



General Assembly

January Session, 2013

**Raised Bill No. 231**

LCO No. 563

\*00563 \_\_\_\_\_ BA\_\*

Referred to Committee on BANKS

Introduced by:

(BA)

**AN ACT CONCERNING REVISIONS TO THE BANKING LAW TO REFLECT THE TRANSFER OF RESPONSIBILITIES TO THE CONSUMER FINANCIAL PROTECTION BUREAU.**

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

1 Section 1. Section 36a-746a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 36a-746b to 36a-746g, inclusive:

4 (1) "APR" means the annual percentage rate for the loan calculated  
5 according to the provisions of the federal Truth-in-Lending Act, 15  
6 USC Section 1601 et seq., as amended from time to time, and the  
7 regulations promulgated thereunder. For open-end lines of credit,  
8 "APR" means the highest corresponding annual percentage rate  
9 required to be disclosed under 12 CFR [226.6(a)(2) and 226.14(b)]  
10 1026.6(a)(2) and 1026.14(b), as amended from time to time, excluding  
11 any maximum rates required to be disclosed or stated pursuant to 12  
12 CFR [226.6(a)(2) or 226.30] 1026.6(a)(2) or 1026.30, as amended from  
13 time to time. For closed-end loans, "APR" means the annual percentage  
14 rate required to be disclosed under 12 CFR [226.18(e)] 1026.18(e), as

15 amended from time to time, excluding any maximum rates required to  
16 be disclosed or stated pursuant to 12 CFR [226.18(f) or 226.30]  
17 1026.18(f) or 1026.30, as amended from time to time. For purposes of  
18 this subdivision, any variable rate calculation shall use an index value  
19 in effect within forty-five days prior to consummation;

20 (2) "Broker" means a person who, for a fee, commission or other  
21 valuable consideration, negotiates, solicits, arranges, places or finds a  
22 high cost home loan that is to be made by a lender;

23 (3) "Consummation" means the time that a borrower becomes  
24 contractually obligated on a loan or extension of credit;

25 (4) "High cost home loan" means any loan or extension of credit,  
26 including an open-end line of credit but excluding a reverse mortgage  
27 transaction, as defined in 12 CFR [226.33] 1026.33, as amended from  
28 time to time:

29 (A) In which the borrower is a natural person;

30 (B) The proceeds of which are to be used primarily for personal,  
31 family or household purposes;

32 (C) In which the loan is secured by a mortgage upon any interest in  
33 one-to-four family residential property, as defined in section 36a-485,  
34 located in this state that is, or, when the loan is made, is intended to be  
35 used or occupied by the borrower as a principal residence; and

36 (D) In which the APR at consummation is greater than the yield on  
37 Treasury securities having comparable periods of maturity to the loan  
38 maturity as of the fifteenth day of the month immediately preceding  
39 the month in which the application for the loan or extension of credit is  
40 received by the lender, by more than the number of percentage points  
41 specified in 12 CFR [226.32(a)(1)(i)] 1026.32(a)(1)(i), as amended from  
42 time to time;

43 (5) "Interim interest" means interest for the period from funding to

44 the start of amortization paid by a borrower at or before  
45 consummation of a closed-end loan where such amortization begins  
46 sixty-two days or less after funding;

47 (6) "Lender" means any person who originates one or more high  
48 cost home loans; and

49 (7) "Prepaid finance charge" means any finance charge determined  
50 in accordance with 12 CFR [226.4] 1026.4, as amended from time to  
51 time, that is paid separately in cash or by check before or at  
52 consummation of a loan or extension of credit or withheld from the  
53 proceeds of such transaction at any time, except the term includes any  
54 fees or commissions payable to the lender or broker in connection with  
55 the sale of credit life, accident, health, disability or unemployment  
56 insurance products or unrelated goods or services sold in conjunction  
57 with the loan or extension of credit when the cost of such insurance  
58 products or goods or services is prepaid with the proceeds of the loan  
59 or extension of credit and financed as part of the principal amount of  
60 the loan or extension of credit, and excludes premiums, fees and any  
61 other amounts paid to a governmental agency, any amounts required  
62 to be escrowed by a governmental agency and interim interest.

63 Sec. 2. Subdivision (1) of section 36a-746c of the general statutes is  
64 repealed and the following is substituted in lieu thereof (*Effective from*  
65 *passage*):

66 (1) For a loan with a term of less than seven years, a payment  
67 schedule with regular periodic payments that when aggregated do not  
68 fully amortize the outstanding principal balance, except that this  
69 limitation does not apply to a loan with maturities of less than one  
70 year if the purpose of the loan is a bridge loan, as used in 12 CFR  
71 [226.32] 1026.32, as amended from time to time, connected with the  
72 acquisition or construction of a dwelling intended to become the  
73 borrower's principal dwelling;

74 Sec. 3. Section 36a-758 of the general statutes is repealed and the

75 following is substituted in lieu thereof (*Effective from passage*):

76 Any person who makes any first mortgage loan, as defined in  
77 section 36a-485, or any secondary mortgage loan, as defined in section  
78 36a-485, shall, at the time of consummation of such loan or at the  
79 termination of any right to rescind the loan transaction under 12 CFR  
80 [226] 1026, as amended from time to time, whichever is later, pay the  
81 loan proceeds to the mortgagor, to the mortgagor's attorney, to the  
82 mortgagee's attorney or to any other person specified in any settlement  
83 statement, any written agreement between the mortgagor and the  
84 mortgagee or any written instruction of the mortgagor, by a certified,  
85 bank treasurer's or cashier's check or by means of wire transfer.

86 Sec. 4. Subdivision (7) of subsection (a) of section 36a-760 of the  
87 general statutes is repealed and the following is substituted in lieu  
88 thereof (*Effective from passage*):

89 (7) "Nonprime home loan" means any loan or extension of credit,  
90 excluding an open-end line of credit, and further excluding a reverse  
91 mortgage transaction, as defined in 12 CFR [226.33] 1026.33, as  
92 amended from time to time:

93 (A) In which the borrower is a natural person;

94 (B) The proceeds of which are to be used primarily for personal  
95 family or household purposes;

96 (C) In which the loan is secured by a mortgage upon any interest in  
97 one-to-four family residential real property located in this state which  
98 is, or when the loan is made, intended to be used or occupied by the  
99 borrower as a principal residence;

100 (D) In which the principal amount of the loan does not exceed four  
101 hundred seventeen thousand dollars;

102 (E) Where the loan is not a CHFA loan; and

103 (F) In which the conditions set forth in clauses (i) and (ii) of this  
104 subparagraph apply, subject to any adjustments made pursuant to  
105 clause (iii) of this subparagraph:

106 (i) The difference, at the time of consummation, between the APR  
107 for the loan and the conventional mortgage rate is either equal to or  
108 greater than (I) one and three-quarters percentage points, if the loan is  
109 a first mortgage loan, or (II) three and three-quarters percentage  
110 points, if the loan is a secondary mortgage loan. For purposes of such  
111 calculation, "conventional mortgage rate" means the most recent  
112 contract interest rate on commitments for fixed-rate mortgages  
113 published by the Board of Governors of the Federal Reserve System in  
114 its statistical release H.15, or any publication that may supersede it,  
115 during the week preceding the week in which the interest rate for the  
116 loan is set. For purposes of determining the beginning of each weekly  
117 period, the first day of each week shall be the effective date for the  
118 applicable prime offer rate, as of the date the interest rate is set, as  
119 determined in accordance with subparagraph (F)(ii) of this  
120 subdivision.

121 (ii) The difference, at the time of consummation, between the APR  
122 for the loan or extension of credit and the average prime offer rate for a  
123 comparable transaction, as of the date the interest rate is set, is greater  
124 than one and one-half percentage points if the loan is a first mortgage  
125 loan or three and one-half percentage points if the loan is a secondary  
126 mortgage loan. For purposes of this subparagraph, "average prime  
127 offer rate" has the meaning as provided in 12 CFR [226.35] 1026.35, as  
128 amended from time to time. For purposes of subparagraphs (F)(i) and  
129 (F)(ii) of this subdivision, the date the interest rate is set is the last date  
130 the interest rate is set, provided the rate is adjusted on or before  
131 consummation.

132 (iii) The commissioner shall have the authority, after consideration  
133 of the relevant factors, to increase the percentages set forth in clauses  
134 (i) and (ii) of this subparagraph. For purposes of this clause, the

135 relevant factors to be considered by the commissioner shall include,  
136 but not be limited to, the existence and amount of increases in fees or  
137 charges in connection with purchases of mortgages by the Federal  
138 National Mortgage Association or the Federal Home Loan Mortgage  
139 Corporation and increases in fees or charges imposed by mortgage  
140 insurers and the impact, including the magnitude of the impact, that  
141 such increases have had, or will likely have, on APRs for mortgage  
142 loans in this state. When considering such factors, the commissioner  
143 shall focus on those increases that are related to the deterioration in the  
144 housing market and credit conditions. The commissioner may refrain  
145 from increasing such percentages if it appears that lenders are  
146 increasing interest rates or fees in bad faith or if increasing the  
147 percentages would be contrary to the purposes of sections 36a-760 to  
148 36a-760f, inclusive. No increase authorized by the commissioner to a  
149 particular percentage shall exceed one-quarter of one percentage point,  
150 and the total of all increases to a particular percentage under this  
151 clause shall not exceed one-half of one percentage point. No increase  
152 shall be made unless: (I) The increase is noticed in the Banking  
153 Department Bulletin and the Connecticut Law Journal, and (II) a public  
154 comment period of twenty days is provided. Any increase made under  
155 this clause shall be reduced proportionately when the need for the  
156 increase has diminished or no longer exists. The commissioner, in the  
157 exercise of his discretion, may authorize an increase in the percentages  
158 with respect to all loans or just with respect to a certain class or classes  
159 of loans;

160 Sec. 5. Subdivision (3) of subsection (a) of section 36a-760e of the  
161 general statutes is repealed and the following is substituted in lieu  
162 thereof (*Effective from passage*):

163 (3) For a loan with a term of less than seven years, a payment  
164 schedule with regular periodic payments that when aggregated do not  
165 fully amortize the outstanding principal balance, except that this  
166 limitation does not apply to a loan with maturities of less than one  
167 year if the purpose of the loan is a bridge loan, as used in 12 CFR

168 [226.32] 1026.32, as amended from time to time, connected with the  
169 acquisition or construction of a dwelling intended to become the  
170 borrower's principal dwelling;

171 Sec. 6. Section 42-460a of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective from passage*):

173 (a) As used in this section, "general-use prepaid card" has the same  
174 meaning given to that term in 12 CFR [205.20(a)(3)] 1005.20(a)(3), as  
175 from time to time amended.

176 (b) A general-use prepaid card shall not include an expiration date  
177 relative to the underlying funds that are redeemable through the use of  
178 the applicable card, code or device. Notwithstanding the provisions of  
179 this subsection, a general-use prepaid card may include an expiration  
180 date with regard to such card, code or device, provided: (1) The  
181 following disclosures are made, in writing, on such card, code or  
182 device: (A) That such card, code or device expires, but that the  
183 underlying funds do not expire and that the consumer may contact the  
184 issuer for a replacement card, code or device; and (B) a toll-free  
185 telephone number and an Internet web site address, if one is  
186 maintained, that a holder of a general-use prepaid card may use to  
187 obtain a replacement card, code or device after such card, code or  
188 device expires; (2) no fee or charge is imposed on such holder for  
189 replacing the card, code or device or for providing such holder with  
190 the remaining balance in some other manner, provided the card, code  
191 or device has not been lost or stolen; and (3) the seller of the card, code  
192 or device has established policies and procedures to provide  
193 consumers a reasonable opportunity to purchase a card, code or device  
194 that has not less than five years remaining until the card, code or  
195 device expires.

196 (c) For purposes of complying with the disclosure requirements of  
197 subdivision (1) of subsection (b) of this section, (1) the issuer of the  
198 general-use prepaid card may provide disclosures that are consistent

199 with the applicable provisions of 12 CFR [205.20(e)] 1005.20(e), as from  
200 time to time amended, and (2) such issuer shall make the disclosure  
201 required under subparagraph (A) of said subdivision (1) with equal  
202 prominence and in close proximity to the expiration date on the  
203 applicable card, code or device.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-746a
Sec. 2	<i>from passage</i>	36a-746c(1)
Sec. 3	<i>from passage</i>	36a-758
Sec. 4	<i>from passage</i>	36a-760(a)(7)
Sec. 5	<i>from passage</i>	36a-760e(a)(3)
Sec. 6	<i>from passage</i>	42-460a

**Statement of Purpose:**

To correct citations to various sections of the code of federal regulations to reflect a transfer in authority to the Consumer Financial Protection Bureau.

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