



# Senate

General Assembly

**File No. 258**

January Session, 2013

Substitute Senate Bill No. 826

*Senate, April 2, 2013*

The Committee on Banks reported through SEN. LEONE of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE STRENGTHENING OF CONSUMER CREDIT LICENSE PROTECTIONS.***

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

1 Section 1. Section 36a-2 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

9 (3) "Automated teller machine" means a stationary or mobile  
10 unattended device, including a satellite device but excluding a point of  
11 sale terminal, at which banking transactions, including, but not limited  
12 to, deposits, withdrawals, advances, payments or transfers, may be

13 conducted;

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

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

17 (6) "Bank holding company" has the meaning given to that term in  
18 12 USC Section 1841(a), as amended from time to time, except that the  
19 term "bank", as used in 12 USC Section 1841(a) includes a bank or out-  
20 of-state bank that functions solely in a trust or fiduciary capacity;

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

24 (8) "Client" means a beneficiary of a trust for whom the Connecticut  
25 bank acts as trustee, a person for whom the Connecticut bank acts as  
26 agent, custodian or bailee, or other person to whom a Connecticut  
27 bank owes a duty or obligation under a trust or other account  
28 administered by such Connecticut bank, regardless of whether such  
29 Connecticut bank owes a fiduciary duty to the person;

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31 the whole amount deposited to be withdrawn by the owner or repaid  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

34 (10) "Commissioner" means the Banking Commissioner and, with  
35 respect to any function of the commissioner, includes any person  
36 authorized or designated by the commissioner to carry out that  
37 function;

38 (11) "Company" means any corporation, joint stock company, trust,  
39 association, partnership, limited partnership, unincorporated  
40 organization, limited liability company or similar organization, but  
41 does not include (A) any corporation the majority of the shares of  
42 which are owned by the United States or by any state, or (B) any trust

43 which by its terms shall terminate within twenty-five years or not later  
44 than twenty-one years and ten months after the death of beneficiaries  
45 living on the effective date of the trust;

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

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

56 (14) "Connecticut credit union service organization" means a credit  
57 union service organization that is incorporated under the laws of this  
58 state, located in this state and established by at least one Connecticut  
59 credit union;

60 (15) "Consolidation" means a combination of two or more  
61 institutions into a new institution; all institutions party to the  
62 consolidation, other than the new institution, are "constituent"  
63 institutions; the new institution is the "resulting" institution;

64 (16) "Control" has the meaning given to that term in 12 USC Section  
65 1841(a), as amended from time to time;

66 (17) "Credit union service organization" means an entity organized  
67 under state or federal law to provide credit union service organization  
68 services primarily to its members, to Connecticut credit unions, federal  
69 credit unions and out-of-state credit unions other than its members,  
70 and to members of any such other credit unions;

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

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

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

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

82 (22) "Deposit account" means an account into which deposits may  
83 be made;

84 (23) "Depositor" includes a member of a mutual savings and loan  
85 association;

86 (24) "Director" means a member of the governing board of a  
87 financial institution;

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

92 (26) "Executive officer" means every officer of a Connecticut bank  
93 who participates or has authority to participate, otherwise than in the  
94 capacity of a director, in major policy-making functions of such bank,  
95 regardless of whether such officer has an official title or whether that  
96 title contains a designation of assistant and regardless of whether such  
97 officer is serving without salary or other compensation. The president,  
98 vice president, secretary and treasurer of such bank are deemed to be  
99 executive officers, unless, by resolution of the governing board or by  
100 such bank's bylaws, any such officer is excluded from participation in  
101 major policy-making functions, otherwise than in the capacity of a  
102 director of such bank, and such officer does not actually participate in  
103 such policy-making functions;

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

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

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

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

114 (31) "Fiduciary" means a person undertaking to act alone or jointly  
115 with others primarily for the benefit of another or others in all matters  
116 connected with its undertaking and includes a person acting in the  
117 capacity of trustee, executor, administrator, guardian, assignee,  
118 receiver, conservator, agent, custodian under the Connecticut Uniform  
119 Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting  
120 in any other similar capacity;

121 (32) "Financial institution" means any Connecticut bank,  
122 Connecticut credit union, or other person whose activities in this state  
123 are subject to the supervision of the commissioner, but does not  
124 include a person whose activities are subject to the supervision of the  
125 commissioner solely pursuant to chapter 672a, 672b or 672c or any  
126 combination thereof;

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

129 (34) "Foreign country" means any country other than the United  
130 States and includes any colony, dependency or possession of any such  
131 country;

132 (35) "Governing board" means the group of persons vested with the  
133 management of the affairs of a financial institution irrespective of the

134 name by which such group is designated;

135 (36) "Holding company" means a bank holding company or a  
136 savings and loan holding company, except, as used in sections 36a-180  
137 to 36a-191, inclusive, "holding company" means a company that  
138 controls a bank;

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

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

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

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

147 (41) "Merger" means the combination of one or more institutions  
148 with another which continues its corporate existence; all institutions  
149 party to the merger are "constituent" institutions; the merging  
150 institution which upon the merger continues its existence is the  
151 "resulting" institution;

152 (42) "Mutual" when used in conjunction with any institution that is a  
153 bank or out-of-state bank means any such institution without capital  
154 stock;

155 (43) "Mutual holding company" means a mutual holding company  
156 organized under sections 36a-192 to 36a-199, inclusive, and unless  
157 otherwise indicated, a subsidiary holding company controlled by a  
158 mutual holding company organized under sections 36a-192 to 36a-199,  
159 inclusive;

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

162 (45) "Out-of-state bank" means any institution that engages in the

163 business of banking, but does not include a bank, Connecticut credit  
164 union, federal credit union or out-of-state credit union;

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

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

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

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

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

186 (51) "Reorganized savings bank" means any savings bank  
187 incorporated and organized in accordance with sections 36a-192 and  
188 36a-193;

189 (52) "Reorganized savings and loan association" means any savings  
190 and loan association incorporated and organized in accordance with  
191 sections 36a-192 and 36a-193;

192 (53) "Reorganized savings institution" means any reorganized

193 savings bank or reorganized savings and loan association;

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

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

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

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

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

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

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

214 (61) "Savings deposit" means any deposit other than a demand  
215 deposit or time deposit on which interest or a dividend is paid  
216 periodically;

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

219 (63) "Share account holder" means a person who maintains a share  
220 account in a Connecticut credit union, federal credit union or out-of-  
221 state credit union that maintains in this state a branch, as defined in

222 section 36a-435b;

223 (64) "State" means any state of the United States, the District of  
224 Columbia, any territory of the United States, Puerto Rico, Guam,  
225 American Samoa, the trust territory of the Pacific Islands, the Virgin  
226 Islands and the Northern Mariana Islands;

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

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

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

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

236 (69) "Supervisory agency" means: (A) The commissioner; (B) the  
237 Federal Deposit Insurance Corporation; (C) the Resolution Trust  
238 Corporation; (D) the Office of Thrift Supervision; (E) the National  
239 Credit Union Administration; (F) the Board of Governors of the  
240 Federal Reserve System; (G) the United States Comptroller of the  
241 Currency; (H) the Bureau of Consumer Financial Protection; and (I)  
242 any successor to any of the foregoing agencies or individuals;

243 (70) "System" means the Nationwide Mortgage Licensing System  
244 and Registry, NMLS, NMLSR or such other name or acronym as may  
245 be assigned to the multistate system developed by the Conference of  
246 State Bank Supervisors and the American Association of Residential  
247 Mortgage Regulators, owned and operated by the State Regulatory  
248 Registry LLC, or any successor or affiliated entity, for the licensing and  
249 registration of persons in the mortgage and other financial services  
250 industries;

251 [(70)] (71) "Time account" means an account into which time

252 deposits may be made;

253 [(71)] (72) "Time deposit" means a deposit that the depositor or  
254 share account holder does not have a right and is not permitted to  
255 make withdrawals from within six days after the date of deposit,  
256 unless the deposit is subject to an early withdrawal penalty of at least  
257 seven days' simple interest on amounts withdrawn within the first six  
258 days after deposit, subject to those exceptions permissible under 12  
259 CFR Part 204, as amended from time to time;

260 [(72)] (73) "Trust bank" means a Connecticut bank organized to  
261 function solely in a fiduciary capacity; and

262 [(73)] (74) "Uninsured bank" means a Connecticut bank that does  
263 not accept retail deposits and for which insurance of deposits by the  
264 Federal Deposit Insurance Corporation or its successor agency is not  
265 required.

266 Sec. 2. Section 36a-3 of the general statutes is repealed and the  
267 following is substituted in lieu thereof (*Effective from passage*):

268 Other definitions applying to this title or to specified parts thereof  
269 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", "advertisement" or "advertising". Section 36a-485, as  
T6 amended by this act.

T7 "Agency bank". Section 36a-285.

T8 "Agent". Section 36a-494.

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". Sections 36a-487 and 36a-655.
- T26 "Branch". Sections 36a-145, 36a-410 and 36a-435b.
- T27 "Branch office". Section 36a-485, as amended by this act.
- T28 "Branch or agency net payment entitlement". Section 36a-428n.
- T29 "Branch or agency net payment obligation". Section 36a-428n.
- T30 "Broker". Section 36a-746a.
- T31 "Business and industrial development corporation". Section 36a-626.
- T32 "Business and property in this state". Section 36a-428n.
- T33 "Capital". Section 36a-435b.
- T34 "Cash advance". Section 36a-564.
- T35 "Cash price". Section 36a-770.
- T36 "Certificate of incorporation". Section 36a-435b.
- T37 "CHFA loan". Section 36a-760.
- T38 "Clerical or support duties". Section 36a-485, as amended by this act.
- T39 "Closely related activities". Sections 36a-250 and 36a-455a.
- T40 "Collective managing agency account". Section 36a-365.
- T41 "Commercial vehicle". Section 36a-770.
- T42 "Community bank". Section 36a-70.
- T43 "Community credit union". Section 36a-37.
- T44 "Community development bank". Section 36a-70.
- T45 "Community reinvestment performance". Section 36a-37.
- T46 "Connecticut holding company". Sections 36a-53 and 36a-410.
- T47 "Consolidate". Section 36a-145.
- T48 "Construction loan". Section 36a-458a.

- T49 "Consumer". Sections 36a-155, 36a-676 and 36a-695.
- T50 "Consumer Credit Protection Act". Section 36a-676.
- T51 "Consumer debtor" and "debtor". Sections 36a-645 and 36a-800.
- T52 "Consumer collection agency". Section 36a-800.
- T53 "Consummation". Section 36a-746a.
- T54 "Control person". Section 36a-485, as amended by this act.
- T55 "Controlling interest". Section 36a-276.
- T56 "Conventional mortgage rate". Section 36a-760.
- T57 "Corporate". Section 36a-435b.
- T58 "Credit". Sections 36a-645 and 36a-676.
- T59 "Credit manager". Section 36a-435b.
- T60 "Creditor". Sections 36a-676, 36a-695 and 36a-800.
- T61 "Credit card", "cardholder" and "card issuer". Section 36a-676.
- T62 "Credit clinic". Section 36a-700.
- T63 "Credit rating agency". Section 36a-695.
- T64 "Credit report". Section 36a-695.
- T65 "Credit sale". Section 36a-676.
- T66 "Credit union service organization". Section 36a-435b.
- T67 "Credit union service organization services". Section 36a-435b.
- T68 "De novo branch". Section 36a-410.
- T69 "Debt". Section 36a-645.
- T70 "Debt adjustment". Section 36a-655.
- T71 "Debt mutual fund". Sections 36a-275 and 36a-459a.
- T72 "Debt securities". Sections 36a-275 and 36a-459a.
- T73 "Debtor". Section 36a-655.
- T74 "Deliver". Section 36a-316.
- T75 "Deposit". Section 36a-316.
- T76 "Deposit account". Section 36a-316.
- T77 "Deposit account charge". Section 36a-316.
- T78 "Deposit account disclosures". Section 36a-316.
- T79 "Deposit contract". Section 36a-316.
- T80 "Deposit services". Section 36a-425.
- T81 "Depositor". Section 36a-316.
- T82 "Depository institution". Section 36a-485, as amended by this act.
- T83 "Derivative transaction". Section 36a-262.

- T84 "Director". Section 36a-435b.
- T85 "Dwelling". Section 36a-485, as amended by this act.
- T86 "Earning period". Section 36a-316.
- T87 "Electronic payment instrument". Section 36a-596.
- T88 "Eligible collateral". Section 36a-330.
- T89 "Eligible entity". Section 36a-34.
- T90 "Employee". Section 36a-485, as amended by this act.
- T91 "Entity". Section 36a-380.
- T92 "Equity mutual fund". Sections 36a-276 and 36a-459a.
- T93 "Equity security". Sections 36a-276 and 36a-459a.
- T94 "Executive officer". Sections 36a-263 and 36a-469c.
- T95 "Expedited Connecticut bank". Section 36a-70.
- T96 "Experience in the mortgage business". Section 36a-488.
- T97 "Federal banking agency". Section 36a-485, as amended by this act.
- T98 "Federal Credit Union Act". Section 36a-435b.
- T99 "Federal Home Mortgage Disclosure Act". Section 36a-736.
- T100 "FHA loan". Section 36a-760.
- T101 "Fiduciary". Section 36a-365.
- T102 "Filing fee". Section 36a-770.
- T103 "Finance charge". Sections 36a-690 and 36a-770.
- T104 "Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316, 36a-330,  
T105 36a-435b, 36a-736 and 36a-755.
- T106 "Financial records". Section 36a-41.
- T107 "First mortgage loan". Sections 36a-485, as amended by this act, 36a-705,  
T108 36a-715 and 36a-725.
- T109 "Foreign banking corporation". Section 36a-425.
- T110 "Fully indexed rate". Section 36a-760b.
- T111 "General facility". Section 36a-580.
- T112 "Global net payment entitlement". Section 36a-428n.
- T113 "Global net payment obligation". Section 36a-428n.
- T114 "Goods". Sections 36a-535 and 36a-770.
- T115 "Graduated payment mortgage loan". Section 36a-265.
- T116 "Guardian". Section 36a-365.
- T117 "High cost home loan". Section 36a-746a.
- T118 "Holder". Section 36a-596.

- T119 "Home banking services". Section 36a-170.
- T120 "Home banking terminal". Section 36a-170.
- T121 "Home improvement loan". Section 36a-736.
- T122 "Home purchase loan". Section 36a-736.
- T123 "Home state". Section 36a-410.
- T124 "Housing finance agency". Section 36a-487.
- T125 "Immediate family member". Sections 36a-435b and 36a-485, as
- T126 amended by this act.
- T127 "Independent contractor". Section 36a-485, as amended by this act.
- T128 "Individual". Section 36a-485, as amended by this act.
- T129 "Insider". Section 36a-454b.
- T130 "Installment loan contract". Sections 36a-535 and 36a-770.
- T131 "Insurance". Section 36a-455a.
- T132 "Insurance bank". Section 36a-285.
- T133 "Insurance department". Section 36a-285.
- T134 "Interest". Section 36a-316.
- T135 "Interest rate". Section 36a-316.
- T136 "Interim interest". Section 36a-746a.
- T137 "Lender". Sections 36a-746a, 36a-760 and 36a-770.
- T138 "Lessor". Section 36a-676.
- T139 "License". Section 36a-626.
- T140 "Licensee". Sections 36a-596 and 36a-626.
- T141 "Limited branch". Section 36a-145.
- T142 "Limited facility". Section 36a-580.
- T143 "Loan broker". Section 36a-615.
- T144 "Loan processor or underwriter". Section 36a-485, as amended by this act.
- T145 "Loss". Section 36a-330.
- T146 "Made in this state". Section 36a-770.
- T147 "Main office". Section 36a-485, as amended by this act.
- T148 "Managing agent". Section 36a-365.
- T149 "Manufactured home". Section 36a-457b.
- T150 "Material litigation". Section 36a-596.
- T151 "Member". Section 36a-435b.
- T152 "Member business loan". Section 36a-458a.
- T153 "Member in good standing". Section 36a-435b.

- T154 "Membership share". Section 36a-435b.
- T155 "Mobile branch". Sections 36a-145 and 36a-435b.
- T156 "Money order". Section 36a-596.
- T157 "Money transmission". Section 36a-365.
- T158 "Mortgage". Section 36a-760g.
- T159 "Mortgage broker". Sections 36a-485, as amended by this act,
- T160 36a-705 and 36a-760.
- T161 "Mortgage correspondent lender". Section 36a-485, as amended by this act.
- T162 "Mortgage insurance". Section 36a-725.
- T163 "Mortgage lender". Sections 36a-485, as amended by this act,
- T164 36a-705 and 36a-725.
- T165 "Mortgage loan". Sections 36a-261, 36a-265, 36a-457b and 36a-736.
- T166 "Mortgage loan originator". Section 36a-485, as amended by this act.
- T167 "Mortgage rate lock-in". Section 36a-705.
- T168 "Mortgage servicing company". Section 36a-715.
- T169 "Mortgagor". Section 36a-715.
- T170 "Motor vehicle". Section 36a-770.
- T171 "Multiple common bond membership". Section 36a-435b.
- T172 "Municipality". Section 36a-800.
- T173 "Net outstanding member business loan balance". Section 36a-458a.
- T174 "Net worth". Sections 36a-441a, 36a-458a and 36a-596.
- T175 "Network". Section 36a-155.
- T176 "Nonprime home loan". Section 36a-760.
- T177 "Nonrefundable". Section 36a-498.
- T178 "Nontraditional mortgage product". Section 36a-489a.
- T179 "Note account". Sections 36a-301 and 36a-456b.
- T180 "Office". Sections 36a-23, 36a-316 and 36a-485, as amended by this act.
- T181 "Officer". Section 36a-435b.
- T182 "Open-end credit plan". Section 36a-676.
- T183 "Open-end line of credit". Section 36a-760.
- T184 "Open-end loan". Section 36a-565.
- T185 "Organization". Section 36a-800.
- T186 "Out-of-state holding company". Section 36a-410.
- T187 "Outstanding". Section 36a-596.
- T188 "Passbook savings account". Section 36a-316.

- T189 "Payment instrument". Section 36a-596.
- T190 "Periodic statement". Section 36a-316.
- T191 "Permissible investment". Section 36a-596.
- T192 "Person". Sections 36a-184 and 36a-485, as amended by this act.
- T193 "Post". Section 36a-316.
- T194 "Prepaid finance charge". Section 36a-746a.
- T195 "Prime quality". Section 36a-596.
- T196 "Principal amount of the loan". Section 36a-485, as amended by this act.
- T197 "Processor". Section 36a-155.
- T198 "Public deposit". Section 36a-330.
- T199 "Purchaser". Section 36a-596.
- T200 "Qualified financial contract". Section 36a-428n.
- T201 "Qualified public depository" and "depository". Section 36a-330.
- T202 "Real estate". Section 36a-457b.
- T203 "Real estate brokerage activity". Section 36a-485, as amended by this act.
- T204 "Records". Section 36a-17.
- T205 "Registered mortgage loan originator". Section 36a-485, as
- T206 amended by this act.
- T207 "Related person". Section 36a-53.
- T208 "Relocate". Sections 36a-145 and 36a-462a.
- T209 "Residential mortgage loan". Section 36a-485, as amended by this act.
- T210 "Residential real estate". Section 36a-485, as amended by this act.
- T211 "Resulting entity". Section 36a-34.
- T212 "Retail buyer". Sections 36a-535 and 36a-770.
- T213 "Retail credit transaction". Section 42-100b.
- T214 "Retail installment contract". Sections 36a-535 and 36a-770.
- T215 "Retail installment sale". Sections 36a-535 and 36a-770.
- T216 "Retail seller". Sections 36a-535 and 36a-770.
- T217 "Reverse annuity mortgage loan". Section 36a-265.
- T218 "Sales finance company". Sections 36a-535 and 36a-770.
- T219 "Savings department". Section 36a-285.
- T220 "Savings deposit". Section 36a-316.
- T221 "Secondary mortgage loan". Section 36a-485, as amended by this act.
- T222 "Security convertible into a voting security". Section 36a-184.
- T223 "Senior management". Section 36a-435b.

- T224 "Settlement agent". Section 36a-494.  
 T225 "Share". Section 36a-435b.  
 T226 "Simulated check". Section 36a-485, as amended by this act.  
 T227 "Single common bond membership". Section 36a-435b.  
 T228 "Special mortgage". Section 36a-760c.  
 T229 "Social purpose investment". Section 36a-277.  
 T230 "Sponsored". Section 36a-485, as amended by this act.  
 T231 "Standard mortgage loan". Section 36a-265.  
 T232 ["System". Section 36a-485.]  
 T233 "Table funding agreement". Section 36a-485, as amended by this act.  
 T234 "Tax and loan account". Sections 36a-301 and 36a-456b.  
 T235 "The Savings Bank Life Insurance Company". Section 36a-285.  
 T236 "Time account". Section 36a-316.  
 T237 "Travelers check". Section 36a-596.  
 T238 "Troubled Connecticut credit union". Section 36a-448a.  
 T239 "Unique identifier". Section 36a-485, as amended by this act.  
 T240 "Unsecured loan". Section 36a-615.  
 T241 "Warehouse agreement". Section 36a-485, as amended by this act.

270 Sec. 3. Section 36a-485 of the general statutes is repealed and the  
 271 following is substituted in lieu thereof (*Effective from passage*):

272 As used in this section and sections 36a-486 to 36a-498f, inclusive,  
 273 36a-534a to 36a-534c, inclusive, unless the context otherwise requires:

274 (1) "Advance fee" means any consideration paid or given, directly or  
 275 indirectly, to a mortgage lender, mortgage correspondent lender or  
 276 mortgage broker required to be licensed pursuant to sections 36a-485  
 277 to 36a-498f, inclusive, and sections 36a-534a and 36a-534b, prior to the  
 278 closing of a residential mortgage loan to any person, including, but not  
 279 limited to, loan fees, points, broker's fees or commissions, transaction  
 280 fees or similar prepaid finance charges;

281 (2) "Advertise", "advertisement" or "advertising" means the use of  
 282 any announcement, statement, assertion or representation that is  
 283 placed before the public in a newspaper, magazine or other  
 284 publication, or in the form of a notice, circular, pamphlet, letter or

285 poster or over any radio or television station, by means of the Internet,  
286 or by other electronic means of distributing information, by personal  
287 contact, or in any other way;

288 (3) "Branch office" means a location other than the main office at  
289 which a licensee or any person on behalf of a licensee acts as a  
290 mortgage lender, mortgage correspondent lender, [or] mortgage  
291 broker or mortgage loan originator;

292 (4) "Control person" means an individual that directly or indirectly  
293 exercises control over another person. Any person that (A) is a  
294 director, general partner or executive officer; (B) directly or indirectly  
295 has the right to vote ten per cent or more of a class of any voting  
296 security or has the power to sell or direct the sale of ten per cent or  
297 more of any class of voting securities; (C) in the case of a limited  
298 liability company, is a managing member; or (D) in the case of a  
299 partnership, has the right to receive upon dissolution, or has  
300 contributed, ten per cent or more of the capital, is presumed to be a  
301 control person. For purposes of this subdivision, "control" means the  
302 power, directly or indirectly, to direct the management or policies of a  
303 company, whether through ownership of securities, by contract or  
304 otherwise;

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

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

311 (7) "Employee" means an individual (A) whose manner and means  
312 of work performance are subject to the right of control of, or are  
313 controlled by, a person, and (B) whose compensation is reported or  
314 required to be reported on a W-2 form issued by the controlling  
315 person. For purposes of the definition of "registered mortgage loan  
316 originator", "employee" has the foregoing meaning or such other

317 meaning as the federal banking agencies may issue in connection with  
318 such agencies' implementation of such agencies' responsibilities under  
319 the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

320 (8) "Federal banking agency" means the Board of Governors of the  
321 Federal Reserve System, the Comptroller of the Currency, the Director  
322 of the Office of Thrift Supervision, the National Credit Union  
323 Administration and the Federal Deposit Insurance Corporation;

324 (9) "First mortgage loan" means a residential mortgage loan that is  
325 secured by a first mortgage;

326 (10) "Immediate family member" means a spouse, child, sibling,  
327 parent, grandparent or grandchild and includes stepparents,  
328 stepchildren, stepsiblings and adoptive relationships;

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

334 (12) "Individual" means a natural person;

335 (13) "Loan processor or underwriter" means an individual who  
336 performs clerical or support duties. The term "clerical or support  
337 duties" includes, subsequent to the receipt of an application, (A) the  
338 receipt, collection, distribution and analysis of information common  
339 for the processing or underwriting of a residential mortgage loan, and  
340 (B) communication with a consumer to obtain the information  
341 necessary for the processing or underwriting of a loan to the extent  
342 that such communication does not include offering or negotiating loan  
343 rates or terms or counseling consumers about residential mortgage  
344 loan rates or terms;

345 (14) "Main office" means the main address designated on the  
346 system;

347 (15) "Mortgage broker" (A) means a person who (i) for  
348 compensation or gain or with the expectation of compensation or gain  
349 (I) takes a residential mortgage loan application, or (II) offers or  
350 negotiates terms of a residential mortgage loan, and (ii) is not the  
351 prospective source of the funds for the residential mortgage loan, (B)  
352 but does not include (i) an individual who is licensed as a mortgage  
353 loan originator acting as a mortgage loan originator on behalf of such  
354 mortgage loan originator's sponsoring mortgage lender, mortgage  
355 correspondent lender, mortgage broker or exempt registrant, or (ii) an  
356 individual exempt from mortgage loan originator licensure under  
357 subdivision (2) of subsection (b) of section 36a-486, as amended by this  
358 act, when acting within the scope of such exemption;

359 (16) "Mortgage correspondent lender" means a person engaged in  
360 the business of making residential mortgage loans in such person's  
361 own name where the loans are not held by such person for more than  
362 ninety days and are funded by another person through a warehouse  
363 agreement, table funding agreement or similar agreement;

364 (17) "Mortgage lender" means a person engaged in the business of  
365 making residential mortgage loans in such person's own name  
366 utilizing such person's own funds or by funding loans through a  
367 warehouse agreement, table funding agreement or similar agreement;

368 (18) "Mortgage loan originator" means an individual who for  
369 compensation or gain or with the expectation of compensation or gain,  
370 either for such individual or for the person employing or retaining  
371 such individual, (A) takes a residential mortgage loan application, or  
372 (B) offers or negotiates terms of a residential mortgage loan. "Mortgage  
373 loan originator" does not include (i) an individual engaged solely as a  
374 loan processor or underwriter; (ii) a person who only performs real  
375 estate brokerage activities and is licensed in accordance with chapter  
376 392, unless the person is compensated by a mortgage lender, mortgage  
377 correspondent lender, mortgage broker or other mortgage loan  
378 originator or by any agent of such mortgage lender, mortgage  
379 correspondent lender, mortgage broker or other mortgage loan

380 originator; (iii) a person solely involved in extensions of credit relating  
381 to timeshare plans, as that term is defined in Paragraph 53D of 11 USC  
382 101; or (iv) any individual who solely renegotiates terms for existing  
383 mortgage loans on behalf of a mortgagee and who does not otherwise  
384 act as a mortgage loan originator, unless the United States Department  
385 of Housing and Urban Development, the Bureau of Consumer  
386 Financial Protection or a court of competent jurisdiction determines  
387 that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101  
388 et seq., requires such individual to be licensed as a mortgage loan  
389 originator under state laws implementing said S.A.F.E. Mortgage  
390 Licensing Act;

391 (19) "Office" means a branch office or a main office;

392 (20) "Person" means a natural person, corporation, company, limited  
393 liability company, partnership or association;

394 (21) "Principal amount of the loan" means the gross amount the  
395 borrower is obligated to repay including any prepaid finance charge  
396 that is financed, and any other charge that is financed;

397 (22) "Real estate brokerage activity" means any activity that involves  
398 offering or providing real estate brokerage services to the public,  
399 including (A) acting as a real estate agent or real estate broker for a  
400 buyer, seller, lessor or lessee of real property; (B) bringing together  
401 parties interested in the sale, purchase, lease, rental or exchange of real  
402 property; (C) negotiating, on behalf of any party, any portion of a  
403 contract relating to the sale, purchase, lease, rental or exchange of real  
404 property, other than in connection with providing financing with  
405 respect to any such transaction; (D) engaging in any activity for which  
406 a person engaged in the activity is required to be registered or licensed  
407 as a real estate agent or real estate broker under any applicable law;  
408 and (E) offering to engage in any activity, or act in any capacity,  
409 described in this subdivision;

410 (23) "Registered mortgage loan originator" means any individual  
411 who (A) meets the definition of mortgage loan originator and is an

412 employee of a depository institution, a subsidiary that is owned and  
413 controlled by a depository institution and regulated by a federal  
414 banking agency, or an institution regulated by the Farm Credit  
415 Administration; and (B) is registered with and maintains a unique  
416 identifier through the system;

417 (24) "Residential mortgage loan" means any loan primarily for  
418 personal, family or household use that is secured by a mortgage, deed  
419 of trust or other equivalent consensual security interest on a dwelling  
420 or residential real estate upon which is constructed or intended to be  
421 constructed a dwelling;

422 (25) "Residential real estate" means any real property located in this  
423 state, upon which is constructed or intended to be constructed a  
424 dwelling;

425 (26) "Secondary mortgage loan" means a residential mortgage loan  
426 that is secured, in whole or in part, by a mortgage, provided such  
427 property is subject to one or more prior mortgages;

428 (27) "Simulated check" means a document that imitates or resembles  
429 a check but is not a negotiable instrument;

430 (28) "Sponsored" means employed or retained as an independent  
431 contractor;

432 [(29) "System" means the Nationwide Mortgage Licensing System  
433 and Registry developed and maintained by the Conference of State  
434 Bank Supervisors and the American Association of Residential  
435 Mortgage Regulators for the licensing and registration of mortgage  
436 lenders, mortgage correspondent lenders, mortgage brokers, mortgage  
437 loan originators and loan processors or underwriters;]

438 [(30)] (29) "Table funding agreement" means an agreement wherein  
439 a person agrees to fund mortgage loans to be made in another person's  
440 name and to purchase such loans after they are made;

441 [(31)] (30) "Unique identifier" means a number or other identifier

442 assigned by protocols established by the system; and

443 [(32)] (31) "Warehouse agreement" means an agreement to provide  
444 credit to a person to enable the person to have funds to make  
445 residential mortgage loans and hold such loans pending sale to other  
446 persons.

447 Sec. 4. Subsections (d) to (f), inclusive, of section 36a-21 of the  
448 general statutes are repealed and the following is substituted in lieu  
449 thereof (*Effective from passage*):

450 [(d) (1) The provisions of subsections (a) and (b) of this section shall  
451 not apply to the disclosure of any record provided to or maintained by  
452 the commissioner with the system. Except as otherwise provided in  
453 Section 1512 of the federal S.A.F.E. Mortgage Licensing Act of 2008,  
454 any requirements under federal law or any law of this state, including  
455 this section and chapter 14 and any privilege arising under federal law  
456 or any law of this state, including the rules of any federal court or  
457 court of this state that protect the disclosure of any record provided to  
458 or maintained with the system, shall continue to apply to such record  
459 after it has been disclosed to the system. Such record may be shared  
460 with all state and federal regulatory officials that have oversight  
461 authority over the mortgage industry without the loss of privilege or  
462 the loss of confidentiality protections provided by federal law or the  
463 laws of this state.]

464 (d) (1) Except as otherwise provided in this section, the  
465 requirements under any federal or state law regarding the privacy or  
466 confidentiality of any information or material provided to the system,  
467 as defined in section 36a-2, as amended by this act, and any privilege  
468 arising under federal or state law, including the rules of any federal or  
469 state court, with respect to such information or material, shall continue  
470 to apply to such information or material after the information or  
471 material has been disclosed to the system. Such information and  
472 material may be shared with all federal and state regulatory officials  
473 with mortgage or other financial services industry oversight authority  
474 without the loss of privilege or the loss of confidentiality protections

475 provided by federal or state law. For purposes of this subsection, the  
476 commissioner may enter into agreements or sharing arrangements  
477 with other governmental agencies, the Conference of State Bank  
478 Supervisors, the American Association of Residential Mortgage  
479 Regulators or associations representing governmental agencies.

480 (2) Any information or material that is [protected from disclosure]  
481 subject to privilege or confidentiality under subdivision (1) of this  
482 subsection shall not be subject to (A) disclosure under any federal or  
483 state law governing disclosure to the public of information held by an  
484 officer or agency of the federal government or the respective state; or  
485 (B) subpoena, discovery or admission into evidence in any private civil  
486 action or administrative process, except a person may, at such person's  
487 discretion, waive in whole or in part a privilege held by the system  
488 concerning such information and material.

489 (3) Any law of this state relating to the disclosure of confidential  
490 supervisory information or of any information or material described in  
491 subdivision (1) of this subsection that is inconsistent with subdivision  
492 (1) shall be superseded by the requirements of this subsection.

493 (e) The confidentiality provisions of this section shall not apply to  
494 records relating to the employment history of, and publicly  
495 adjudicated disciplinary and enforcement actions against, [mortgage  
496 loan originators or loan processors or underwriters] persons that are  
497 included in the system for access by the public.

498 [(f) For purposes of this section, "system" has the same meaning as  
499 provided in section 36a-485.]

500 Sec. 5. Subsection (c) of section 36a-51 of the general statutes is  
501 repealed and the following is substituted in lieu thereof (*Effective from*  
502 *passage*):

503 (c) Any licensee may surrender any license issued by the  
504 commissioner under any provision of the general statutes by  
505 surrendering the license to the commissioner in person or by

506 registered or certified mail, provided, in the case of a license issued  
507 [pursuant to part I of chapter 668] through the system, as defined in  
508 section 36a-2, as amended by this act, such surrender shall be initiated  
509 by filing a request to surrender on the system. [, as defined in section  
510 36a-485, in accordance with section 36a-490.] No surrender on the  
511 system shall be effective until the request for surrender is accepted by  
512 the commissioner. Surrender of a license shall not affect the licensee's  
513 civil or criminal liability, or affect the commissioner's ability to impose  
514 an administrative penalty on the licensee pursuant to section 36a-50 for  
515 acts committed prior to the surrender. If, prior to receiving the license,  
516 or, in the case of a license issued [pursuant to part I of chapter 668]  
517 through the system, prior to the filing of a request to surrender a  
518 license, [under section 36a-490,] the commissioner has instituted a  
519 proceeding to suspend, revoke or refuse to renew such license, such  
520 surrender or request to surrender will not become effective except at  
521 such time and under such conditions as the commissioner by order  
522 determines. If no proceeding is pending or has been instituted by the  
523 commissioner at the time of surrender, or, in the case of a license  
524 issued [pursuant to part I of chapter 668] through the system, at the  
525 time a request to surrender is filed, the commissioner may still institute  
526 a proceeding to suspend, revoke or refuse to renew a license under  
527 subsection (a) of this section up to the date one year after the date of  
528 receipt of the license by the commissioner, or, in the case of a license  
529 issued [pursuant to part I of chapter 668] through the system, up to the  
530 date one year after the date of the acceptance by the commissioner of a  
531 request to surrender a license. [under section 36a-490.]

532 Sec. 6. (NEW) (*Effective October 1, 2013*) (a) In addition to any other  
533 duties imposed upon the Banking Commissioner by law, the  
534 commissioner is authorized to require any person engaged in a  
535 financial services industry subject to the commissioner's jurisdiction to  
536 be licensed or registered through the system, as defined in section 36a-  
537 2 of the general statutes, as amended by this act.

538 (b) In the event the commissioner elects to require system-based  
539 licensure for a person engaged in a financial services industry subject

540 to the commissioner's jurisdiction, the commissioner shall require all  
541 initial or renewal applications for such a license or registration in this  
542 state to be made and processed through the system on and in such  
543 form as the commissioner may prescribe, and the system shall be  
544 authorized to receive and maintain records related to such license or  
545 registration to the same extent allowed or required to be maintained by  
546 the commissioner. For such purpose, the commissioner may establish  
547 requirements by order as necessary for participation in the system,  
548 including, but not limited to: (1) Background checks, including, in the  
549 case of any form of business organization, criminal history checks on  
550 the individuals comprising the ownership or management of such  
551 organization, through (A) fingerprint submission to the Federal  
552 Bureau of Investigation or other state, national or international  
553 criminal databases, (B) civil, criminal or administrative records from  
554 any governmental jurisdiction, (C) credit history, including an  
555 independent credit report obtained from a consumer reporting agency  
556 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC  
557 1681a, or (D) any other information as deemed necessary by the  
558 system; (2) the payment of fees to apply for or renew a license or  
559 registration through the system; (3) the setting or resetting of license  
560 expiration, renewal or transition dates or reporting dates or forms; and  
561 (4) the requirements for amending or surrendering a license or any  
562 other such activities as the commissioner deems necessary for  
563 participation in the system. Such information may thereafter be used  
564 by the commissioner to determine the applicant's eligibility for  
565 licensing under applicable law and any order issued by the  
566 commissioner under this section. For the purpose of requiring  
567 participation in the system, the commissioner may by order, waive or  
568 modify, in whole or in part, any applicable requirement of title 36a of  
569 the general statutes and establish new requirements as reasonably  
570 necessary to participate in the system. For the purposes of  
571 implementing an orderly and efficient licensing process, the  
572 commissioner may adopt licensing regulations, in accordance with the  
573 provisions of chapter 54 of the general statutes, and interim procedures  
574 for licensing and acceptance of applications.

575 (c) In the event the commissioner elects to require system-based  
576 licensure for a person engaged in a financial services industry subject  
577 to the commissioner's jurisdiction, the commissioner may report  
578 regularly to the system any (1) violation of and enforcement action  
579 under applicable law, and (2) other relevant information. The  
580 commissioner may establish a relationship or enter into a contract with  
581 the system or any other entity designated by the system to collect and  
582 maintain records and process transaction fees or other fees related to  
583 licensees or other persons required or permitted to be licensed or  
584 registered on the system.

585 (d) To reduce the points of contact that the commissioner or the  
586 Federal Bureau of Investigation may have to maintain in accordance  
587 with title 36a of the general statutes, the commissioner may use the  
588 system as a channeling agent for requesting information from and  
589 distributing information to the United States Department of Justice,  
590 any governmental agency and any other source as directed by the  
591 commissioner.

592 (e) Any person required or permitted to be licensed or registered on  
593 the system may challenge information entered into the system by the  
594 commissioner. Such challenge shall (1) be made in writing to the  
595 commissioner, (2) set forth the specific information being challenged,  
596 and (3) include any evidence that supports the challenge. Challenges  
597 shall be limited to the factual accuracy of information within the  
598 system. If the commissioner determines that the information entered  
599 into the system is factually inaccurate, the commissioner shall take  
600 prompt action to correct such information. Nothing in this subdivision  
601 shall be construed to permit a challenge under this section to the  
602 merits or factual basis of any administrative action taken by the  
603 commissioner pursuant to title 36a of the general statutes.

604 (f) Any person making any filing or submission of any information  
605 on the system shall do so in accordance with the procedures and  
606 requirements of the system and pay any applicable fees or charges to  
607 the system. Each person required to obtain registration or licensure

608 through the system shall timely submit to the system accurate reports  
609 that shall be in such form and contain such information as the system  
610 may require. Failure to timely submit to the system accurate reports  
611 shall constitute a violation of this provision.

612 (g) All fees paid for any initial application for a license or  
613 registration or for a renewal application for a license or registration,  
614 including, but not limited to, fees paid in connection with an  
615 application that is denied or withdrawn prior to the issuance of the  
616 license or registration, shall be nonrefundable. No fee shall be prorated  
617 if the license or registration is surrendered, revoked or suspended  
618 prior to the expiration of the period for which it was approved.

619 (h) The commissioner may automatically suspend a license or  
620 registration of a person on the system if such person receives a  
621 deficiency on the system indicating that a required payment was  
622 Returned-ACH or returned pursuant to such other term as may be  
623 utilized by the system to indicate that the payment was not accepted.  
624 After a license or registration has been automatically suspended  
625 pursuant to this subsection, the commissioner shall give such licensee  
626 or registrant notice of the automatic suspension, pending proceedings  
627 for revocation or refusal to renew and an opportunity for a hearing on  
628 such action in accordance with section 36a-51 of the general statutes,  
629 and require such licensee to take or refrain from taking such action  
630 that, in the opinion of the commissioner, will effectuate the purposes of  
631 this subsection.

632 (i) The commissioner may deem an application for a license or  
633 registration on the system abandoned if the applicant fails to respond  
634 to any request for required information. The commissioner shall notify  
635 the applicant on the system that if such information is not submitted  
636 not later than sixty days after the date of such request, the application  
637 shall be deemed abandoned. An application filing fee paid prior to the  
638 date an application is deemed abandoned pursuant to this subsection  
639 shall not be refunded. Abandonment of an application pursuant to this  
640 subsection shall not preclude the applicant from submitting a new

641 application for a license or registration.

642 (j) The commissioner may issue a temporary order to cease business  
643 under a license or registration if the commissioner determines that  
644 such license or registration was issued erroneously. The commissioner  
645 shall give the licensee an opportunity for a hearing on such action in  
646 accordance with section 36a-52 of the general statutes. Such temporary  
647 order shall become effective upon receipt by the licensee and, unless  
648 set aside or modified by a court, shall remain in effect until the  
649 effective date of a permanent order or dismissal of the matters asserted  
650 in the notice.

651 Sec. 7. Subdivision (2) of subsection (b) of section 36a-486 of the  
652 general statutes is repealed and the following is substituted in lieu  
653 thereof (*Effective October 1, 2013*):

654 (2) The following are exempt from this section: (A) A registered  
655 mortgage loan originator or an employee of an institution or  
656 subsidiary described in subdivision (23) of section 36a-485, as  
657 amended by this act, who is not required to be registered under  
658 Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC  
659 Section 5101 et seq., when acting for such institution or subsidiary; (B)  
660 an individual who offers or negotiates the terms of a residential  
661 mortgage loan with or on behalf of an immediate family member of  
662 such individual; (C) an individual who offers or negotiates the terms of  
663 a residential mortgage loan secured by a dwelling that served as the  
664 individual's residence, unless the context demonstrates that such  
665 individual engaged in such activities with a degree of habitualness or  
666 repetition; (D) a Connecticut licensed attorney who negotiates the  
667 terms of a residential mortgage loan on behalf of a client as an ancillary  
668 matter to the attorney's representation of the client, unless the attorney  
669 is compensated by a mortgage lender, mortgage correspondent lender,  
670 mortgage broker or other mortgage loan originator or by any agent of  
671 such mortgage lender, mortgage correspondent lender, mortgage  
672 broker or other mortgage loan originator; (E) an individual who takes  
673 a residential mortgage loan application or offers or negotiates terms of

674 a residential mortgage loan as an employee of a federal, state or local  
 675 government agency or housing finance agency exempt from licensure  
 676 pursuant to section 36a-487, and who does so only pursuant to such  
 677 individual's official duties as an employee of such agency; (F) an  
 678 individual who takes a residential mortgage loan application or offers  
 679 or negotiates terms of a residential mortgage loan as an employee of an  
 680 organization that has obtained bona fide nonprofit status from the  
 681 commissioner and is exempt from licensure pursuant to section 36a-  
 682 487, and who does so only pursuant to such individual's official duties  
 683 as an employee of such organization; and (G) an individual who offers  
 684 or negotiates the terms of a residential mortgage loan secured by a  
 685 dwelling that is not the individual's residence but is owned by such  
 686 individual, unless the context demonstrates that such individual  
 687 engaged in such activities with a degree of habitualness or repetition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-2
Sec. 2	<i>from passage</i>	36a-3
Sec. 3	<i>from passage</i>	36a-485
Sec. 4	<i>from passage</i>	36a-21(d) to (f)
Sec. 5	<i>from passage</i>	36a-51(c)
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	36a-486(b)(2)

**Statement of Legislative Commissioners:**

For the purpose of clarity, in the fourth sentence of section 6(b), "participating" was changed to "requiring participation".

**BA**            *Joint Favorable Subst.*

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

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill which authorizes the Banking Commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in a financial services industry within the jurisdiction of the commissioner results in no fiscal impact as the system is already in place.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 826*****AN ACT CONCERNING THE STRENGTHENING OF CONSUMER CREDIT LICENSE PROTECTIONS.*****SUMMARY:**

This bill extends the banking commissioner's authority to use the Nationwide Mortgage Licensing System and Registry, which he currently uses for mortgage industry licensing for all financial services industry licensing and registration.

The bill authorizes the system to receive and maintain such licensing and registration records if the commissioner elects to use system-based licensing and registration for people engaged in the financial services industry. It provides the commissioner with additional authority to change requirements as reasonably necessary to enable expanded participation in the system.

The bill makes fees paid to the system nonrefundable, requires that filings are consistent with system procedures and requirements, requires applicants and licensees to timely and accurately submit any required reports, and allows someone to challenge the factual accuracy of information on the system.

The bill makes several conforming changes to apply existing provisions about the system to the new uses authorized by the bill.

The bill narrows the scope of the exemption for certain attorneys from mortgage loan originator licensure to those licensed in Connecticut. The exemption applies to attorneys who negotiate the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, mortgage correspondent lender,

mortgage broker, other mortgage loan originator, or one of their agents.

The bill also makes technical and conforming changes.

**EFFECTIVE DATE:** Upon passage, except the provisions that narrow attorneys' exemption from mortgage loan originator licensure and the extension of the commissioner's authority to use the system are effective October 1, 2013.

### **§§ 1-3 — SYSTEM**

Current law defines the term "system" used in mortgage industry licensing as the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators and loan processors, or underwriters.

The bill allows the system's use in licensing and registration in the financial services industries beyond the mortgage industry. It also specifies that the system (1) may be referred to as NMLS, NMLSR, or such other name or acronym as may be assigned and (2) is owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity.

### **§ 6 — COMMISSIONER'S AUTHORITY TO USE THE SYSTEM IN LICENSURE**

#### ***Authority to Require System-Based Licensure***

Under current law, the commissioner is authorized to require persons engaged in the mortgage industry to be licensed or registered through the system.

The bill authorizes the commissioner to require anyone engaged in a financial services industry subject to the commissioner's jurisdiction to be licensed or registered through the system.

#### ***System-Based Licensure***

Under the bill, the commissioner must require all initial or renewal applications for a license or registration in Connecticut, on a form prescribed by him, to be made and processed through the system if he elects to require system-based licensure. In which case, the system must be authorized to receive and maintain records on such license or registration to the same extent allowed or required to be maintained by the commissioner.

The commissioner may, by order, establish requirements for participation in the system, including:

1. background checks, including criminal history checks for owners or managers of business organizations;
2. the payment of license application or renewal or registration fees through the system;
3. the setting or resetting of license expiration, renewal, or transition dates or reporting dates or forms; and
4. the requirements for amending or surrendering a license or any other activities as the commissioner deems necessary for participation in the system.

The bill specifies that background checks include:

1. fingerprint submission to the FBI or other state, national, or international database;
2. civil, criminal, or administrative records from any government jurisdiction;
3. credit history;
4. the license surrender or amendment requirements; and
5. any other activities the commissioner deems necessary.

The commissioner may use the information collected to determine

the applicant's eligibility for licensing under applicable law and any order he issues under this section. The commissioner may by order, waive or modify, in whole or in part, any applicable requirement of the banking statutes and establish new requirements to participate in the system, as reasonably necessary. He may adopt licensing regulations and interim procedures for licensing and acceptance of applications.

### ***Commissioner's Report to the System***

If the commissioner elects to require system-based licensure for persons engaged in a financial services industry, he may report regularly to the system any (1) violation of an enforcement action under applicable law and (2) other relevant information.

The commissioner may establish a relationship or enter into a contract with the system or any other entity designated by the system to collect and maintain records and process transaction fees or other fees related to licensees or others required or permitted to be licensed or registered on the system.

### ***Channeling Information Through the System***

The bill allows the commissioner to use the system as a channeling agent for requesting information from and distributing information to the U.S. Department of Justice, any government agency, and any other source he directs.

### ***Challenging Information Entered into the System***

Under the bill, any person required or permitted to be licensed or registered on the system may challenge information the commissioner enters into the system. The bill requires that any such challenges (1) be made in writing to the commissioner, (2) identify the specific information being challenged, and (3) include any evidence that supports the challenge. Challenges must be limited to the factual accuracy of information within the system.

The bill requires the commissioner to take prompt action to correct information that he determines is factually inaccurate. It does not permit challenges to the merits or factual basis of any administrative

action taken by the commissioner under the banking statutes.

### ***System Policies and Procedures***

Anyone filing or submitting any information to the system must follow the system's procedures and requirements and pay any applicable fees or charges to the system.

Each person required to obtain registration or licensure through the system must timely submit accurate reports to the system, in the form and with the information the system requires. Failure to do so is a violation.

### ***Fees***

Any fee paid for an initial or renewal application for a license or registration, including fees paid in connection with an application that is denied or withdrawn before the issuance of the license or registration, is nonrefundable. Under the bill, fees cannot be prorated if a license or registration is surrendered, revoked, or suspended before it expires.

### ***Automatic Suspension***

The bill allows the commissioner to automatically suspend the license or registration of a person who receives a deficiency on the system indicating that a required payment was not accepted. It requires the commissioner to (1) give the licensee or registrant notice of the suspension, pending proceedings for revocation or refusal to renew, and an opportunity for a hearing on the action and (2) require the licensee to take or refrain from taking action, as specified by the commissioner.

### ***Abandoned License and Registration Application***

Under the bill, the commissioner may deem an application for a license or registration on the system abandoned if the applicant fails to respond to any request for required information. He must notify the applicant, on the system, that if the information is not submitted within 60 days from the date of the request, the application will be

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deemed abandoned and the application filing fee will not be refunded.

Abandonment of an application does not preclude the applicant from submitting a new application.

### ***License or Registration Issued in Error***

The commissioner may issue a temporary order to cease business under a license or registration if he determines that such license or registration was issued in error. The bill requires him to give the licensee an opportunity for a hearing. The temporary order is effective when it is received by the licensee and, unless set aside or modified by a court, remains in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

### **§ 4 — CONFIDENTIAL OR PRIVILEGED INFORMATION**

Under current law, information or material disclosed to or on the system that is protected by state and federal privacy or confidentiality privilege must retain such protections. The bill extends the confidentiality provisions to the new uses of the system related to financial services industry licenses and registration and allows sharing with federal and other state financial industry regulators.

### **§ 5 — SYSTEM-BASED LICENSE SURRENDERS**

Under current law, financial services licensees may surrender a license to the commissioner in person or by registered or certified mail. For mortgage industry licenses issued through the system, such surrenders must be initiated by filing a request on the system. The bill extends current law on surrendering a license through the system to the financial services industry licensees using the system.

## **BACKGROUND**

### ***Related Bill***

sSB 911, reported favorably by the Banks Committee requires mortgage servicers to be licensed through the “system.”

## **COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/14/2013)