	"Depositor". Section 36a-316.
T83	<u>"Depository institution". Section 36a-485, as amended by this act.</u>
T84	<u>"Derivative transaction". Section 36a-262, as amended by this act.</u>
T85	"Director". Section 36a-435b.
T86	<u>"Dwelling". Section 36a-485, as amended by this act.</u>
T87	"Earning period". Section 36a-316.
T88	"Electronic payment instrument". Section 36a-596.
T89	"Eligible collateral". Section 36a-330.
T90	"Eligible entity". Section 36a-34.
T91	<u>"Employee". Section 36a-485, as amended by this act.</u>
T92	<u>"Entity". Section 36a-380, as amended by this act.</u>
T93	"Equity mutual fund". Sections 36a-276 and 36a-459a.
T94	"Equity security". Sections 36a-276 and 36a-459a.
T95	"Executive officer". Sections 36a-263 and 36a-469c.
T96	"Expedited Connecticut bank". Section 36a-70.
T97	<u>"Experience in the mortgage business". Section 36a-488, as amended by</u>

- T98 this act.
- T99 "Federal banking agency". Section 36a-485, as amended by this act.
- T100 "Federal Credit Union Act". Section 36a-435b.
- T101 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- T102 "FHA loan". Section 36a-760.
- T103 "Fiduciary". Section 36a-365.
- T104 "Filing fee". Section 36a-770.
- T105 "Finance charge". Sections 36a-690 and 36a-770.
- T106 "Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330,
T107 36a-435b, 36a-736 and 36a-755.
- T108 "Financial records". Section 36a-41.
- T109 "First mortgage loan". Sections 36a-485, as amended by this act, 36a-705,
T110 36a-715 and 36a-725.
- T111 "Foreign banking corporation". Section 36a-425.
- T112 "Fully indexed rate". Section 36a-760b.
- T113 "General facility". Section 36a-580.
- T114 "Global net payment entitlement". Section 36a-428n.
- T115 "Global net payment obligation". Section 36a-428n.
- T116 "Goods". Sections 36a-535 and 36a-770.
- T117 "Graduated payment mortgage loan". Section 36a-265.
- T118 "Guardian". Section 36a-365.
- T119 "High cost home loan". Section 36a-746a.
- T120 "Holder". Section 36a-596.
- T121 "Home banking services". Section 36a-170.
- T122 "Home banking terminal". Section 36a-170.
- T123 "Home improvement loan". Section 36a-736.
- T124 "Home purchase loan". Section 36a-736.
- T125 "Home state". Section 36a-410.
- T126 "Housing finance agency". Section 36a-487, as amended by this act.
- T127 "Immediate family member". Section 36a-435b and section 36a-485, as
T128 amended by this act.
- T129 "Independent contractor". Section 36a-485, as amended by this act.
- T130 "Individual". Section 36a-485, as amended by this act.
- T131 "Insider". Section 36a-454b.
- T132 "Installment loan contract". Sections 36a-535 and 36a-770.

- T133 "Insurance". Section 36a-455a.
- T134 "Insurance bank". Section 36a-285.
- T135 "Insurance department". Section 36a-285.
- T136 "Interest". Section 36a-316.
- T137 "Interest rate". Section 36a-316.
- T138 "Interim interest". Section 36a-746a.
- T139 "Lender". Sections 36a-746a, 36a-760 and 36a-770.
- T140 "Lessor". Section 36a-676.
- T141 "License". Section 36a-626.
- T142 "Licensee". Sections 36a-596 and 36a-626.
- T143 "Limited branch". Section 36a-145, as amended by this act.
- T144 "Limited facility". Section 36a-580.
- T145 "Loan broker". Section 36a-615.
- T146 "Loan processor or underwriter". Section 36a-485, as amended by this act.
- T147 "Loss". Section 36a-330.
- T148 "Made in this state". Section 36a-770.
- T149 "Main office". Section 36a-485, as amended by this act.
- T150 "Managing agent". Section 36a-365.
- T151 "Manufactured home". Section 36a-457b.
- T152 "Material litigation". Section 36a-596.
- T153 "Member". Section 36a-435b.
- T154 "Member business loan". Section 36a-458a.
- T155 "Member in good standing". Section 36a-435b.
- T156 "Membership share". Section 36a-435b.
- T157 "Mobile branch". Sections 36a-145, as amended by this act, and 36a-435b.
- T158 "Money order". Section 36a-596.
- T159 "Money transmission". Section 36a-365.
- T160 "Mortgage". Section 36a-760g.
- T161 "Mortgage broker". Sections 36a-485, as amended by this act, 36a-705 and
- T162 36a-760.
- T163 "Mortgage correspondent lender". Section 36a-485, as amended by this act.
- T164 "Mortgage insurance". Section 36a-725.
- T165 "Mortgage lender". Sections 36a-485, as amended by this act, 36a-705 and
- T166 36a-725.
- T167 "Mortgage loan". Sections 36a-261, as amended by this act, 36a-265, 36a-

- T168 457b [, 36a-485] and 36a-736.
- T169 "Mortgage loan originator". Section 36a-485, as amended by this act.
- T170 "Mortgage rate lock-in". Section 36a-705.
- T171 "Mortgage servicing company". Section 36a-715.
- T172 "Mortgagor". Section 36a-715.
- T173 "Motor vehicle". Section 36a-770.
- T174 "Multiple common bond membership". Section 36a-435b.
- T175 "Municipality". Section 36a-800.
- T176 "Net outstanding member business loan balance". Section 36a-458a.
- T177 "Net worth". Sections 36a-441a, 36a-458a and 36a-596.
- T178 "Network". Section 36a-155.
- T179 "Nonprime home loan". Section 36a-760.
- T180 "Nonrefundable". Section 36a-498.
- T181 "Nontraditional mortgage product". Section 36a-489a, as amended by this
- T182 act.
- T183 "Note account". Sections 36a-301 and 36a-456b.
- T184 "Office". Sections 36a-23, 36a-316 and 36a-485, as amended by this act.
- T185 "Officer". Section 36a-435b.
- T186 "Open-end credit plan". Section 36a-676.
- T187 "Open-end line of credit". Section 36a-760.
- T188 "Open-end loan". Section 36a-565.
- T189 "Organization". Section 36a-800.
- T190 "Out-of-state holding company". Section 36a-410.
- T191 "Outstanding". Section 36a-596.
- T192 "Passbook savings account". Section 36a-316.
- T193 "Payment instrument". Section 36a-596.
- T194 "Periodic statement". Section 36a-316.
- T195 "Permissible investment". Section 36a-596.
- T196 "Person". Section 36a-184 and section 36a-485, as amended by this act.
- T197 "Post". Section 36a-316.
- T198 "Prepaid finance charge". Section 36a-746a.
- T199 "Prime quality". Section 36a-596.
- T200 "Principal amount of the loan". Section 36a-485, as amended by this act.
- T201 "Processor". Section 36a-155.
- T202 "Public deposit". Section 36a-330.

- T203 "Purchaser". Section 36a-596.
- T204 "Qualified financial contract". Section 36a-428n.
- T205 "Qualified public depository" and "depository". Section 36a-330.
- T206 "Real estate". Section 36a-457b.
- T207 "Real estate brokerage activity". Section 36a-485, as amended by this act.
- T208 "Records". Section 36a-17, as amended by this act.
- T209 "Registered mortgage loan originator". Section 36a-485, as amended by
T210 this act.
- T211 "Related person". Section 36a-53.
- T212 "Relocate". Sections 36a-145, as amended by this act, and 36a-462a.
- T213 "Residential mortgage loan". Section 36a-485, as amended by this act.
- T214 ["Residential property". Section 36a-485.]
- T215 "Residential real estate". Section 36a-485, as amended by this act.
- T216 "Resulting entity". Section 36a-34.
- T217 "Retail buyer". Sections 36a-535 and 36a-770.
- T218 "Retail credit transaction". Section 42-100b.
- T219 "Retail installment contract". Sections 36a-535 and 36a-770.
- T220 "Retail installment sale". Sections 36a-535 and 36a-770.
- T221 "Retail seller". Sections 36a-535 and 36a-770.
- T222 "Reverse annuity mortgage loan". Section 36a-265.
- T223 "Sales finance company". Sections 36a-535 and 36a-770.
- T224 "Savings department". Section 36a-285.
- T225 "Savings deposit". Section 36a-316.
- T226 "Secondary mortgage loan". Section 36a-485, as amended by this act.
- T227 "Security convertible into a voting security". Section 36a-184.
- T228 "Senior management". Section 36a-435b.
- T229 "Settlement agent". Section 36a-494, as amended by this act.
- T230 "Share". Section 36a-435b.
- T231 "Simulated check". Section 36a-485, as amended by this act.
- T232 "Single common bond membership". Section 36a-435b.
- T233 "Special mortgage". Section 36a-760c.
- T234 "Social purpose investment". Section 36a-277.
- T235 "Sponsored". Section 36a-485, as amended by this act.
- T236 "Standard mortgage loan". Section 36a-265.
- T237 "System". Section 36a-485, as amended by this act.

T238 "Table funding agreement". Section 36a-485, as amended by this act.
T239 "Tax and loan account". Sections 36a-301 and 36a-456b.
T240 "The Savings Bank Life Insurance Company". Section 36a-285.
T241 "Time account". Section 36a-316.
T242 "Travelers check". Section 36a-596.
T243 "Troubled Connecticut credit union". Section 36a-448a.
T244 "Unique identifier". Section 36a-485, as amended by this act.
T245 "Unsecured loan". Section 36a-615.
T246 "Warehouse agreement". Section 36a-485, as amended by this act.

223 Sec. 7. Section 36a-485 of the 2012 supplement to the general statutes
224 is repealed and the following is substituted in lieu thereof (*Effective*
225 *October 1, 2012*):

226 As used in this section and sections 36a-486 to 36a-498f, inclusive, as
227 amended by this act, 36a-534a [and 36a-534b] to 36a-534c, inclusive, as
228 amended by this act, unless the context otherwise requires:

229 (1) "Advance fee" means any consideration paid or given, directly or
230 indirectly, to a mortgage lender, mortgage correspondent lender or
231 mortgage broker required to be licensed pursuant to sections 36a-485
232 to [36a-498a] ~~36a-498f~~, inclusive, as amended by this act, and sections
233 36a-534a and 36a-534b, as amended by this act, prior to the closing of a
234 residential mortgage loan to any person, including, but not limited to,
235 loan fees, points, broker's fees or commissions, transaction fees or
236 similar prepaid finance charges;

237 (2) "Advertise", "advertisement" or "advertising" means the use of
238 any announcement, statement, assertion or representation that is
239 placed before the public in a newspaper, magazine or other
240 publication, or in the form of a notice, circular, pamphlet, letter or
241 poster or over any radio or television station, by means of the Internet,
242 or by other electronic means of distributing information, by personal
243 contact, or in any other way;

244 (3) "Branch office" means a location other than the main office at
245 which a licensee or any person on behalf of a licensee acts as a

246 mortgage lender, mortgage correspondent lender or mortgage broker;

247 (4) "Control person" means an individual that directly or indirectly
248 exercises control over another person. Any person that (A) is a
249 director, general partner or executive officer; (B) directly or indirectly
250 has the right to vote ten per cent or more of a class of any voting
251 security or has the power to sell or direct the sale of ten per cent or
252 more of any class of voting securities; (C) in the case of a limited
253 liability company, is a managing member; or (D) in the case of a
254 partnership, has the right to receive upon dissolution, or has
255 contributed, ten per cent or more of the capital, is presumed to be a
256 control person. For purposes of this subdivision, "control" means the
257 power, directly or indirectly, to direct the management or policies of a
258 company, whether through ownership of securities, by contract or
259 otherwise;

260 (5) "Depository institution" has the same meaning as provided in
261 Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and
262 includes any Connecticut credit union, federal credit union or out-of-
263 state credit union;

264 (6) "Dwelling" has the same meaning as provided in Section 103 of
265 the Consumer Credit Protection Act, 15 USC 1602;

266 (7) "Employee" means an individual (A) whose manner and means
267 of work performance are subject to the right of control of, or are
268 controlled by, a person, and (B) whose compensation is reported or
269 required to be reported on a W-2 form issued by the controlling
270 person. For purposes of the definition of "registered mortgage loan
271 originator", "employee" has the foregoing meaning or such other
272 meaning as the federal banking agencies may issue in connection with
273 such agencies' implementation of such agencies' responsibilities under
274 the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

275 [(6)] (8) "Federal banking agency" means the Board of Governors of
276 the Federal Reserve System, the Comptroller of the Currency, the
277 Director of the Office of Thrift Supervision, the National Credit Union

278 Administration and the Federal Deposit Insurance Corporation;

279 [(7)] (9) "First mortgage loan" means a residential mortgage loan
280 that is secured by a first mortgage;

281 [(8)] (10) "Immediate family member" means a spouse, child, sibling,
282 parent, grandparent or grandchild and includes stepparents,
283 stepchildren, stepsiblings and adoptive relationships;

284 (11) "Independent contractor" means an individual retained on a
285 basis where the individual is not an employee of any person in
286 connection with the services such individual provides and whose
287 compensation is reported or required to be reported on an Internal
288 Revenue Service Form 1099 issued by the retaining person;

289 [(9)] (12) "Individual" means a natural person;

290 [(10)] (13) "Loan processor or underwriter" means an individual
291 who performs clerical or support duties. The term "clerical or support
292 duties" includes, subsequent to the receipt of an application, (A) the
293 receipt, collection, distribution and analysis of information common
294 for the processing or underwriting of a residential mortgage loan, and
295 (B) communication with a consumer to obtain the information
296 necessary for the processing or underwriting of a loan to the extent
297 that such communication does not include offering or negotiating loan
298 rates or terms or counseling consumers about residential mortgage
299 loan rates or terms;

300 [(11)] (14) "Main office" means the main address designated on the
301 system;

302 [(12)] (15) "Mortgage broker" (A) means a person who [,] (i) for
303 compensation or gain or [in] with the expectation of compensation or
304 gain [(A)] (I) takes a residential mortgage loan application, or [(B)] (II)
305 offers or negotiates terms of a residential mortgage loan, [excluding]
306 and (ii) is not the prospective source of the funds for the residential
307 mortgage loan, (B) but does not include (i) an individual who is
308 [sponsored by another] licensed as a mortgage loan originator acting

309 as a mortgage loan originator on behalf of such mortgage loan
310 originator's sponsoring mortgage lender, mortgage correspondent
311 lender, [or] mortgage broker or exempt registrant, or (ii) an individual
312 exempt from mortgage loan originator licensure under subdivision (2)
313 of subsection (b) of section 36a-486, as amended by this act, when
314 acting within the scope of such exemption;

315 [(13)] (16) "Mortgage correspondent lender" means a person
316 engaged in the business of making residential mortgage loans in such
317 person's own name where the loans are not held by such person for
318 more than ninety days and are funded by another person through a
319 warehouse agreement, table funding agreement or similar agreement;

320 [(14)] (17) "Mortgage lender" means a person engaged in the
321 business of making residential mortgage loans in such person's own
322 name utilizing such person's own funds or by funding loans through a
323 warehouse agreement, table funding agreement or similar agreement;

324 [(15)] (18) "Mortgage loan originator" means an individual who for
325 compensation or gain or with the expectation of compensation or gain,
326 either for such individual or for the person employing or retaining
327 such individual, (A) takes a residential mortgage loan application, or
328 (B) offers or negotiates terms of a residential mortgage loan. "Mortgage
329 loan originator" does not include (i) an individual engaged solely as a
330 loan processor or underwriter; (ii) a person who only performs real
331 estate brokerage activities and is licensed in accordance with chapter
332 392, unless the person is compensated by a mortgage lender, mortgage
333 correspondent lender, mortgage broker or other mortgage loan
334 originator or by any agent of such mortgage lender, mortgage
335 correspondent lender, mortgage broker or other mortgage loan
336 originator; (iii) a person solely involved in extensions of credit relating
337 to timeshare plans, as that term is defined in Paragraph 53D of 11 USC
338 101; or (iv) any individual who solely renegotiates terms for existing
339 mortgage loans on behalf of a mortgagee and who does not otherwise
340 act as a mortgage loan originator, unless the United States Department
341 of Housing and Urban Development, the Bureau of Consumer

342 Financial Protection or a court of competent jurisdiction determines
343 that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101
344 et seq., requires such individual to be licensed as a mortgage loan
345 originator under state laws implementing said S.A.F.E. Mortgage
346 Licensing Act;

347 [(16)] (19) "Office" means a branch office or a main office;

348 [(17)] (20) "Person" means a natural person, corporation, company,
349 limited liability company, partnership or association;

350 [(18)] (21) "Principal amount of the loan" means the gross amount
351 the borrower is obligated to repay including any prepaid finance
352 charge that is financed, and any other charge that is financed;

353 [(19)] (22) "Real estate brokerage activity" means any activity that
354 involves offering or providing real estate brokerage services to the
355 public, including (A) acting as a real estate agent or real estate broker
356 for a buyer, seller, lessor or lessee of real property; (B) bringing
357 together parties interested in the sale, purchase, lease, rental or
358 exchange of real property; (C) negotiating, on behalf of any party, any
359 portion of a contract relating to the sale, purchase, lease, rental or
360 exchange of real property, other than in connection with providing
361 financing with respect to any such transaction; (D) engaging in any
362 activity for which a person engaged in the activity is required to be
363 registered or licensed as a real estate agent or real estate broker under
364 any applicable law; and (E) offering to engage in any activity, or act in
365 any capacity, described in this subdivision;

366 [(20)] (23) "Registered mortgage loan originator" means any
367 individual who (A) meets the definition of mortgage loan originator
368 and is an employee of a depository institution, a subsidiary that is
369 owned and controlled by a depository institution and regulated by a
370 federal banking agency, or an institution regulated by the Farm Credit
371 Administration; and (B) is registered with and maintains a unique
372 identifier through the system;

373 [(21)] (24) "Residential mortgage loan" means any loan primarily for
374 personal, family or household use that is secured by a mortgage, deed
375 of trust or other equivalent consensual security interest on a dwelling
376 [as defined in Section 103 of the Consumer Credit Protection Act, 15
377 USC 1602,] or residential real estate upon which is constructed or
378 intended to be constructed a dwelling; [, as so defined;]

379 [(22)] (25) "Residential real estate" means any real property located
380 in this state, upon which is constructed or intended to be constructed a
381 dwelling; [as defined in Section 103 of the Consumer Credit Protection
382 Act, 15 USC 1602]

383 [(23)] (26) "Secondary mortgage loan" means a residential mortgage
384 loan that is secured, in whole or in part, by a mortgage, provided such
385 property is subject to one or more prior mortgages;

386 [(24)] (27) "Simulated check" means a document that imitates or
387 resembles a check but is not a negotiable instrument;

388 [(25)] (28) "Sponsored" means employed or retained as an
389 independent contractor;

390 [(26)] (29) "System" means the Nationwide Mortgage Licensing
391 System and Registry developed and maintained by the Conference of
392 State Bank Supervisors and the American Association of Residential
393 Mortgage Regulators for the licensing and registration of mortgage
394 lenders, mortgage correspondent lenders, mortgage brokers, mortgage
395 loan originators and loan processors or underwriters;

396 [(27)] (30) "Table funding agreement" means an agreement wherein
397 a person agrees to fund mortgage loans to be made in another person's
398 name and to purchase such loans after they are made;

399 [(28)] (31) "Unique identifier" means a number or other identifier
400 assigned by protocols established by the system; and

401 [(29)] (32) "Warehouse agreement" means an agreement to provide
402 credit to a person to enable the person to have funds to make

403 residential mortgage loans and hold such loans pending sale to other
404 persons.

405 Sec. 8. Section 36a-486 of the 2012 supplement to the general statutes
406 is repealed and the following is substituted in lieu thereof (*Effective*
407 *October 1, 2012*):

408 (a) No person shall engage in the business of making residential
409 mortgage loans or act as a mortgage broker in this state unless such
410 person has first obtained the required license for its main office and
411 each branch office where such business is conducted in accordance
412 with the provisions of sections 36a-485 to 36a-498f, inclusive, as
413 amended by this act, 36a-534a and 36a-534b, as amended by this act.
414 Effective April 1, 2010, any such person who is an individual shall also
415 obtain a mortgage loan originator license prior to conducting such
416 business unless such individual does not engage directly in the
417 activities of a mortgage loan originator. A person, other than a licensed
418 mortgage loan originator acting on behalf of a mortgage lender or
419 mortgage correspondent lender, shall be deemed to be engaged in the
420 business of making residential mortgage loans if such person
421 advertises, causes to be advertised, solicits or offers to make residential
422 mortgage loans, either directly or indirectly. A person, other than a
423 licensed mortgage loan originator acting on behalf of a mortgage
424 broker, shall be deemed to be acting as a mortgage broker if such
425 person advertises or causes to be advertised that such person will
426 negotiate, solicit, place or find a residential mortgage loan, either
427 directly or indirectly. A mortgage correspondent lender shall not be
428 deemed to be acting as a mortgage lender if such mortgage
429 correspondent lender makes a loan utilizing its own funds in a
430 situation where another person does not honor such person's
431 commitment to fund the loan.

432 (b) (1) No person licensed as a mortgage lender, mortgage
433 correspondent lender or mortgage broker shall engage the services of a
434 mortgage loan originator or of a loan processor or underwriter
435 required to be licensed under [subdivision (3) of this subsection] this

436 section unless such mortgage loan originator or loan processor or
437 underwriter is licensed under section 36a-489, as amended by this act.
438 An individual, unless specifically exempted under subdivision (2) of
439 this subsection, shall not engage in the business of a mortgage loan
440 originator on behalf of a licensee or a person exempt under section 36a-
441 487, as amended by this act, with respect to any residential mortgage
442 loan without first obtaining and maintaining annually a license as a
443 mortgage loan originator under section 36a-489, as amended by this
444 act. An individual, unless specifically exempted under subdivision (2)
445 of this subsection, shall be deemed to be engaged in the business of a
446 mortgage loan originator if such individual: (A) Acts as a mortgage
447 loan originator in connection with any residential mortgage loan on
448 behalf of a licensee or person exempt under section 36a-487, as
449 amended by this act; or (B) makes any representation to the public
450 through advertising or other means of communication that such
451 individual can or will act as a mortgage loan originator on behalf of a
452 licensee or person exempt under section 36a-487, as amended by this
453 act. Each licensed mortgage loan originator and each licensed loan
454 processor or underwriter shall register with and maintain a valid
455 unique identifier issued by the system. No individual may act as a
456 mortgage loan originator for more than one person at the same time.
457 No loan processor or underwriter licensee may be sponsored by more
458 than one person at a time. The license of a mortgage loan originator or
459 a loan processor or underwriter is not effective during any period
460 when such mortgage loan originator or a loan processor or
461 underwriter is not sponsored by a licensed mortgage lender, mortgage
462 correspondent lender or mortgage broker, or by a person registered as
463 an exempt registrant under subsection (c) of section 36a-487, as
464 amended by this act, or during any period in which the license of the
465 mortgage lender, mortgage correspondent lender or mortgage broker
466 with whom such originator or loan processor or underwriter is
467 associated has been suspended. Either the mortgage loan originator,
468 the loan processor or underwriter or the sponsor may file a notification
469 of the termination of sponsorship with the system.

470 (2) The following are exempt from this section: (A) A registered

471 mortgage loan originator or an employee of an institution or
472 subsidiary described in subdivision [(20)] (23) of section 36a-485, as
473 amended by this act, who is not required to be registered under
474 Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC
475 Section 5101 et seq., when acting for such institution or subsidiary; []
476 (B) an individual who offers or negotiates the terms of a residential
477 mortgage loan with or on behalf of an immediate family member of
478 such individual; [] (C) an individual who offers or negotiates the
479 terms of a residential mortgage loan secured by a dwelling [, as
480 defined in Section 103 of the Consumer Credit Protection Act, 15 USC
481 1602,] that served as the individual's residence, [and] unless the
482 context demonstrates that such individual engaged in such activities
483 with a degree of habitualness or repetition; (D) a licensed attorney who
484 negotiates the terms of a residential mortgage loan on behalf of a client
485 as an ancillary matter to the attorney's representation of the client,
486 unless the attorney is compensated by a mortgage lender, mortgage
487 correspondent lender, mortgage broker or other mortgage loan
488 originator or by any agent of such mortgage lender, mortgage
489 correspondent lender, mortgage broker or other mortgage loan
490 originator; (E) an individual who takes a residential mortgage loan
491 application or offers or negotiates terms of a residential mortgage loan
492 as an employee of a federal, state or local government agency or
493 housing finance agency exempt from licensure pursuant to section 36a-
494 487, as amended by this act, and who does so only pursuant to such
495 individual's official duties as an employee of such agency; (F) an
496 individual who takes a residential mortgage loan application or offers
497 or negotiates terms of a residential mortgage loan as an employee of an
498 organization that has obtained bona fide nonprofit status from the
499 commissioner and is exempt from licensure pursuant to section 36a-
500 487, as amended by this act, and who does so only pursuant to such
501 individual's official duties as an employee of such organization; and
502 (G) an individual who offers or negotiates the terms of a residential
503 mortgage loan secured by a dwelling that is not the individual's
504 residence but is owned by such individual, unless the context
505 demonstrates that such individual engaged in such activities with a

506 degree of habitualness or repetition.

507 [(3) A loan processor or underwriter who is: (A) An independent
508 contractor, or (B) employed by any person other than: (i) A licensed
509 mortgage lender, mortgage correspondent lender or mortgage broker;
510 or (ii) any person exempt from such licensure under subdivision (1) of
511 subsection (a) of section 36a-487 may not engage in the activities of a
512 loan processor or underwriter unless such loan processor or
513 underwriter obtains and maintains a license as a loan processor or
514 underwriter under section 36a-489.]

515 (3) No individual shall engage in the activities of a loan processor or
516 underwriter unless such individual obtains and maintains a license as
517 a loan processor or underwriter under section 36a-489, as amended by
518 this act. The following individuals are exempt from the foregoing
519 license requirement:

520 (A) An employee of a licensed mortgage lender, mortgage
521 correspondent lender or mortgage broker who engages in loan
522 processor or underwriter activities (i) in connection with residential
523 mortgage loans either originated or made by such licensee, and (ii) at
524 the direction of and subject to the supervision of a licensed mortgage
525 loan originator of such licensee;

526 (B) An employee of a person exempt from licensure under
527 subdivision (1) of subsection (a) of section 36a-487, as amended by this
528 act, who engages in loan processor or underwriter activities at the
529 direction of and subject to the supervision of either a licensed
530 mortgage loan originator or a registered mortgage loan originator of
531 such exempt person; or

532 (C) Any individual engaged, in any capacity in loan processor or
533 underwriter activities in connection with a residential mortgage loan
534 originated by an individual not required to be licensed or registered as
535 a mortgage loan originator under part I of chapter 668.

536 (4) An individual engaging solely in loan processor or underwriter

537 activities shall not represent to the public, through advertising or other
538 means of communicating or providing information, including the use
539 of business cards, stationery, brochures, signs, rate lists or other
540 promotional items, that such individual can or will perform any of the
541 activities of a mortgage loan originator.

542 (c) If the United States Department of Housing and Urban
543 Development, the Bureau of Consumer Financial Protection or a court
544 of competent jurisdiction determines that the S.A.F.E. Mortgage
545 Licensing Act of 2008, 12 USC Section 5101 et seq., requires an
546 individual described in subparagraph (B) (iv) of subdivision [(15)] (18)
547 of section 36a-485, as amended by this act, to be licensed as a mortgage
548 loan originator under state laws implementing said S.A.F.E. Mortgage
549 Licensing Act, such individual may continue to act in such individual's
550 current capacity, provided such individual files an application for a
551 mortgage loan originator license not later than the date sixty days from
552 the date of such determination by the United States Department of
553 Housing and Urban Development, the Bureau of Consumer Financial
554 Protection or a court of competent jurisdiction.

555 (d) Each residential mortgage loan taken, offered, negotiated,
556 solicited, arranged, placed, found, [or] made, processed or
557 underwritten without a license shall constitute a separate violation for
558 purposes of section 36a-50, as amended by this act.

559 Sec. 9. Section 36a-487 of the 2012 supplement to the general statutes
560 is repealed and the following is substituted in lieu thereof (*Effective*
561 *October 1, 2012*):

562 (a) The following are exempt from licensing as a mortgage lender,
563 mortgage correspondent lender or mortgage broker under sections
564 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and
565 36a-534b, as amended by this act: (1) Any bank, out-of-state bank,
566 Connecticut credit union, federal credit union or out-of-state credit
567 union, provided such bank or credit union is federally insured, any
568 operating subsidiary of a federal bank or federally-chartered out-of-
569 state bank or any wholly-owned subsidiary of a Connecticut bank or a

570 Connecticut credit union; (2) any person licensed under sections 36a-
571 671 to 36a-671d, inclusive, or exempt from licensure under section 36a-
572 671c, who is negotiating or offering to negotiate terms of a residential
573 mortgage loan as authorized by said sections 36a-671 to 36a-671d,
574 inclusive; and (3) any person engaged solely in providing loan
575 processing or underwriting services to persons (A) licensed as a
576 mortgage lender, mortgage correspondent lender or mortgage broker,
577 or (B) exempt from such licensure under subdivision (1) of this
578 subsection. Each wholly-owned subsidiary of a Connecticut bank or
579 Connecticut credit union that engages in the business of making
580 residential mortgage loans or acts as a mortgage broker in this state
581 shall provide written notification to the commissioner prior to
582 engaging in such activity.

583 (b) The following are exempt from licensing as a mortgage lender or
584 mortgage correspondent lender under sections 36a-485 to 36a-498f,
585 inclusive, as amended by this act, 36a-534a and 36a-534b, as amended
586 by this act:

587 (1) Persons making five or fewer residential mortgage loans within
588 any period of twelve consecutive months, provided nothing herein
589 shall relieve such persons from complying with all applicable laws;

590 (2) Bona fide nonprofit [~~corporations~~] organizations making
591 residential mortgage loans [~~to~~] that promote home ownership for the
592 economically disadvantaged;

593 (3) Agencies of the federal government, or any state or municipal
594 government, or any [~~quasi-governmental~~] housing finance agency
595 making residential mortgage loans under the specific authority of the
596 laws of any state or the United States. For purposes of this subdivision,
597 a "housing finance agency" means any authority: (A) Chartered by a
598 state to help meet the affordable housing needs of the residents of the
599 state; (B) supervised directly or indirectly by the state government; (C)
600 subject to audit and review by the state in which it operates; and (D)
601 whose activities make it eligible to be a member of the National
602 Council of State Housing Agencies;

603 (4) Persons licensed under sections 36a-555 to 36a-573, inclusive,
604 when making residential mortgage loans authorized by said sections;

605 (5) Persons owning real property who take back from the buyer of
606 such property a secondary mortgage loan in lieu of any portion of the
607 purchase price of the property;

608 (6) Any corporation or its affiliate that makes residential mortgage
609 loans exclusively for the benefit of its employees or agents;

610 (7) Any corporation, licensed in accordance with section 38a-41, or
611 its affiliate or subsidiary, that makes residential mortgage loans to
612 promote home ownership in urban areas;

613 (8) Persons acting as fiduciaries with respect to any employee
614 pension benefit plan qualified under the Internal Revenue Code of
615 1986, or any subsequent corresponding internal revenue code of the
616 United States, as from time to time amended, who make residential
617 mortgage loans solely to plan participants from plan assets; and

618 (9) Persons making secondary mortgage loans to [individuals
619 related to the maker by blood or marriage] immediate family
620 members.

621 (c) A bona fide nonprofit organization shall be exempt from
622 licensing as a mortgage broker under sections 36a-485 to 36a-498f,
623 inclusive, as amended by this act, 36a-534a and 36a-534b, as amended
624 by this act, to the extent that such bona fide nonprofit organization acts
625 as a mortgage broker in connection with residential mortgage loans to
626 be exclusively made by persons covered by the exemption set forth in
627 either subdivision (6) or (7) of subsection (b) of this section.

628 [(c)] (d) Any person exempt from licensure under this section may
629 register on the system as an exempt registrant for purposes of
630 sponsoring a mortgage loan originator or a loan processor or
631 underwriter pursuant to subdivision (1) of subsection (b) of section
632 36a-486, as amended by this act. Such registration shall not affect the
633 exempt status of such person.

634 (e) For purposes of this section, a "bona fide nonprofit organization"
635 means an organization that has filed a written certified submission to
636 the commissioner in a form prescribed by the commissioner and with
637 such documentation as may be required by the commissioner and that
638 demonstrates to the satisfaction of the commissioner that the
639 organization: (A) Has the status of a tax-exempt organization under
640 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
641 subsequent corresponding internal revenue code of the United States,
642 as from time to time amended; (B) promotes affordable housing or
643 provides home ownership education or similar services; (C) conducts
644 its activities in a manner that serves public or charitable purposes
645 rather than commercial purposes; (D) receives funding and revenue
646 and charges fees in a manner that does not incentivize it or its
647 employees to act other than in the best interests of its clients; (E)
648 compensates its employees in a manner that does not incentivize
649 employees to act other than in the best interests of its clients; (F)
650 provides or identifies for the borrower residential mortgage loans (i)
651 with terms favorable to the borrower, which means such terms must
652 be consistent with loan origination in a public or charitable context, not
653 a commercial context, and (ii) comparable to mortgage loans and
654 housing assistance provided under government housing assistance
655 programs; and (G) meets such other standards as the commissioner
656 may by regulation require. Any organization that demonstrates to the
657 satisfaction of the commissioner its status as a bona fide nonprofit
658 organization shall, not later than December thirty-first of each year,
659 submit to the commissioner a renewed certification and
660 documentation to update all information last filed in support of such
661 status and timely report any change in any information previously
662 submitted.

663 Sec. 10. Subdivision (1) of subsection (a) of section 36a-488 of the
664 2012 supplement to the general statutes is repealed and the following
665 is substituted in lieu thereof (*Effective October 1, 2012*):

666 (a) (1) The commissioner shall not issue a mortgage lender license, a
667 mortgage correspondent lender license or a mortgage broker license to

668 any person unless such person meets the following tangible net worth
669 and experience requirements, as applicable: (A) The minimum tangible
670 net worth requirement for a mortgage lender shall be two hundred
671 fifty thousand dollars and the minimum tangible net worth
672 requirement for a mortgage correspondent lender and a mortgage
673 broker shall be (i) prior to March 2, 2009, twenty-five thousand dollars,
674 and (ii) on and after March 2, 2009, fifty thousand dollars, and (B) a
675 mortgage lender, mortgage correspondent lender or mortgage broker
676 shall have, at the main office for which the license is sought, a qualified
677 individual and, at each branch office, a branch manager (i) who have
678 supervisory authority over the lending or brokerage activities, (ii) who
679 have at least three years' experience in the mortgage business within
680 the five years immediately preceding the date of the application for the
681 license, [and] (iii) who, effective April 1, 2010, have completed the
682 prelicensing education requirement described in section 36a-489a, as
683 amended by this act, and passed a written test that meets the test
684 requirement described in section 36a-489a, as amended by this act, and
685 (iv) who, effective November 1, 2012, are licensed as a mortgage loan
686 originator under section 36a-489, as amended by this act. As used in
687 this subdivision, "experience in the mortgage business" means paid
688 experience in the origination, processing or underwriting of residential
689 mortgage loans, the marketing of such loans in the secondary market
690 or in the supervision of such activities, or any other relevant
691 experience as determined by the commissioner.

692 Sec. 11. Subsection (a) of section 36a-489 of the 2012 supplement to
693 the general statutes is repealed and the following is substituted in lieu
694 thereof (*Effective October 1, 2012*):

695 (a) (1) The commissioner shall not issue an initial license for a
696 mortgage lender, mortgage correspondent lender or mortgage broker
697 unless the commissioner, at a minimum, finds that: (A) The applicant
698 meets the requirements of subsection (a) of section 36a-488, as
699 amended by this act; (B) notwithstanding the provisions of section 46a-
700 80, the applicant, the control persons of the applicant and the qualified
701 individual or branch manager with supervisory authority at the office

702 for which the license is sought have not been convicted of, or pled
703 guilty or nolo contendere to, a felony in a domestic, foreign or military
704 court during the seven-year period preceding the date of the
705 application for licensing or at any time preceding the date of
706 application if such felony involved an act of fraud, dishonesty, a
707 breach of trust or money laundering, provided any pardon or
708 expungement of a conviction shall not be a conviction for purposes of
709 this subdivision; (C) the applicant demonstrates that the financial
710 responsibility, character and general fitness of the applicant, the
711 control persons of the applicant and the qualified individual or branch
712 manager having supervisory authority over the office for which the
713 license is sought are such as to command the confidence of the
714 community and to warrant a determination that the applicant will
715 operate honestly, fairly and efficiently within the purposes of sections
716 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and
717 36a-534b, as amended by this act; (D) the applicant has met the surety
718 bond requirement under section 36a-492; and (E) the applicant has not
719 made a material misstatement in the application. If the commissioner
720 fails to make such findings, the commissioner shall not issue a license,
721 and shall notify the applicant of the denial and the reasons for such
722 denial. For purposes of this subsection, the level of offense of the crime
723 and the status of any conviction, pardon or expungement shall be
724 determined by reference to the law of the jurisdiction where the case
725 was prosecuted. In the event that such jurisdiction does not use the
726 term "felony", "pardon" or "expungement", such terms shall include
727 legally equivalent events.

728 (2) (A) The minimum standards for license renewal for a mortgage
729 lender, mortgage correspondent lender or mortgage broker shall
730 include the following: (i) The applicant continues to meet the
731 minimum standards under subdivision (1) of this subsection; (ii)
732 effective April 1, 2010, each qualified [person] individual and branch
733 manager has completed the preclicensing education requirement
734 described in section 36a-489a, as amended by this act, and passed a
735 written test that meets the test requirement described in section 36a-
736 489a, as amended by this act, or has satisfied the annual continuing

737 education requirements described in subsection (c) of section 36a-489a,
738 as amended by this act, as applicable, and effective November 1, 2012,
739 each qualified individual and branch manager is licensed as a
740 mortgage loan originator and has completed any applicable continuing
741 education requirements described in subsection (c) of section 36a-489a,
742 as amended by this act; and (iii) the mortgage lender, mortgage
743 correspondent lender or mortgage broker has paid all required fees for
744 renewal of the license.

745 (B) The license of a mortgage lender, mortgage correspondent
746 lender or mortgage broker failing to satisfy the minimum standards for
747 license renewal shall expire. The commissioner may adopt procedures
748 for the reinstatement of expired licenses consistent with the standards
749 established by the system. The commissioner may automatically
750 suspend a mortgage lender, mortgage correspondent lender or
751 mortgage broker license if the licensee receives a deficiency on the
752 system indicating that the payment required by subparagraph (A) of
753 this subdivision was Returned-ACH or returned pursuant to such
754 other term as may be utilized by the system to indicate that the
755 payment was not accepted. After a license has been automatically
756 suspended pursuant to this section, the commissioner shall give such
757 licensee notice of the automatic suspension, pending proceedings for
758 revocation or refusal to renew pursuant to section 36a-494, as amended
759 by this act, and an opportunity for a hearing on such action in
760 accordance with section 36a-51, and require such licensee to take or
761 refrain from taking such action that, in the opinion of the
762 commissioner, will effectuate the purposes of this section.

763 Sec. 12. Subdivision (1) of subsection (b) of section 36a-489 of the
764 2012 supplement to the general statutes is repealed and the following
765 is substituted in lieu thereof (*Effective October 1, 2012*):

766 (b) (1) The commissioner shall not issue an initial license for a
767 mortgage loan originator or a loan processor or underwriter unless the
768 commissioner, at a minimum, finds that the applicant has: (A) Never
769 had a mortgage loan originator or equivalent loan processor or

770 underwriter license revoked in any governmental jurisdiction, except
771 that a subsequent formal vacating of such revocation shall not be
772 deemed a revocation; (B) notwithstanding the provisions of section
773 46a-80, not been convicted of, or pled guilty or nolo contendere to, a
774 felony in a domestic, foreign or military court during the seven-year
775 period preceding the date of the application for licensing or at any
776 time preceding such date of application if such felony involved an act
777 of fraud, dishonesty, a breach of trust, or money laundering, provided
778 any pardon or expungement of a conviction shall not be a conviction
779 for purposes of this subdivision; (C) demonstrated financial
780 responsibility, character and general fitness so as to command the
781 confidence of the community and to warrant a determination that the
782 mortgage loan originator or loan processor or underwriter will operate
783 honestly, fairly and efficiently within the purposes of sections 36a-485
784 to 36a-498f, inclusive, as amended by this act, 36a-534a and 36a-534b,
785 as amended by this act; (D) for mortgage loan originator applicants,
786 effective April 1, 2010, and for loan processor or underwriter
787 applicants, effective October 1, 2011, completed the prelicensing
788 education requirement described in section 36a-489a, as amended by
789 this act, and passed a written test that meets the test requirement
790 described in section 36a-489a, as amended by this act, and, effective
791 November 1, 2012, for qualified individuals or branch managers
792 seeking initial licensure as a mortgage loan originator, completed any
793 continuing education required of them in their position as qualified
794 individuals and branch managers pursuant to section 36a-489a, as
795 amended by this act; (E) effective July 31, 2010, met the surety bond
796 requirement under section 36a-492 and, effective October 1, 2011, in
797 the case of a mortgage loan originator required to be licensed under
798 section 36a-671e, met the surety bond requirements under sections 36a-
799 492 and 36a-671d; and (F) not made a material misstatement in the
800 application. If the commissioner denies an application for a mortgage
801 loan originator or a loan processor or underwriter license, the
802 commissioner shall notify the applicant and may notify the sponsor or
803 any other person the commissioner deems appropriate of the denial
804 and the reasons for such denial. For purposes of this subsection, the

805 level of offense of the crime and the status of any conviction, pardon or
806 expungement shall be determined by reference to the law of the
807 jurisdiction where the case was prosecuted. In the event that such
808 jurisdiction does not use the term "felony", "pardon" or
809 "expungement", those terms shall include legally equivalent events.

810 Sec. 13. Section 36a-489a of the 2012 supplement to the general
811 statutes is repealed and the following is substituted in lieu thereof
812 (*Effective October 1, 2012*):

813 (a) (1) In order to meet the prelicensing education and testing
814 requirements referred to in sections 36a-488 and 36a-489, as amended
815 by this act, an individual shall complete at least twenty hours of
816 education approved in accordance with subdivision (2) of this
817 subsection, which shall include at least (A) three hours of instruction
818 on relevant federal law and regulations; (B) three hours of ethics,
819 including instruction on fraud, consumer protection and fair lending
820 issues; and (C) two hours of training related to lending standards for
821 the nontraditional mortgage product marketplace.

822 (2) For purposes of subdivision (1) of this subsection, prelicensing
823 education courses shall be reviewed and approved by the system
824 based upon reasonable standards. Review and approval of a
825 prelicensing education course shall include review and approval of the
826 course provider.

827 (3) Nothing in this subsection shall preclude any prelicensing
828 education course, as approved by the system, that is provided by the
829 sponsor or employer of the individual or an entity which is affiliated
830 with the individual by an agency contract, or any subsidiary or affiliate
831 of such sponsor, employer or entity.

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

834 (5) When prelicensing education requirements described in
835 subdivision (1) of this subsection are completed in another state, such

836 out-of-state prelicensing education requirements shall be accepted as
837 credit towards completion of the prelicensing education requirements
838 of this state, provided such out-of-state prelicensing education
839 requirements are approved by the system.

840 (6) (A) An individual previously licensed under section 36a-489, as
841 amended by this act, subsequent to the applicable effective date of the
842 prelicensing and testing requirements referred to in section 36a-489, as
843 amended by this act, who is applying to be relicensed shall prove that
844 such individual has completed all of the continuing education
845 requirements for the year in which the license was last held.

846 (B) An individual who previously held a position as a qualified
847 individual or branch manager subsequent to the applicable effective
848 date of the prelicensing and testing requirements referred to in section
849 36a-488, as amended by this act, at a time when such individual was
850 not required to be licensed as a mortgage loan originator, may not hold
851 such position again until such individual has completed all of the
852 continuing education requirements for the year in which such
853 individual last held such position and, effective November 1, 2012, has
854 obtained the required mortgage loan originator license.

855 (b) (1) In order to meet the written test requirements referred to in
856 sections 36a-488 and 36a-489, as amended by this act, an individual
857 shall pass, in accordance with the standards established under this
858 subsection, a qualified written test developed by the system and
859 administered by a test provider approved by the system based upon
860 reasonable standards.

861 (2) A written test shall not be treated as a qualified written test for
862 purposes of subdivision (1) of this subsection unless the test
863 adequately measures the individual's knowledge and comprehension
864 in appropriate subject areas, including ethics, federal law and
865 regulation pertaining to mortgage origination, state law and regulation
866 pertaining to mortgage origination, and federal and state law and
867 regulation, including instruction on fraud, consumer protection, the
868 nontraditional mortgage marketplace and fair lending issues.

869 (3) Nothing in this subsection shall prohibit a test provider
870 approved by the system from providing a test at the location of the
871 sponsor or employer, any subsidiary or affiliate of the sponsor or
872 employer or any entity with which the individual holds an exclusive
873 arrangement to conduct the business of a mortgage loan originator, [or
874 acts as a qualified individual or branch manager.]

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

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

882 (C) (i) An individual who was licensed subsequent to the applicable
883 effective date of the prelicensing and testing requirements referred to
884 in section 36a-489, as amended by this act, who has not been licensed
885 as a mortgage loan originator within the five-year period preceding the
886 date of the filing of such individual's application for a mortgage loan
887 originator license, not taking into account any time during which such
888 individual is a registered mortgage loan originator, shall retake such
889 test; and (ii) [a qualified individual or branch manager who held such
890 a position after the effective date of prelicensing education and testing
891 referred to in section 36a-488 and who has not held such position
892 within the five-year period preceding the date of the filing on the
893 system designating such individual as a qualified individual or branch
894 manager shall retake such test, unless such individual was licensed as
895 a mortgage loan originator during the five-year period preceding the
896 date of the filing on the system designating such individual as a
897 qualified individual or branch manager, not taking into account any
898 time during which such individual is a registered mortgage loan
899 originator; and (iii)] effective October 1, 2011, an individual licensed as
900 a loan processor or underwriter who applies to be licensed again shall
901 retake the test if such individual has not been licensed as a loan

902 processor or underwriter within the five-year period preceding the
903 date of the filing of such application, not taking into account any time
904 during which such individual is engaged in loan processing or
905 underwriting but not required to be licensed under subdivision (3) of
906 subsection (b) of section 36a-486, as amended by this act.

907 (c) (1) In order to meet the annual continuing education
908 requirements referred to in subsections (a) and (b) of section 36a-489,
909 as amended by this act, a licensed mortgage loan originator, a qualified
910 individual or branch manager and, effective October 1, 2011, a licensed
911 loan processor or underwriter, shall complete at least eight hours of
912 education approved in accordance with subdivision (2) of this
913 subsection. Such courses shall include at least (A) three hours of
914 instruction on relevant federal law and regulation; (B) two hours of
915 ethics, including instruction on fraud, consumer protection and fair
916 lending issues; and (C) two hours of training related to lending
917 standards for the nontraditional mortgage product marketplace.

918 (2) For purposes of subdivision (1) of this subsection, continuing
919 education courses shall be reviewed and approved by the system
920 based upon reasonable standards. Review and approval of a
921 continuing education course shall include review and approval of the
922 course provider.

923 (3) Nothing in this subsection shall preclude any education course
924 approved by the system that is provided by the sponsor or employer
925 or an entity that is affiliated with the mortgage loan originator,
926 qualified individual or branch manager or, effective October 1, 2011,
927 loan processor or underwriter by an agency contract, or by any
928 subsidiary or affiliate of such sponsor, employer or entity.

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

931 (5) Except as provided in procedures adopted under subsections (a)
932 and (b) of section 36a-489, as amended by this act, or in regulations
933 adopted under subdivision (9) of this subsection, a licensed mortgage

934 loan originator, qualified individual or branch manager or, effective
935 October 1, 2011, a licensed loan processor or underwriter, may only
936 receive credit for a continuing education course in the year [in] for
937 which the course is taken, and may not take the same approved course
938 in the same or successive years to meet the annual requirements for
939 continuing education.

940 (6) A licensed mortgage loan originator or a qualified individual or
941 branch manager or, effective October 1, 2011, a licensed loan processor
942 or underwriter who is an approved instructor of an approved
943 continuing education course may receive credit for the licensee's own
944 annual continuing education requirement at the rate of two hours
945 credit for every one hour taught.

946 (7) When education requirements described in subdivision (1) of
947 subsection (a) of this section are completed in another state, such out-
948 of-state education requirements shall be accepted as credit towards
949 completion of the education requirements of this state, provided such
950 out-of-state education requirements are approved by the system.

951 (8) A licensed mortgage loan originator and, effective October 1,
952 2011, a licensed loan processor or underwriter who subsequently
953 becomes unlicensed must complete the continuing education
954 requirements for the last year in which the license was held prior to
955 issuance of an initial or renewed license. A qualified individual or
956 branch manager who ceases to hold such position shall complete the
957 continuing education requirements for the last year in which such
958 individual or branch manager held such position prior to [holding
959 such position again] licensure as a mortgage loan originator.

960 (9) A person who meets the requirements of subparagraphs (A)(i)
961 and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489,
962 as amended by this act, may compensate for any deficiency in an
963 individual's continuing education requirements pursuant to
964 regulations adopted by the commissioner.

965 (d) For purposes of this section "nontraditional mortgage product"

966 means any mortgage product other than a thirty-year fixed rate
967 mortgage.

968 Sec. 14. Subsections (a) and (b) of section 36a-494 of the 2012
969 supplement to the general statutes are repealed and the following is
970 substituted in lieu thereof (*Effective October 1, 2012*):

971 (a) (1) The commissioner may suspend, revoke or refuse to renew
972 any mortgage lender, mortgage correspondent lender or mortgage
973 broker license or take any other action, in accordance with the
974 provisions of section 36a-51, for any reason which would be sufficient
975 grounds for the commissioner to deny an application for such license
976 under sections 36a-485 to 36a-498f, inclusive, as amended by this act,
977 36a-534a and 36a-534b, as amended by this act, or if the commissioner
978 finds that the licensee, any control person of the licensee, the qualified
979 individual or branch manager with supervisory authority, trustee,
980 employee or agent of such licensee has done any of the following: (A)
981 Made any material misstatement in the application; (B) committed any
982 fraud, misappropriated funds or misrepresented, concealed,
983 suppressed, intentionally omitted or otherwise intentionally failed to
984 disclose any of the material particulars of any residential mortgage
985 loan transaction, including disclosures required by subdivision (6) of
986 subsection (a) of section 36a-493, or part III of chapter 669 or
987 regulations adopted pursuant thereto, to anyone entitled to such
988 information; (C) violated any of the provisions of this title or of any
989 regulations adopted pursuant thereto, or any other law or regulation
990 applicable to the conduct of its business; or (D) failed to perform any
991 agreement with a licensee or a borrower. For purposes of this
992 subdivision, "agent" includes any settlement agent used by the licensee
993 and "settlement agent" means the person specified in any HUD-1
994 settlement statement or other settlement statement, provided such
995 settlement agent has been selected by the licensee. Any settlement
996 agent whose name appears on the licensee's list of approved settlement
997 agents shall be deemed selected by the licensee even if the settlement
998 agent is selected from such list by the borrower.

999 (2) The commissioner may suspend, revoke or refuse to renew any
1000 mortgage loan originator license or any loan processor or underwriter
1001 license or take any other action, in accordance with the provisions of
1002 section 36a-51, for any reason which would be sufficient grounds for
1003 the commissioner to deny an application for such license under
1004 sections 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-
1005 534a and 36a-534b, as amended by this act, or if the commissioner
1006 finds that the licensee has committed any fraud, misappropriated
1007 funds, misrepresented, concealed, suppressed, intentionally omitted or
1008 otherwise intentionally failed to disclose any of the material particulars
1009 of any residential mortgage loan transaction or has violated any of the
1010 provisions of this title or of any regulations adopted pursuant to such
1011 title or any other law or regulation applicable to the conduct of such
1012 licensee's business.

1013 (b) Whenever it appears to the commissioner that (1) any person has
1014 violated, is violating or is about to violate any of the provisions of
1015 sections 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-
1016 534a and 36a-534b, as amended by this act, or any regulation adopted
1017 pursuant thereto, (2) any person is, was, or would be a cause of the
1018 violation of any such provisions or regulation due to an act or
1019 omission such person knew or should have known would contribute
1020 to such violation, or (3) any licensee has failed to perform any
1021 agreement with a borrower, committed any fraud, misappropriated
1022 funds or misrepresented, concealed, suppressed, intentionally omitted
1023 or otherwise intentionally failed to disclose any of the material
1024 particulars of any residential mortgage loan transaction, including
1025 disclosures required by subdivision (6) of subsection (a) of section 36a-
1026 493, or part III of chapter 669 or regulations adopted pursuant thereto,
1027 to anyone entitled to such information, the commissioner may take
1028 action against such person or licensee in accordance with sections 36a-
1029 50, as amended by this act, and 36a-52.

1030 Sec. 15. Subsection (a) of section 36a-498a of the general statutes is
1031 repealed and the following is substituted in lieu thereof (*Effective*
1032 *October 1, 2012*):

1033 (a) No mortgage lender licensee or mortgage correspondent lender
1034 licensee under section 36a-489, as amended by this act, and no person
1035 exempt from licensure under subdivision (1) of subsection (a) and
1036 subdivisions (1), (4) and (5) of subsection (b) of section 36a-487, as
1037 amended by this act, making a first mortgage loan may charge, impose
1038 or cause to be paid, directly or indirectly, prepaid finance charges that
1039 exceed in the aggregate, the greater of five per cent of the principal
1040 amount of the loan or two thousand dollars. If the proceeds of the loan
1041 are used to refinance an existing loan, the aggregate of the prepaid
1042 finance charges for the current refinancing and any previous
1043 financings by such licensee or exempt person or affiliate of such
1044 licensee or exempt person within two years of the current refinancing
1045 shall not exceed the greater of five per cent of the principal amount of
1046 the initial loan or two thousand dollars. The provisions of this section
1047 shall not prohibit such licensee or exempt person from charging,
1048 imposing or causing to be paid, directly or indirectly, prepaid finance
1049 charges in addition to those permitted by this section in connection
1050 with any additional proceeds received by the borrower in the
1051 refinancing, provided such prepaid finance charges on the additional
1052 proceeds shall not exceed five per cent of the additional proceeds.

1053 Sec. 16. Subdivision (3) of subsection (c) of section 36a-534b of the
1054 2012 supplement to the general statutes is repealed and the following
1055 is substituted in lieu thereof (*Effective October 1, 2012*):

1056 (3) Any person making any filing or submission of any information
1057 on the system shall do so in accordance with the procedures and
1058 requirements of the system and pay the applicable fees or charges to
1059 the system. Each mortgage lender, mortgage correspondent lender,
1060 mortgage broker, mortgage loan originator and loan processor or
1061 underwriter licensee and each exempt registrant, to the extent required
1062 by the system, shall timely submit to the system accurate reports of
1063 condition that shall be in such form and shall contain such information
1064 as the system may require. Failure by a licensee to submit a timely and
1065 accurate report of condition shall constitute a violation of this
1066 provision. Failure of an exempt registrant to timely and accurately

1067 submit a report of condition shall form a basis to inactivate the licenses
1068 of all sponsored mortgage loan originators or loan processor or
1069 underwriters. To the extent that the system does not require
1070 submission of reports of condition by individual mortgage loan
1071 originator or loan processor or underwriter licensees, such individual
1072 licensees shall timely and accurately report all required information in
1073 their possession to their sponsor for purposes of their sponsor's
1074 reporting obligation. Failure of an individual licensee to timely and
1075 accurately report required information in their possession to their
1076 sponsor shall constitute a violation of this provision.

1077 Sec. 17. Section 36a-534c of the general statutes is repealed and the
1078 following is substituted in lieu thereof (*Effective October 1, 2012*):

1079 The Banking Commissioner shall submit to the joint standing
1080 committee of the General Assembly having cognizance of matters
1081 relating to banks three annual reports that shall include financial
1082 statements of the State Regulatory Registry, LLC, concerning the
1083 [Nationwide Mortgage Licensing System described in section 36a-
1084 534b] system. Each such financial statement shall cover a twelve-
1085 month period. The commissioner shall submit such reports for three
1086 consecutive years not later than ten days after receipt of such financial
1087 statements by the commissioner.

1088 Sec. 18. Section 36a-2 of the 2012 supplement to the general statutes
1089 is repealed and the following is substituted in lieu thereof (*Effective*
1090 *from passage*):

1091 As used in this title, unless the context otherwise requires:

1092 (1) "Affiliate" of a person means any person controlling, controlled
1093 by, or under common control with, that person;

1094 (2) "Applicant" with respect to any license or approval provision
1095 pursuant to this title means a person who applies for that license or
1096 approval;

1097 (3) "Automated teller machine" means a stationary or mobile

1098 unattended device, including a satellite device but excluding a point of
1099 sale terminal, at which banking transactions, including, but not limited
1100 to, deposits, withdrawals, advances, payments or transfers, may be
1101 conducted;

1102 (4) "Bank" means a Connecticut bank or a federal bank;

1103 (5) "Bank and trust company" means an institution chartered or
1104 organized under the laws of this state as a bank and trust company;

1105 (6) "Bank holding company" has the meaning given to that term in
1106 12 USC Section 1841(a), as amended from time to time, except that the
1107 term "bank", as used in 12 USC Section 1841(a) includes a bank or out-
1108 of-state bank that functions solely in a trust or fiduciary capacity;

1109 (7) "Capital stock" when used in conjunction with any bank or out-
1110 of-state bank means a bank or out-of-state bank that is authorized to
1111 accumulate funds through the issuance of its capital stock;

1112 (8) "Client" means a beneficiary of a trust for whom the Connecticut
1113 bank acts as trustee, a person for whom the Connecticut bank acts as
1114 agent, custodian or bailee, or other person to whom a Connecticut
1115 bank owes a duty or obligation under a trust or other account
1116 administered by such Connecticut bank, regardless of whether such
1117 Connecticut bank owes a fiduciary duty to the person;

1118 (9) "Club deposit" means deposits to be received at regular intervals,
1119 the whole amount deposited to be withdrawn by the owner or repaid
1120 by the bank in not more than fifteen months from the date of the first
1121 deposit, and upon which no interest or dividends need to be paid;

1122 (10) "Commissioner" means the Banking Commissioner and, with
1123 respect to any function of the commissioner, includes any person
1124 authorized or designated by the commissioner to carry out that
1125 function;

1126 (11) "Company" means any corporation, joint stock company, trust,
1127 association, partnership, limited partnership, unincorporated

1128 organization, limited liability company or similar organization, but
1129 does not include (A) any corporation the majority of the shares of
1130 which are owned by the United States or by any state, or (B) any trust
1131 which by its terms shall terminate within twenty-five years or not later
1132 than twenty-one years and ten months after the death of beneficiaries
1133 living on the effective date of the trust;

1134 (12) "Connecticut bank" means a bank and trust company, savings
1135 bank or savings and loan association chartered or organized under the
1136 laws of this state;

1137 (13) "Connecticut credit union" means a cooperative, nonprofit
1138 financial institution that (A) is organized under chapter 667 and the
1139 membership of which is limited as provided in section 36a-438a, (B)
1140 operates for the benefit and general welfare of its members with the
1141 earnings, benefits or services offered being distributed to or retained
1142 for its members, and (C) is governed by a volunteer board of directors
1143 elected by and from its membership;

1144 (14) "Connecticut credit union service organization" means a credit
1145 union service organization that is incorporated under the laws of this
1146 state, located in this state and established by at least one Connecticut
1147 credit union;

1148 (15) "Consolidation" means a combination of two or more
1149 institutions into a new institution; all institutions party to the
1150 consolidation, other than the new institution, are "constituent"
1151 institutions; the new institution is the "resulting" institution;

1152 (16) "Control" has the meaning given to that term in 12 USC Section
1153 1841(a), as amended from time to time;

1154 (17) "Credit union service organization" means an entity organized
1155 under state or federal law to provide credit union service organization
1156 services primarily to its members, to Connecticut credit unions, federal
1157 credit unions and out-of-state credit unions other than its members,
1158 and to members of any such other credit unions;

1159 (18) "Customer" means any person using a service offered by a
1160 financial institution;

1161 (19) "Demand account" means an account into which demand
1162 deposits may be made;

1163 (20) "Demand deposit" means a deposit that is payable on demand,
1164 a deposit issued with an original maturity or required notice period of
1165 less than seven days or a deposit representing funds for which the
1166 bank does not reserve the right to require at least seven days' written
1167 notice of the intended withdrawal, but does not include any time
1168 deposit;

1169 (21) "Deposit" means funds deposited with a depository;

1170 (22) "Deposit account" means an account into which deposits may
1171 be made;

1172 (23) "Depositor" includes a member of a mutual savings and loan
1173 association;

1174 (24) "Director" means a member of the governing board of a
1175 financial institution;

1176 (25) "Equity capital" means the excess of a Connecticut bank's total
1177 assets over its total liabilities, as defined in the instructions of the
1178 federal Financial Institutions Examination Council for consolidated
1179 reports of condition and income;

1180 (26) "Executive officer" means every officer of a Connecticut bank
1181 who participates or has authority to participate, otherwise than in the
1182 capacity of a director, in major policy-making functions of such bank,
1183 regardless of whether such officer has an official title or whether that
1184 title contains a designation of assistant and regardless of whether such
1185 officer is serving without salary or other compensation. The president,
1186 vice president, secretary and treasurer of such bank are deemed to be
1187 executive officers, unless, by resolution of the governing board or by
1188 such bank's bylaws, any such officer is excluded from participation in

1189 major policy-making functions, otherwise than in the capacity of a
1190 director of such bank, and such officer does not actually participate in
1191 such policy-making functions;

1192 (27) "Federal agency" has the meaning given to that term in 12 USC
1193 Section 3101, as amended from time to time;

1194 (28) "Federal bank" means a national banking association, federal
1195 savings bank or federal savings and loan association having its
1196 principal office in this state;

1197 (29) "Federal branch" has the meaning given to that term in 12 USC
1198 Section 3101, as amended from time to time;

1199 (30) "Federal credit union" means any institution chartered or
1200 organized as a federal credit union pursuant to the laws of the United
1201 States having its principal office in this state;

1202 (31) "Fiduciary" means a person undertaking to act alone or jointly
1203 with others primarily for the benefit of another or others in all matters
1204 connected with its undertaking and includes a person acting in the
1205 capacity of trustee, executor, administrator, guardian, assignee,
1206 receiver, conservator, agent, custodian under the Connecticut Uniform
1207 Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting
1208 in any other similar capacity;

1209 (32) "Financial institution" means any Connecticut bank,
1210 Connecticut credit union, or other person whose activities in this state
1211 are subject to the supervision of the commissioner, but does not
1212 include a person whose activities are subject to the supervision of the
1213 commissioner solely pursuant to chapter 672a, 672b or 672c or any
1214 combination thereof;

1215 (33) "Foreign bank" has the meaning given to that term in 12 USC
1216 Section 3101, as amended from time to time;

1217 (34) "Foreign country" means any country other than the United
1218 States and includes any colony, dependency or possession of any such

1219 country;

1220 (35) "Governing board" means the group of persons vested with the
1221 management of the affairs of a financial institution irrespective of the
1222 name by which such group is designated;

1223 (36) "Holding company" means a bank holding company or a
1224 savings and loan holding company, except, as used in sections 36a-180
1225 to 36a-191, inclusive, "holding company" means a company that
1226 controls a bank;

1227 (37) "Insured depository institution" has the meaning given to that
1228 term in 12 USC Section 1813, as amended from time to time;

1229 (38) "Licensee" means any person who is licensed or required to be
1230 licensed pursuant to the applicable provisions of this title;

1231 (39) "Loan" includes any line of credit or other extension of credit;

1232 (40) "Loan production office" means an office of a bank or out-of-
1233 state bank, other than a foreign bank, whose activities are limited to
1234 loan production and solicitation;

1235 [(40)] (41) "Merger" means the combination of one or more
1236 institutions with another which continues its corporate existence; all
1237 institutions party to the merger are "constituent" institutions; the
1238 merging institution which upon the merger continues its existence is
1239 the "resulting" institution;

1240 [(41)] (42) "Mutual" when used in conjunction with any institution
1241 that is a bank or out-of-state bank means any such institution without
1242 capital stock;

1243 [(42)] (43) "Mutual holding company" means a mutual holding
1244 company organized under sections 36a-192 to 36a-199, inclusive, and
1245 unless otherwise indicated, a subsidiary holding company controlled
1246 by a mutual holding company organized under sections 36a-192 to
1247 36a-199, inclusive;

1248 [(43) "Nationwide Mortgage Licensing System" means the nation-
1249 wide mortgage licensing system implemented pursuant to a uniform
1250 mortgage licensing project under the auspices of the Conference of
1251 State Bank Supervisors and the American Association of Residential
1252 Mortgage Regulators;]

1253 (44) "Out-of-state" includes any state other than Connecticut and
1254 any foreign country;

1255 (45) "Out-of-state bank" means any institution that engages in the
1256 business of banking, but does not include a bank, Connecticut credit
1257 union, federal credit union or out-of-state credit union;

1258 (46) "Out-of-state credit union" means any credit union other than a
1259 Connecticut credit union or a federal credit union;

1260 (47) "Out-of-state trust company" means any company chartered to
1261 act as a fiduciary but does not include a company chartered under the
1262 laws of this state, a bank, an out-of-state bank, a Connecticut credit
1263 union, a federal credit union or an out-of-state credit union;

1264 (48) "Person" means an individual, company, including a company
1265 described in subparagraphs (A) and (B) of subdivision (11) of this
1266 section, or any other legal entity, including a federal, state or municipal
1267 government or agency or any political subdivision thereof;

1268 (49) "Point of sale terminal" means a device located in a commercial
1269 establishment at which sales transactions can be charged directly to the
1270 buyer's deposit, loan or credit account, but at which deposit
1271 transactions cannot be conducted;

1272 (50) "Prepayment penalty" means any charge or penalty for paying
1273 all or part of the outstanding balance owed on a loan before the date
1274 on which the principal is due and includes computing a refund of
1275 unearned interest by a method that is less favorable to the borrower
1276 than the actuarial method, as defined by Section 933(d) of the Housing
1277 and Community Development Act of 1992, 15 USC 1615(d), as
1278 amended from time to time;

1279 (51) "Reorganized savings bank" means any savings bank
1280 incorporated and organized in accordance with sections 36a-192 and
1281 36a-193;

1282 (52) "Reorganized savings and loan association" means any savings
1283 and loan association incorporated and organized in accordance with
1284 sections 36a-192 and 36a-193;

1285 (53) "Reorganized savings institution" means any reorganized
1286 savings bank or reorganized savings and loan association;

1287 (54) "Representative office" has the meaning given to that term in 12
1288 USC Section 3101, as amended from time to time;

1289 (55) "Reserves for loan and lease losses" means the amounts
1290 reserved by a Connecticut bank against possible loan and lease losses
1291 as shown on the bank's consolidated reports of condition and income;

1292 (56) "Retail deposits" means any deposits made by individuals who
1293 are not "accredited investors", as defined in 17 CFR 230.501(a);

1294 (57) "Satellite device" means an automated teller machine which is
1295 not part of an office of the bank, Connecticut credit union or federal
1296 credit union which has established such machine;

1297 (58) "Savings account" means a deposit account, other than an
1298 escrow account established pursuant to section 49-2a, into which
1299 savings deposits may be made and which account must be evidenced
1300 by periodic statements delivered at least semiannually or by a
1301 passbook;

1302 (59) "Savings and loan association" means an institution chartered or
1303 organized under the laws of this state as a savings and loan
1304 association;

1305 (60) "Savings bank" means an institution chartered or organized
1306 under the laws of this state as a savings bank;

1307 (61) "Savings deposit" means any deposit other than a demand

1308 deposit or time deposit on which interest or a dividend is paid
1309 periodically;

1310 (62) "Savings and loan holding company" has the meaning given to
1311 that term in 12 USC Section 1467a, as amended from time to time;

1312 (63) "Share account holder" means a person who maintains a share
1313 account in a Connecticut credit union, federal credit union or out-of-
1314 state credit union that maintains in this state a branch, as defined in
1315 section 36a-435b;

1316 (64) "State" means any state of the United States, the District of
1317 Columbia, any territory of the United States, Puerto Rico, Guam,
1318 American Samoa, the trust territory of the Pacific Islands, the Virgin
1319 Islands and the Northern Mariana Islands;

1320 (65) "State agency" has the meaning given to that term in 12 USC
1321 Section 3101, as amended from time to time;

1322 (66) "State branch" has the meaning given to that term in 12 USC
1323 Section 3101, as amended from time to time;

1324 (67) "Subsidiary" has the meaning given to that term in 12 USC
1325 Section 1841(d), as amended from time to time;

1326 (68) "Subsidiary holding company" means a stock holding company,
1327 controlled by a mutual holding company, that holds one hundred per
1328 cent of the stock of a reorganized savings institution;

1329 (69) "Supervisory agency" means: (A) The commissioner; (B) the
1330 Federal Deposit Insurance Corporation; (C) the Resolution Trust
1331 Corporation; (D) the Office of Thrift Supervision; (E) the National
1332 Credit Union Administration; (F) the Board of Governors of the
1333 Federal Reserve System; (G) the United States Comptroller of the
1334 Currency; (H) the Bureau of Consumer Financial Protection; and (I)
1335 any successor to any of the foregoing agencies or individuals;

1336 (70) "Time account" means an account into which time deposits may

1337 be made;

1338 (71) "Time deposit" means a deposit that the depositor or share
1339 account holder does not have a right and is not permitted to make
1340 withdrawals from within six days after the date of deposit, unless the
1341 deposit is subject to an early withdrawal penalty of at least seven days'
1342 simple interest on amounts withdrawn within the first six days after
1343 deposit, subject to those exceptions permissible under 12 CFR Part 204,
1344 as amended from time to time;

1345 (72) "Trust bank" means a Connecticut bank organized to function
1346 solely in a fiduciary capacity; and

1347 (73) "Uninsured bank" means a Connecticut bank that does not
1348 accept retail deposits and for which insurance of deposits by the
1349 Federal Deposit Insurance Corporation or its successor agency is not
1350 required.

1351 Sec. 19. Subdivision (1) of subsection (d) of section 36a-65 of the 2012
1352 supplement to the general statutes is repealed and the following is
1353 substituted in lieu thereof (*Effective from passage*):

1354 (d) (1) The fee for investigating and processing each application is as
1355 follows:

1356 (A) Establishment of (i) a branch under subdivision (1) of subsection
1357 (b) of section 36a-145, two thousand dollars; (ii) a mobile branch under
1358 subdivision (1) of subsection (d) of section 36a-145, one thousand five
1359 hundred dollars; (iii) a limited branch under subdivision (1) of
1360 subsection (c) of section 36a-145, one thousand five hundred dollars;
1361 (iv) a special need limited branch under subdivision (4) of subsection
1362 (c) of section 36a-145, five hundred dollars; (v) an out-of-state branch
1363 under subsection (j) of section 36a-145, a reasonable fee not to exceed
1364 two thousand dollars from which any fees paid to a state other than
1365 this state or to a foreign country in connection with the establishment
1366 shall be deducted; and (vi) an out-of-state limited branch or mobile
1367 branch under subsection (j) of section 36a-145, a reasonable fee not to

1368 exceed one thousand five hundred dollars from which any fees paid to
1369 a state other than this state or to a foreign country in connection with
1370 the establishment shall be deducted.

1371 (B) Sale of (i) a branch under subsection (i) of section 36a-145, two
1372 thousand dollars, except there shall be no fee for the sale of a branch of
1373 a Connecticut bank to another Connecticut bank or to a Connecticut
1374 credit union; and (ii) a limited branch, including a special need limited
1375 branch or mobile branch under subsection (i) of section 36a-145, a fee
1376 not to exceed one thousand five hundred dollars.

1377 (C) Relocation of (i) a main office of a Connecticut bank under
1378 subsection (a) of section 36a-81, two thousand dollars; and (ii) a branch
1379 or a limited branch under subsections (g) and (k) of section 36a-145,
1380 five hundred dollars.

1381 (D) Conversions from (i) a branch to a limited branch under
1382 subdivision (3) of subsection (c) of section 36a-145; and (ii) a limited
1383 branch to a branch under subdivision (3) of subsection (b) of section
1384 36a-145, five hundred dollars.

1385 (E) Merger or consolidation involving a Connecticut bank under
1386 section 36a-125 or subsection (a) of section 36a-126, two thousand five
1387 hundred dollars if two institutions are involved and five thousand
1388 dollars if three or more institutions are involved.

1389 (F) Acquisition of assets or business under section 36a-210, two
1390 thousand five hundred dollars.

1391 (G) Organization of a holding company under section 36a-181, two
1392 thousand five hundred dollars.

1393 (H) Organization of any Connecticut bank under section 36a-70,
1394 including the conditional preliminary approval for an expedited bank,
1395 fifteen thousand dollars, except no fee shall be required for the
1396 organization of an interim Connecticut bank.

1397 (I) Reorganization of a mutual savings bank or mutual savings and

1398 loan association into a mutual holding company under section 36a-192,
1399 five thousand dollars.

1400 (J) Conversions under (i) sections 36a-135 to 36a-138, inclusive, five
1401 thousand dollars; (ii) sections 36a-139, 36a-139a and 36a-469c, two
1402 thousand five hundred dollars; and (iii) section 36a-139b, fifteen
1403 thousand dollars.

1404 (K) Acquiring, altering or improving real estate for present or future
1405 use in the business of the bank or purchasing real estate adjoining any
1406 parcel of real estate owned by the bank under subdivision (33) of
1407 subsection (a) of section 36a-250, five hundred dollars, except that no
1408 fee shall be charged for such application if it is filed in connection with
1409 an application to relocate a main office of a Connecticut bank under
1410 subsection (a) of section 36a-81 or establish (i) a branch in this state
1411 under subdivision (1) of subsection (b) of section 36a-145, (ii) a limited
1412 branch in this state under subdivision (1) of subsection (c) of section
1413 36a-145, or (iii) a branch or limited branch outside of this state under
1414 subsection (j) of section 36a-145.

1415 (L) Investigation and processing an interstate banking transaction
1416 application filed under section 36a-411 or 36a-412, as amended by this
1417 act, two thousand five hundred dollars, unless the transaction
1418 otherwise requires an investigation and processing fee under this
1419 section.

1420 (M) Issuance of a final certificate of authority for an expedited
1421 Connecticut bank, fifteen thousand dollars.

1422 (N) Establishment of a loan production office under subsection (o)
1423 of section 36a-145, as amended by this act, or subsection (d) of section
1424 36a-412, as amended by this act, one thousand dollars.

1425 Sec. 20. Subsection (a) of section 36a-145 of the general statutes is
1426 repealed and the following is substituted in lieu thereof (*Effective from*
1427 *passage*):

1428 (a) As used in this section:

1429 (1) "Branch" means any office at a fixed location of a Connecticut
1430 bank, other than the main office, at which deposits are received, checks
1431 paid and money lent and which, at a minimum, is open for banking
1432 business Monday through Friday, except as provided in subsection (a)
1433 of section 36a-23.

1434 (2) "Commercial activities" means activities in which a bank holding
1435 company, as defined in 12 USC 1841(a)(1), a financial holding
1436 company, as defined in 12 USC 1841(p), a national banking association
1437 established under 12 USC 21, or a financial subsidiary of a national
1438 bank established under 12 USC 24a, may not engage under federal
1439 law.

1440 (3) "Consolidate" means to combine within the same neighborhood,
1441 without substantially affecting the nature of the business or customers
1442 served, (A) two or more branches into a single branch; (B) one or more
1443 branches and one or more limited branches into a single branch or
1444 limited branch; (C) two or more limited branches into a single limited
1445 branch; or (D) one or more branches or limited branches into a main
1446 office.

1447 (4) "Limited branch" means any office at a fixed location of a
1448 Connecticut bank at which banking business is conducted other than
1449 the main office, branch, [or] mobile branch or loan production office.

1450 (5) "Mobile branch" means any office of a Connecticut bank at which
1451 banking business is conducted which is in fact moved or transported
1452 to one or more predetermined locations in accordance with a
1453 predetermined schedule.

1454 (6) "Relocate" means to move within the same immediate
1455 neighborhood without substantially affecting the nature of the
1456 business or customers served.

1457 Sec. 21. Section 36a-145 of the general statutes is amended by adding
1458 subsection (o) as follows (*Effective from passage*):

1459 (NEW) (o) With the approval of the commissioner, a Connecticut

1460 bank may establish a loan production office in this state.

1461 Sec. 22. Subsection (f) of section 36a-261 of the 2012 supplement to
1462 the general statutes is repealed and the following is substituted in lieu
1463 thereof (*Effective from passage*):

1464 (f) Notwithstanding the provisions of subdivision (2) of subsection
1465 (h) of this section, the Connecticut bank, in its discretion and for such a
1466 period as it deems advisable, may excuse the borrower on a mortgage
1467 loan from amortization of the principal of such loan, provided the
1468 governing board of the Connecticut bank, or a management committee
1469 or board committee appropriately designated by such governing
1470 board, has reviewed the particular mortgage loan and has determined
1471 such action to be prudent under the circumstances.

1472 Sec. 23. Subsection (a) of section 36a-262 of the general statutes is
1473 repealed and the following is substituted in lieu thereof (*Effective*
1474 *October 1, 2012*):

1475 (a) Except as otherwise provided in this section, the total direct or
1476 indirect liabilities of any one obligor that are not fully secured,
1477 however incurred, to any Connecticut bank, exclusive of such bank's
1478 investment in the investment securities of such obligor, shall not
1479 exceed at the time incurred fifteen per cent of the equity capital and
1480 reserves for loan and lease losses of such bank. The total direct or
1481 indirect liabilities of any one obligor that are fully secured, however
1482 incurred, to any Connecticut bank, exclusive of such bank's investment
1483 in the investment securities of such obligor, shall not exceed at the time
1484 incurred ten per cent of the equity capital and reserves for loan and
1485 lease losses of such bank, provided this limitation shall be separate
1486 from and in addition to the limitation on liabilities that are not fully
1487 secured. Notwithstanding any provision of this subsection, the
1488 limitation on the liabilities of any one obligor shall take into account
1489 the credit exposure to such obligor arising from a derivative
1490 transaction. The commissioner shall have the authority to establish the
1491 method for determining the credit exposure and the extent to which
1492 the credit exposure shall be taken into account. As used in this

1493 subsection, "derivative transaction" includes any transaction that is a
1494 contract, agreement, swap, warrant, note or option that is based, in
1495 whole or in part, on the value of any interest in, or any quantitative
1496 measure or the occurrence of any event leading to, one or more
1497 commodities, securities, currencies, interest or other rates, indices or
1498 other assets. The commissioner may adopt regulations in accordance
1499 with the provisions of chapter 54 establishing the method for
1500 determining credit exposure to derivative transactions and the extent
1501 to which the credit exposure shall be taken into account. For purposes
1502 of this section, a liability shall be considered to be fully secured if it is
1503 secured by readily marketable collateral having a market value, as
1504 determined by reliable and continuously available price quotations, at
1505 least equal to the amount of the liability. For purposes of determining
1506 the limitations of this section, in computing the liabilities of an obligor,
1507 a liability is incurred at the time of the closing of the transaction, unless
1508 such closing is preceded by a legally binding written commitment to
1509 enter into the transaction, in which case such liability is incurred at the
1510 time of commitment and is net of any liabilities of the obligor to such
1511 bank that will be paid with the proceeds of the commitment at the time
1512 of closing. The limitations provided for in this subsection may be
1513 exceeded for a period of time not to exceed six hours if at the closing of
1514 any transaction at which such obligor incurs such liabilities to a
1515 Connecticut bank in excess of such limitations, such bank immediately
1516 assigns or participates out to one or more other persons an amount
1517 that constitutes not less than the excess over the applicable limitation.
1518 Obligations as endorser or guarantor of negotiable or nonnegotiable
1519 installment consumer paper which carry an agreement to repurchase
1520 on default, unless the bank's sole recourse is to an agreed reserve held
1521 by it, in which case the liability shall be excluded, a full recourse
1522 endorsement or an unconditional guarantee by the person,
1523 partnership, association or corporation transferring the same, shall be
1524 subject under this section to a limitation of fifteen per cent of the bank's
1525 equity capital and reserves for loan and lease losses in addition to the
1526 applicable limitations of this section with respect to the makers of such
1527 obligations; provided, upon certification by an officer of the bank

1528 designated for that purpose by the governing board that the
1529 responsibility of each maker of such obligations has been evaluated
1530 and the bank is relying primarily upon each such maker for the
1531 payment of such obligations, the limitations of this section as to the
1532 obligations of each maker shall be the sole applicable loan limitation;
1533 and provided such certification shall be in writing and shall be
1534 retained as part of the records of such bank.

1535 Sec. 24. Section 36a-380 of the 2012 supplement to the general
1536 statutes is repealed and the following is substituted in lieu thereof
1537 (*Effective October 1, 2012*):

1538 (a) Except as provided in this section, no [corporation] entity, other
1539 than a bank or out-of-state bank that maintains in this state a branch as
1540 defined in section 36a-410, shall have or exercise in this state the power
1541 to receive, by grant, assignment, transfer, devise, bequest or otherwise,
1542 any money, securities or other personal property, or any interest in real
1543 estate from any person [or corporation] in trust, to hold, manage or
1544 dispose of the same for the benefit of any third person, [or
1545 corporation,] or to accept or execute any such trust, unless such
1546 [corporation] entity is specifically empowered so to act by a general
1547 statute of this state or by a special act of the General Assembly. Any
1548 [corporation] entity so empowered to act as trustee, other than such
1549 bank or out-of-state bank, shall, before so acting, obtain a license from
1550 the commissioner as provided in subsection (b) of this section.

1551 (b) (1) Application for such license shall be in writing upon forms to
1552 be furnished by the commissioner and shall contain the full name and
1553 address of the applicant [corporation] entity and of each of its
1554 principals and officers and a statement of the assets and liabilities of
1555 such [corporation] entity in such form as the commissioner requires. If,
1556 upon examination of such application and upon any further
1557 investigation that the commissioner deems necessary, the
1558 commissioner is satisfied that such [corporation] entity is solvent and
1559 conducting its business according to law, the commissioner may issue
1560 to such [corporation] entity a license to receive property in trust and to

1561 execute and administer trusts to the extent and in the manner
1562 authorized by the charter, certificate of incorporation, partnership
1563 agreement, articles of association, articles of organization or similar
1564 document, as applicable, of such [corporation] entity or by any general
1565 or special law of this state, but not otherwise. If it appears to the
1566 commissioner that any such applicant [corporation] entity is insolvent,
1567 or that its business is being conducted contrary to law or to the
1568 provisions of its charter, certificate of incorporation, partnership
1569 agreement, articles of association, articles of organization or similar
1570 document, as applicable, the commissioner shall refuse to issue such
1571 license.

1572 (2) In connection with an application for such license and at any
1573 other time, the commissioner may, in accordance with section 29-17a,
1574 arrange for a criminal history records check requiring the
1575 fingerprinting of each principal [, executive officer and director of the
1576 corporation] and officer of the entity or conducting of any other
1577 method of positive identification of such individuals required by the
1578 State Police Bureau of Identification.

1579 (c) As used in sections 36a-380 to 36a-386, inclusive, as amended by
1580 this act, "entity" means corporation, joint stock company, association,
1581 partnership, limited partnership, unincorporated organization, limited
1582 liability company or similar organization, but does not include any
1583 corporation of which the majority of the shares are owned by the
1584 United States or by any state.

1585 Sec. 25. Section 36a-381 of the general statutes is repealed and the
1586 following is substituted in lieu thereof (*Effective October 1, 2012*):

1587 The provisions of sections 36a-380 to 36a-386, inclusive, as amended
1588 by this act, shall not apply to the administration of: (1) Any trust for
1589 cemetery purposes by an incorporated cemetery association; (2) any
1590 charitable, religious or educational trust by [a corporation] an entity
1591 organized for charitable, religious or educational purposes; (3) any
1592 trust by a life insurance company of the proceeds of its insurance
1593 policies; (4) any trust by [a corporation] an entity without

1594 compensation and not as a part of its regular business; (5) any trust in
1595 real or personal property the trustee of which is a corporation acting
1596 pursuant to the provisions of section 45a-206; (6) any trust the trustee
1597 of which is [a corporation] acting as trustee under mortgage pursuant
1598 to the provisions of section 36a-395; or (7) any trust the trustee of
1599 which is [a corporation] an out-of-state trust company acting pursuant
1600 to section 36a-434a.

1601 Sec. 26. Section 36a-382 of the general statutes is repealed and the
1602 following is substituted in lieu thereof (*Effective October 1, 2012*):

1603 The commissioner shall annually or more often examine each
1604 [corporation] entity licensed under sections 36a-380 to 36a-386,
1605 inclusive, as amended by this act, and special acts 93-12, 93-19 and 93-
1606 20, any provision in the charter of any such [corporation] entity to the
1607 contrary notwithstanding, and shall require that such [corporation]
1608 entity file an annual report in such form as the commissioner may
1609 prescribe and such other reports as the commissioner may require.
1610 Each such licensed [corporation] entity shall pay the cost of such
1611 examination as determined by the commissioner and shall, in addition,
1612 pay to the commissioner an annual license fee of one hundred dollars.
1613 Such license fee shall be payable [on] not later than the thirtieth day of
1614 June in each year and the fee for licenses granted upon any other date
1615 shall be prorated to the thirtieth day of June next following the
1616 issuance thereof, provided no fee for the unexpired portion of any
1617 license year shall be less than twenty dollars.

1618 Sec. 27. Section 36a-383 of the general statutes is repealed and the
1619 following is substituted in lieu thereof (*Effective October 1, 2012*):

1620 If it at any time appears to the commissioner that any [corporation]
1621 entity so licensed has failed to comply with a cease and desist order
1622 issued by the commissioner or is insolvent or likely to become
1623 insolvent, the commissioner may revoke such license in accordance
1624 with section 36a-51 and apply to the superior court for the judicial
1625 district of Hartford or the judicial district in which such [corporation]
1626 entity is located for an injunction restraining such [corporation] entity

1627 from continuing to receive property in trust and restraining it from
1628 administering any and all trusts including such as may be then in force
1629 and effect, and for an order appointing some suitable person to
1630 succeed such [corporation] entity as trustee of any trust property then
1631 in its possession or in or to which it has any right, title, interest or
1632 claim, or for any other or further order as appears to the court as
1633 necessary or advisable to protect and secure the interests of the
1634 beneficiaries of any such trust property. The court, after reasonable
1635 notice to such [corporation] entity and hearing thereon, may issue such
1636 injunction or other order or grant such other equitable relief as the
1637 facts may warrant and, pending such hearing, the court may issue such
1638 temporary injunction or restraining order as the court deems equitable.

1639 Sec. 28. Section 36a-384 of the general statutes is repealed and the
1640 following is substituted in lieu thereof (*Effective October 1, 2012*):

1641 The securities and investments of each trust committed to any such
1642 [corporation] entity so licensed shall be set apart and segregated and
1643 shall not be mingled with the securities and investments of any other
1644 trust or of the [corporation] entity. Any undistributed or temporarily
1645 uninvested cash held by such [corporation] entity as trustee shall be
1646 deposited in the name of the trust or in the name of the [corporation]
1647 entity as trustee in a bank, provided, when any such undistributed or
1648 uninvested cash is deposited in the name of the [corporation] entity as
1649 trustee, such deposits shall be so identified on the books of the
1650 [corporation] entity as to disclose the beneficial ownership thereof.

1651 Sec. 29. Section 36a-385 of the general statutes is repealed and the
1652 following is substituted in lieu thereof (*Effective October 1, 2012*):

1653 No such [corporation] entity so licensed shall use, either as a part of
1654 its name, or as a prefix or suffix thereto, or as a designation of the
1655 business carried on by it, the word "bank", "banking", "banker",
1656 "bankers", "trust" or "savings", notwithstanding any provision of the
1657 charter, certificate of incorporation, partnership agreement, articles of
1658 association, articles of organization or similar document, as applicable,
1659 of any such [corporation to the contrary] entity.

1660 Sec. 30. Subdivision (2) of subsection (a) of section 36a-412 of the
1661 general statutes is repealed and the following is substituted in lieu
1662 thereof (*Effective from passage*):

1663 (2) Any out-of-state bank, other than a foreign bank, may, with the
1664 approval of the commissioner, and in accordance with the provisions
1665 of this subdivision, establish a de novo branch in this state. [Such
1666 establishment shall not take place unless the laws of the home state of
1667 such out-of-state bank authorize, under conditions no more restrictive
1668 than those imposed by the laws of this state, as determined by the
1669 commissioner, a bank to establish a de novo branch in the home state
1670 of such out-of-state bank, provided the commissioner may waive such
1671 reciprocity requirement for the establishment of a de novo branch the
1672 activities of which are limited to the exercise of fiduciary or trust
1673 powers if the commissioner finds that such establishment will result in
1674 net new benefits to this state. Any request for such waiver of
1675 reciprocity submitted by an out-of-state bank shall include a detailed
1676 statement of the reasons for the request and statistical and other
1677 information to support a finding of such net new benefits.] Any such
1678 establishment shall be effected in accordance with and subject to the
1679 filing requirements and any limitations imposed by section 36a-145, as
1680 amended by this act. Any such out-of-state bank that engages in
1681 business in this state shall comply with the requirements of section
1682 33-920 or subsection (a) of section 33-1210. Before approving any such
1683 establishment, the commissioner shall make such considerations,
1684 determinations and findings as required by section 36a-145, as
1685 amended by this act, and, in addition, shall consider whether such
1686 establishment can reasonably be expected to produce benefits to the
1687 public and whether such benefits clearly outweigh possible adverse
1688 effects, including, but not limited to, an undue concentration of
1689 resources and decreased or unfair competition. The commissioner shall
1690 not approve such establishment unless the commissioner considers
1691 whether: (A) The investment and lending policies of the out-of-state
1692 bank are consistent with safe and sound banking practices and will
1693 benefit the economy of this state; (B) the proposed services of the
1694 branch are consistent with safe and sound banking practices and will

1695 benefit the economy of this state; (C) the establishment will not
1696 substantially lessen competition in this state; (D) the out-of-state bank
1697 is adequately managed and will continue to be adequately managed
1698 upon establishment of such branch; and (E) the out-of-state bank is in
1699 compliance with applicable minimum capital requirements. The
1700 commissioner shall not approve such establishment unless the
1701 commissioner makes the findings required by section 36a-34. An
1702 out-of-state bank which has established a de novo branch in this state
1703 in accordance with this subdivision may establish additional branches
1704 in this state, [provided the activities of such additional branches of an
1705 out-of-state bank for which the commissioner waived such reciprocity
1706 requirement shall be limited to the exercise of fiduciary or trust
1707 powers. As used in this subdivision, "net new benefits" means (i) initial
1708 capital investments, including any new construction, (ii) job creation
1709 plans, including, but not limited to, the number of jobs to be created
1710 and the average wage rates for each category of such jobs, (iii) the
1711 potential for increasing state and municipal tax revenues from
1712 increased economic activity and increased employment, (iv) consumer
1713 and business services and other benefits to the state, local community
1714 and citizens, and (v) such other matters as the commissioner may
1715 deem necessary or advisable.]

1716 Sec. 31. Section 36a-412 of the general statutes is amended by adding
1717 subsection (d) as follows (*Effective from passage*):

1718 (NEW) (d) With the approval of the commissioner, any out-of-state
1719 bank, other than a foreign bank, may establish a loan production office
1720 in this state.

1721 Sec. 32. Subdivision (1) of subsection (i) of section 47a-21 of the 2012
1722 supplement to the general statutes is repealed and the following is
1723 substituted in lieu thereof (*Effective from passage*):

1724 (i) (1) On and after July 1, 1993, each landlord other than a landlord
1725 of a residential unit in any building owned or controlled by any
1726 educational institution and used by such institution for the purpose of
1727 housing students of such institution and their families, and each

1728 landlord or owner of a mobile manufactured home or of a mobile
1729 manufactured home space or lot or park, as such terms are defined in
1730 subdivisions (1), (2) and (3) of section 21-64, shall pay interest on each
1731 security deposit received by [him] such landlord at a rate of not less
1732 than the average rate paid, as of December 30, 1992, on savings
1733 deposits by insured commercial banks as published in the Federal
1734 Reserve Board Bulletin rounded to the nearest one-tenth of one
1735 percentage point, except in no event shall the rate be less than one and
1736 one-half per cent. On and after January 1, [2012] 1994, the rate for each
1737 calendar year shall be not less than the deposit index, as defined in
1738 subdivision (2) of this subsection, for that year, except in no event shall
1739 the rate be less than one and one-half per cent. On and after January 1,
1740 2012, the rate for each calendar year shall be not less than the deposit
1741 index, as defined in subdivision (2) of this subsection, for that year. On
1742 the anniversary date of the tenancy and annually thereafter, such
1743 interest shall be paid to the tenant or resident or credited toward the
1744 next rental payment due from the tenant or resident, as the landlord or
1745 owner shall determine. If the tenancy is terminated before the
1746 anniversary date of such tenancy, or if the landlord or owner returns
1747 all or part of a security deposit prior to termination of the tenancy, the
1748 landlord or owner shall pay the accrued interest to the tenant or
1749 resident not later than thirty days after such termination or return. In
1750 any case where a tenant or resident has been delinquent for more than
1751 ten days in the payment of any monthly rent, such resident or tenant
1752 shall forfeit any interest that would otherwise be payable to such
1753 resident or tenant for that month, except that there shall be no such
1754 forfeiture if, pursuant to a provision of the rental agreement, a late
1755 charge is imposed for failure to pay such rent within the time period
1756 provided by section 47a-15a. No landlord or owner shall increase the
1757 rent due on any quarters or property subject to the provisions of this
1758 section because of the requirement that interest be paid on any security
1759 deposit made with respect to such quarters or property.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2012	36a-489(e)
Sec. 2	October 1, 2012	36a-534b(a)(1)
Sec. 3	from passage	36a-628(c)
Sec. 4	October 1, 2012	36a-17
Sec. 5	October 1, 2012	36a-50
Sec. 6	October 1, 2012	36a-3
Sec. 7	October 1, 2012	36a-485
Sec. 8	October 1, 2012	36a-486
Sec. 9	October 1, 2012	36a-487
Sec. 10	October 1, 2012	36a-488(a)(1)
Sec. 11	October 1, 2012	36a-489(a)
Sec. 12	October 1, 2012	36a-489(b)(1)
Sec. 13	October 1, 2012	36a-489a
Sec. 14	October 1, 2012	36a-494(a) and (b)
Sec. 15	October 1, 2012	36a-498a(a)
Sec. 16	October 1, 2012	36a-534b(c)(3)
Sec. 17	October 1, 2012	36a-534c
Sec. 18	from passage	36a-2
Sec. 19	from passage	36a-65(d)(1)
Sec. 20	from passage	36a-145(a)
Sec. 21	from passage	36a-145
Sec. 22	from passage	36a-261(f)
Sec. 23	October 1, 2012	36a-262(a)
Sec. 24	October 1, 2012	36a-380
Sec. 25	October 1, 2012	36a-381
Sec. 26	October 1, 2012	36a-382
Sec. 27	October 1, 2012	36a-383
Sec. 28	October 1, 2012	36a-384
Sec. 29	October 1, 2012	36a-385
Sec. 30	from passage	36a-412(a)(2)
Sec. 31	from passage	36a-412
Sec. 32	from passage	47a-21(i)(1)

BA *Joint Favorable Subst.*

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

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill results in no fiscal impact although it changes the practices of financial institutions which are private entities, it does not alter the responsibilities of the Department of Banking.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 67*****AN ACT CONCERNING REVISIONS TO THE BANKING STATUTES.*****SUMMARY:**

This bill makes numerous changes to the banking law.

It broadens the banking commissioner's investigatory powers subject to the Freedom of Information Act and the confidentiality requirements for state banking records and enables him to order restitution and disgorgement for banking law violations.

It makes several changes to mortgage licensing provisions, including to exemptions from mortgage licensing requirements. For example, it modifies the existing licensing exemption for "quasi-governmental agencies" to instead apply to "housing finance agencies." It also exempts bona fide nonprofit organizations that promote affordable housing or provide home ownership education or similar services.

The bill (1) requires qualified individuals and branch managers working for lenders or brokers to be licensed as mortgage loan originators and to complete any applicable continuing education requirements by November 1, 2012; (2) changes loan processor or underwriter licensing requirements; and (3) prohibits the commissioner from denying a mortgage licensing application on the basis of an expunged criminal conviction.

It requires each bank to (1) review a mortgage loan before excusing the borrower from amortization of the loan principal and requires each bank to (2) consider an obligor's credit exposure arising from a derivative transaction when determining the obligor's liability limitations.

The bill removes a loan production office from the definition of “limited branch.”

The bill prohibits non-bank entities, not just corporations, from acting as trustees without a license. It also eliminates the reciprocity requirement that an out-of-state bank, other than a foreign bank, must meet under current law in order to establish a de novo branch in Connecticut.

Finally, the bill makes a clarifying change regarding interest on residential security deposits; It also adds and modifies several definitions; and makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various; see below

BANKING ADMINISTRATION AND ENFORCEMENT

§ 4 — *Investigations and Examinations; Subpoena Power*

Under current law, the banking commissioner may make public or private investigations or examinations in or outside of Connecticut, concerning any person subject to his jurisdiction, as he deems necessary to carry out his duties.

This bill subjects the commissioner’s investigatory powers to the Freedom of Information Act (FOIA) and the confidentiality requirements for state banking records. Additionally, the bill authorizes the banking commissioner, subject to FOIA and these confidentiality requirements, to:

1. require or permit a person to testify, produce a record, or file a statement under oath, or otherwise as he determines, about a matter relevant to a matter to be investigated or to a pending proceeding; and
2. publish information concerning statutory violations within his jurisdiction or any regulation or order adopted or issued under such statutes.

The law already authorizes the commissioner to administer oaths

and affirmations, subpoena witnesses, compel attendance of witnesses, take evidence, require written statements, and require the production of records which he deems relevant or material for an investigation.

The bill also authorizes the commissioner to issue subpoenas in Connecticut at the request of another state, as long as (1) the same actions would serve as a basis for an investigation or other proceeding if they had occurred in Connecticut and (2) the other state has reciprocal legal authority to issue subpoenas in that state on behalf of the commissioner.

EFFECTIVE DATE: October 1, 2012

§ 5 — Enforcement Action

The bill expands the commissioner's authority over a person found, as the result of an investigation, to be violating a banking law, regulation, rule, or order.

Among other enforcement authority, existing law authorizes the commissioner to apply to the Hartford Superior Court for an order that someone committing violations within his jurisdiction pay restitution, plus interest, for money illegally obtained.

The bill allows him, in addition to his other enforcement authority and without seeking a court order, to order the person to either make restitution plus interest or disgorge any money obtained illegally, or both. The person may request a hearing, in accordance with the Uniform Administrative Procedure Act, within 14 days of receiving the order. The commissioner already has this authority regarding securities violations.

EFFECTIVE DATE: October 1, 2012

MORTGAGE LICENSING

§§ 7-8 — Mortgage Loan Originator Definition and Exemptions

Current law defines a mortgage loan originator, subject to certain exemptions, as someone who, for compensation or gain or the

expectation of such (1) takes a residential mortgage loan application or (2) offers or negotiates residential mortgage loan terms. The bill specifies that this includes someone either acting for personal compensation or gain or for the compensation or gain of his or her employer or retainer.

The bill specifies that, for licensing purposes, an individual is acting as a mortgage loan originator, unless exempt, if he or she:

1. does so in connection with any residential mortgage loan on behalf of a licensee or person exempt from licensing as a mortgage lender, correspondent lender, or broker or
2. makes any representation to the public through advertising or other means of communication that he or she can or will act as a mortgage loan originator on behalf of a licensee or a person exempt from licensure.

The bill exempts from mortgage loan originator licensing requirements:

1. an individual who takes residential mortgage applications or offers or negotiates residential mortgage terms while acting in his or her official capacity as an employee of a (a) federal, state or local government agency, (b) housing finance agency exempt from licensure, or (c) a bona fide nonprofit organization exempt from licensure; and
2. an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that he or she owns but does not live in, unless he or she habitually or repetitively makes such offers or negotiations.

Current law exempts from originator licensing requirements an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling where the person lives. Under the bill, this exemption does not apply if he or she habitually or repetitively makes such offers or negotiations.

EFFECTIVE DATE: October 1, 2012

§ 7 — Mortgage Broker Definition

The bill modifies exclusions from the definition of mortgage brokers. The law defines a mortgage broker as a person who, for compensation or gain or the expectation of such, takes a residential mortgage loan application or offers or negotiates a residential mortgage loan's terms. The bill adds the condition that the person not be the prospective source of the funds for the loan.

Current law excludes from the definition someone who is sponsored by another mortgage lender, correspondent lender, or broker. The bill instead excludes (1) an individual who is licensed and acting as a mortgage loan originator on behalf of his or her sponsoring mortgage lender, correspondent lender, broker, or exempt registrant, or (2) an individual exempt from mortgage loan originator licensure when acting within the scope of the exemption.

EFFECTIVE DATE: October 1, 2012

§ 9 — Mortgage Lender and Correspondent Lender Licensing Exemption

The bill modifies the existing exemption from mortgage lender and mortgage correspondent lender licensure for "quasi-governmental agencies" to instead apply to "housing finance agencies." These agencies are exempt when making residential loans under the specific authority of any state's law or federal law.

The bill defines a housing finance agency as any authority (1) chartered by a state to help meet the affordable housing needs of the state's residents, (2) supervised directly or indirectly by the state government, (3) subject to state audit and review, and (4) whose activities make it eligible to be a National Council of State Housing Agencies member (see BACKGROUND).

Current law exempts a person making a secondary mortgage loan to a person related to him or her by blood or marriage. The bill narrows

this exemption to a person making a secondary mortgage loan to an immediate family member.

EFFECTIVE DATE: October 1, 2012

§ 9 — *Bona Fide Nonprofit Organizations Licensing Exemption*

The bill exempts a bona fide nonprofit organization from licensing as a mortgage broker when the organization brokers residential loans exclusively made by (1) any corporation or affiliate that makes residential mortgage loans exclusively for the benefit of its employees or agents, or (2) any insurance company or health care center, or its affiliate or subsidiary, that makes residential mortgage loans to promote home ownership in urban areas. (By law, both (1) and (2) are also exempt from licensing as mortgage lenders or correspondent lenders.)

Current law exempts from mortgage lender or correspondent lender licensing requirements any bona fide nonprofit corporations that make residential mortgages promoting home ownership for the economically disadvantaged. The bill extends this exemption to bona fide nonprofit organizations, not just corporations, meeting this standard.

For these purposes, the bill defines a bona fide nonprofit organization as an organization that has filed a written, certified submission, with the appropriate documentation, with the commissioner, demonstrating that the organization:

1. is a federally tax-exempt organization;
2. promotes affordable housing or provides home ownership education or similar services;
3. acts in a way that serves public or charitable, rather than commercial, purposes;
4. receives funding and revenue, charges fees, and compensates its employees in a way that does not incentivize it or its employees

to act other than in the best interests of its clients;

5. provides or identifies for the borrower residential mortgage loans (a) with favorable terms to the borrower (i.e., terms consistent with loan origination in a public or charitable, and not commercial, context) and (b) comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
6. meets any other standards the commissioner may by regulation require.

The bill requires each bona fide nonprofit organization to submit a renewed certification and documentation with any updated information to the commissioner no later than December 31st of each year.

EFFECTIVE DATE: October 1, 2012

§ 8 — *Loan Processors or Underwriters*

Current law requires a loan processor or underwriter to be licensed if he or she is (1) an independent contractor or (2) employed by any person other than a licensed mortgage lender, correspondent lender, or broker, or specified financial institution exempt from such licensure.

The bill instead provides an exemption from loan processor or underwriter licensing requirements for:

1. an employee of a licensed mortgage lender, correspondent lender, or broker who processes or underwrites (a) residential mortgage loans originated or made by the licensee, and (b) at the direction, and subject to the supervision, of a licensed mortgage loan originator;
2. an employee of a specified financial institution exempt from mortgage lender, correspondent lender, or broker licensing who processes or underwrites loans at the direction of and subject to the supervision of either a licensed mortgage loan originator or a

registered mortgage loan originator of the exempt entity; or

3. any individual engaged in loan processing or underwriting in connection with a residential mortgage loan originated by an individual not required to be licensed or registered as a mortgage loan originator.

The bill also excludes loan processors or underwriters who are exempt from licensing from the requirement that they register with and maintain a valid unique identifier with the Nationwide Mortgage Licensing System (“system”) (see BACKGROUND).

The bill prohibits loan processor or underwriter licensees from being sponsored by more than one person at a time.

EFFECTIVE DATE: October 1, 2012

§ 7 — Employee and Independent Contractor Definitions

The mortgage licensing laws refer in various places to licensees or exempt registrants sponsoring someone, and define “sponsored” for this purpose as employed or retained as an independent contractor.

The bill defines an independent contractor as an individual (1) retained on a basis where he or she is not the employee of anyone in connection with the services provided and (2) whose compensation is reported on an IRS Form 1099 issued by the retaining person.

Various provisions in the mortgage licensing laws also refer to employees. The bill defines an employee as an individual whose (1) work performance is subject to the right of control of, or is controlled by, a person, and (2) compensation is reported on a W-2 form issued by the controlling person. For purposes defining a “registered mortgage loan originator,” the term “employee” retains this meaning or any meaning the federal banking agencies issue in connection with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act).

By law, a “registered mortgage loan originator” is any individual

who (1) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (2) is registered with, and maintains a unique identifier through, the system.

EFFECTIVE DATE: October 1, 2012

§ 10 — Application Requirements

The law requires any applicant for a mortgage lender, correspondent lender, or broker license to have a qualified individual at each main office and a branch manager at each branch office. The bill requires that, effective November 1, 2012, the qualified individuals and branch managers be licensed as mortgage loan originators.

EFFECTIVE DATE: October 1, 2012

§§ 11 - 13 — Standards for Licensing

The bill prohibits the banking commissioner from denying a mortgage lender, correspondent lender, broker, loan originator, or loan processor or underwriter license on the basis of an expunged criminal conviction. The law already prohibits the banking commissioner from denying such licenses on the basis of a pardoned criminal conviction.

The bill also specifies that the level of criminal offense and the status of any conviction, pardon, or expungement will be determined based on the law of the jurisdiction where the case was prosecuted.

The bill requires that, by November 1, 2012, a qualified individual or branch manager seeking initial licensure as a mortgage loan originator complete any continuing education requirements associated with his or her current position.

For mortgage lenders, correspondent lenders, or brokers seeking license renewal, the bill requires that, effective November 1, 2012, their qualified individuals and branch managers be (1) licensed as

originators and (2) have completed continuing education requirements.

Under the bill, a qualified individual or branch manager who held the position at a time prior to the implementation of the mortgage loan originator licensing requirements cannot hold such a position again before completing all continuing education requirements for the year in which he or she last held the position and, effective November 1, 2012, must obtain the required license before holding such a position again.

The bill decreases, from four to three, the number of consecutive times an applicant may retake a test, with each consecutive test occurring at least 30 days after the previous test, before he or she must wait at least six months to retake the test.

The bill makes other minor and conforming changes related to education and testing requirements.

EFFECTIVE DATE: October 1, 2012

§§ 8, 14 — *Banking Commissioner Enforcement Action*

The bill allows the commissioner to bring an enforcement action or issue a cease and desist order if it appears to him that someone was or would violate the mortgage licensing statutes or regulations due to an act or omission the person knew or should have known would contribute to the violation.

The law already allows the commissioner to bring an enforcement action or issue a cease and desist order if it appears to him that (1) someone has violated, is violating, or is about to violate the mortgage licensing statutes or regulations or (2) a licensee has failed to perform an agreement with a borrower, committed any fraud, misappropriated funds, or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any material particulars of any residential mortgage loan transaction to anyone entitled to such information.

Existing law also allows the commissioner to suspend, revoke, or refuse to renew any mortgage lender, correspondent lender, or broker license for any reason that would be sufficient to deny a license application, or if he finds that a licensee, the licensee's control person, the qualified individual or branch manager with supervisory authority, trustee, employee, or agent of the licensee has:

1. made any material misstatement in the license application;
2. committed any fraud, misappropriated funds, or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any residential mortgage loan transaction;
3. violated any of the licensing provisions or laws or regulations applicable to the conduct of its business; or
4. failed to perform any agreement with a licensee or a borrower.

The bill specifies that the term "agent", when used in reference to individuals under the banking commissioner's jurisdiction, includes any settlement agent used by the licensee. The bill also defines a "settlement agent" as a person specified in an HUD-1 settlement statement (which HUD furnishes to give the homeowner a statement of actual settlement costs) who was selected by the licensee. Any settlement agent appearing on the licensee's list of approved settlement agents is deemed selected by the licensee even if the borrower selects the name from the list.

Under current law, each residential mortgage loan negotiated, solicited, arranged, placed, found, or made without a license constitutes a separate violation for purposes of the commissioner's general enforcement authority. The bill provides that this also applies to each such loan taken, offered, processed, or underwritten without a license.

EFFECTIVE DATE: October 1, 2012

§ 16 — Reporting Requirements

Current law requires each licensed mortgage lender, correspondent lender, broker, loan originator, and loan processor or underwriter to submit reports of condition to the system. The bill broadens the category to exempt registrants, to the extent required by the system, and requires the reports to be accurate and submitted in a timely manner. A licensee's failure to submit a timely and accurate report of condition constitutes a violation of this provision.

Additionally, the bills makes an exempt registrant's failure to timely and accurately submit a report of condition a basis to inactivate the licenses of all sponsored mortgage loan originators or loan processors or underwriters. To the extent the system does not require individual mortgage loan originator or loan processor or underwriter licensees to submit reports of condition, the licensees must timely and accurately report all required information in their possession to their sponsor for the sponsor's reporting obligation. Failure to do so constitutes a violation of this provision.

EFFECTIVE DATE: October 1, 2012

§§ 18 - 21, 31 — LOAN PRODUCTION OFFICE

The bill defines a loan production office as an office of a bank or out-of-state bank, other than a foreign bank, whose activities are limited to loan production and solicitation. The bill enables Connecticut banks and out-of state banks other than foreign banks, with the approval of the banking commissioner, to establish loan production offices in the state.

Current law defines a "limited branch" to mean any office at a fixed location of a Connecticut bank at which banking business is conducted other than the main office, branch, or mobile branch. The bill also excludes loan production offices from this definition of limited branch, exempting loan production offices from certain requirements that apply to limited branches (e.g., notice requirements for branch closures).

The bill imposes a \$1,000 application fee to establish a loan production office. By law, the fee to establish a limited branch is \$1,500.

EFFECTIVE DATE: Upon passage

LOANS

§ 22 — *Mortgage Amortization*

Current law allows a Connecticut bank, at its discretion, to excuse a mortgage loan borrower from amortization of the loan principal. This bill requires the bank's governing board, or a management committee or board committee designated by the governing board, to first review the mortgage loan and determine that excusing the borrower from amortization would be prudent under the circumstances.

EFFECTIVE DATE: Upon passage

§ 23 — *Derivative Transactions*

The bill requires a bank to consider an obligor's credit exposure arising from a derivative transaction when determining the obligor's liability limitations. It gives the commissioner the authority to establish a method for determining credit exposure and the extent to which the credit exposure will be taken into account and allows him to adopt regulations for this purpose.

"Derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or part, on the value of any interest in, or any quantitative measure or the occurrence of any event leading to, one or more commodities, securities, currencies, interest, or other rates, indices, or other assets.

EFFECTIVE DATE: October 1, 2012

§§ 24 - 29 — FIDUCIARY POWERS OF CORPORATIONS OTHER THAN BANKING INSTITUTIONS

Current law generally prohibits corporations, other than banks, from receiving any money, securities, or other personal property or

real estate in trust, to manage on someone else's behalf, unless the corporation is specifically allowed to do so by state statute or a special act of the General Assembly. If allowed to act as trustee, the corporation must obtain a license from the banking commissioner.

This bill broadens the prohibition to apply to other nonbank entities instead of just corporations, and makes conforming changes. An "entity" is defined as a corporation, joint stock company, association, partnership, limited partnership, unincorporated organization, limited liability company, or similar organization, but not a corporation of which the majority of shares are owned by the United States or any state. The bill also expands the trustee licensing requirements and exemptions to apply to all such nonbank entities instead of only to corporations, and makes a number of additional conforming changes.

EFFECTIVE DATE: October 1, 2012

§ 30 — DE NOVO BRANCHES OF OUT-OF-STATE BANKS

Under current law, an out-of-state bank, other than a foreign bank, may, with the banking commissioner's approval, establish a de novo branch in Connecticut as long as the bank's state allows Connecticut-based institutions to do the same there, among other requirements. Current law allows the commissioner to waive this reciprocity requirement in limited circumstances. The bill eliminates this reciprocity requirement altogether.

EFFECTIVE DATE: Upon passage

§ 32 — RENTAL SECURITY DEPOSITS

PA 11-94 eliminated the requirement that landlords pay a minimum 1.5% interest rate on residential security deposits. The bill clarifies that this change does not affect security deposits before January 1, 2012 (PA 11-94's effective date).

EFFECTIVE DATE: Upon passage

BACKGROUND

National Council of State Housing Agencies

The National Council of State Housing Agencies is a nonprofit, nonpartisan organization created by the nation's state Housing Finance Agencies to coordinate and leverage their federal advocacy efforts for affordable housing.

Nationwide Mortgage Licensing System

The Nationwide Mortgage Licensing System was implemented pursuant to a uniform mortgage licensing project under the auspices of the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/15/2012)