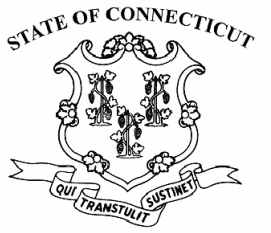

Substitute House Bill No. 6339

Public Act No. 13-135

AN ACT CONCERNING BANKS, LOAN PRODUCTION OFFICES, EXCHANGE FACILITATORS, PUBLIC DEPOSITS AND REAL PROPERTY TAX LIENS.

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

Section 1. Subsection (c) of section 36a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) No director, officer, employee or agent of any Connecticut bank, **[**or**]** Connecticut credit union or licensee under section 36a-380 or 36a-628 shall disclose without the prior written consent of the commissioner any information contained in an examination report about such bank, **[**or**]** credit union **[**,**]** or licensee which information is not otherwise a matter of public record.

Sec. 2. Section 36a-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

A Connecticut bank may merge with one or more of its affiliates that are not banks or out-of-state banks, provided the resulting institution is a Connecticut bank. Such merger shall be effected in accordance with the provisions of section 36a-125 as if such affiliate were a constituent bank, except, with respect to any provision therein

governing corporate procedure, including the rights of dissenting members or shareholders who assert existing appraisal rights, such affiliate shall comply with the laws of the state or other jurisdiction under which such affiliate is organized. Any such affiliate shall also comply with other applicable laws of the state or other jurisdiction under which such affiliate is organized concerning such mergers.

Sec. 3. Subsection (o) of section 36a-145 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(o) With the approval of the commissioner, a Connecticut bank may establish a loan production office in or outside this state.

Sec. 4. Subsection (a) of section 36a-262 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as otherwise provided in this section, the total direct or indirect liabilities of any one obligor that are not fully secured, however incurred, to any Connecticut bank, exclusive of such bank's investment in the investment securities of such obligor, shall not exceed at the time incurred fifteen per cent of the equity capital and reserves for loan and lease losses of such bank. The total direct or indirect liabilities of any one obligor that are fully secured, however incurred, to any Connecticut bank, exclusive of such bank's investment in the investment securities of such obligor, shall not exceed at the time incurred ten per cent of the equity capital and reserves for loan and lease losses of such bank, provided this limitation shall be separate from and in addition to the limitation on liabilities that are not fully secured. Notwithstanding any provision of this subsection, the limitation on the liabilities of any one obligor shall take into account the credit exposure to such obligor arising from a derivative transaction. The commissioner shall have the authority to establish the

method for determining the credit exposure and the extent to which the credit exposure shall be taken into account. As used in this subsection, "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event **[**leading**]** relating to, one or more commodities, securities, currencies, interest or other rates, indices or other assets. The commissioner may adopt regulations in accordance with the provisions of chapter 54 establishing the method for determining credit exposure to derivative transactions and the extent to which the credit exposure shall be taken into account. For purposes of this section, a liability shall be considered to be fully secured if it is secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the liability. For purposes of determining the limitations of this section, in computing the liabilities of an obligor, a liability is incurred at the time of the closing of the transaction, unless such closing is preceded by a legally binding written commitment to enter into the transaction, in which case such liability is incurred at the time of commitment and is net of any liabilities of the obligor to such bank that will be paid with the proceeds of the commitment at the time of closing. The limitations provided for in this subsection may be exceeded for a period of time not to exceed six hours if at the closing of any transaction at which such obligor incurs such liabilities to a Connecticut bank in excess of such limitations, such bank immediately assigns or participates out to one or more other persons an amount that constitutes not less than the excess over the applicable limitation. Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carry an agreement to repurchase on default, unless the bank's sole recourse is to an agreed reserve held by it, in which case the liability shall be excluded, a full recourse endorsement or an unconditional guarantee by the person, partnership, association or

corporation transferring the same, shall be subject under this section to a limitation of fifteen per cent of the bank's equity capital and reserves for loan and lease losses in addition to the applicable limitations of this section with respect to the makers of such obligations; provided, upon certification by an officer of the bank designated for that purpose by the governing board that the responsibility of each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each maker shall be the sole applicable loan limitation; and provided such certification shall be in writing and shall be retained as part of the records of such bank.

Sec. 5. (NEW) (*Effective October 1, 2013*) As used in this section and sections 6 to 11, inclusive, of this act:

(1) "Affiliated with" means that a person, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another specified person;

(2) "Client" means a taxpayer with whom an exchange facilitator enters into an agreement, as described in subparagraph (B) of subdivision (3) of this section;

(3) "Exchange facilitator" means a person who: (A) Maintains an office in this state for the purpose of soliciting business facilitating the exchange of like-kind property, as described in subparagraph (B) of this subdivision; or (B) for a fee (i) facilitates an exchange of like-kind property by entering into an agreement with a client pursuant to which the exchange facilitator acquires from such client the contractual rights to sell such client's relinquished property located in this state and transfer a replacement property to such client as a qualified intermediary, within the meaning of 26 CFR 1.1031(k)-1(g)(4), (ii) enters into an agreement with a client to take title to a property in this state as an exchange accommodation titleholder, as defined in Revenue

Procedure 2000-37 issued by the Internal Revenue Service, or (iii) enters into an agreement with a client to act as a qualified trustee or qualified escrow holder, as such terms are defined in 26 CFR 1.1031(k)-1(g)(3); but shall not include:

(I) Any financial institution, as defined in subdivision (6) of this section, that is acting solely as a depository for exchange funds or solely as a qualified escrow holder or qualified trustee, as such terms are defined in 26 CFR 1.1031(k)-1(g)(3), and is not otherwise facilitating exchanges in accordance with this subparagraph;

(II) An individual or entity that is teaching seminars or classes or giving other presentations to attorneys, accountants, real estate professionals, tax professionals or other professionals where the primary purpose is to teach about tax deferred exchanges or to train such professionals to act as exchange facilitators, or any individual or entity advertising for such seminars, classes or other presentations; or

(III) An entity that is wholly owned by an exchange facilitator or by a person representing the exchange facilitator and used by such exchange facilitator or person to facilitate exchanges or take title to property in this state as an exchange accommodation titleholder;

(4) "Exchange funds" means the funds received by an exchange facilitator from or on behalf of a client for the purpose of facilitating an exchange of like-kind property;

(5) "Fee" means compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or related person, as defined in Section 267(b) or Section 707(b) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, for any services relating or incidental to the exchange of like-kind property under Section 1031 of said Internal Revenue Code;

(6) "Financial institution" means any bank, federal credit union, Connecticut credit union, savings and loan holding company, savings and loan association, savings bank, trust company or trust bank, as such terms are defined in section 36a-2 of the general statutes, chartered under the laws of this state or the United States whose accounts are insured by the full faith and credit of the United States of America, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or other similar or successor programs;

(7) "Person" means a natural person, cooperative association, limited liability company, firm, partnership, corporation or other legal entity, and includes any agent or employee of any such person;

(8) "Pool" means to (A) aggregate exchange funds of multiple taxpayers for investment purposes to achieve common investment goals and efficiencies, and (B) ensure that such exchange funds are readily identifiable as to each taxpayer for whom they are held, through an accounting or subaccounting system;

(9) "Prudent investor standard" means the prudent investor rule, as set forth by the Connecticut Uniform Prudent Investor Act, or as otherwise defined by part VII of chapter 802c of the general statutes; and

(10) "Publicly traded company" means a corporation whose securities are publicly traded on the New York Stock Exchange, the American Stock Exchange, or the national market system of the National Association of Securities Dealers Automated Quotation System established pursuant to the Securities Exchange Act of 1934, and the subsidiaries of any such corporation.

Sec. 6. (NEW) (*Effective October 1, 2013*) An exchange facilitator shall notify each client whose relinquished property, as defined in 26 CFR

1.1031(k)-1(a), is located in this state or whose replacement property, as defined in 26 CFR 1.1031(k)-1(a), held under a qualified exchange accommodation agreement is located in this state, of any change in control of the exchange facilitator. The exchange facilitator shall notify each such client not later than ten business days after the effective date of such change in control by facsimile, electronic mail transmission or first class mail and by posting such notice of change of control on the exchange facilitator's Internet web site for a period ending not earlier than ninety days after the change in control. Such notification shall set forth the name, address and other contact information of the persons to whom control was transferred. Notwithstanding the provisions of this section, if the exchange facilitator is a publicly traded company and remains a publicly traded company after a change in control, the publicly traded company shall not be required to notify its existing clients of such change in control. For purposes of this section, "change in control" means any transfer or transfers within a twelve-month period of more than fifty per cent of the assets or ownership interests, directly or indirectly, of the exchange facilitator.

Sec. 7. (NEW) (*Effective October 1, 2013*) An exchange facilitator at all times shall:

(1) Maintain a fidelity bond in an amount of not less than one million dollars executed by an insurer authorized to do business in this state;

(2) Deposit all exchange funds in a separately identified account, as defined in 26 CFR 1.468B-6(c)(2)(ii)(A), and provide that any withdrawals from such separately identified account require the written authorizations of both the client and the exchange facilitator. Deliver authorization for withdrawals by any commercially reasonable means, including (A) the client's delivery to the exchange facilitator of the client's authorization to disburse exchange funds and the exchange facilitator's delivery to the depository institution of the exchange

facilitator's sole authorization to disburse exchange funds, or (B) delivery to the depository institution of both the client's and the exchange facilitator's authorizations to disburse exchange funds; or

(3) Deposit all exchange funds in a qualified escrow or qualified trust, as such terms are defined in 26 CFR 1.1031(k)-1(g)(3), with a financial institution and provide that any withdrawals from such qualified escrow or qualified trust require the taxpayer's and the exchange facilitator's written authorization.

Sec. 8. (NEW) (*Effective October 1, 2013*) An exchange facilitator at all times shall: (1) Maintain an errors and omissions policy of insurance in an amount not less than two hundred fifty thousand dollars executed by an insurer authorized to do business in this state; (2) deposit an amount of cash or securities; or (3) provide irrevocable letters of credit in an amount not less than two hundred fifty thousand dollars.

Sec. 9. (NEW) (*Effective October 1, 2013*) The Banking Commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of sections 5 to 12, inclusive, of this act. Any person claiming to have suffered damage by reason of the failure of an exchange facilitator to comply with the provisions of sections 6 to 11, inclusive, of this act may file a claim with the commissioner against the exchange facilitator to recover such damage from (1) the fidelity bond maintained in accordance with subdivision (1) of section 7 of this act, (2) cash or securities deposited in accordance with subdivision (2) of section 8 of this act, (3) letters of credit provided in accordance with subdivision (3) of section 8 of this act, or (4) the errors and omissions policy maintained in accordance with subdivision (1) of section 8 of this act.

Sec. 10. (NEW) (*Effective October 1, 2013*) (a) An exchange facilitator shall hold all exchange funds, including money, property, other consideration or instruments received by the exchange facilitator from

or on behalf of the client, but not including funds received as the exchange facilitator's compensation, in a manner that provides liquidity and preserves principal. An exchange facilitator shall provide the client with written notification of the manner in which the exchange funds will be invested or deposited and shall deposit or invest exchange funds in investments which meet the prudent investor standard and which satisfy investment goals of liquidity and preservation of principal. Exchange funds may be pooled. For purposes of this section, an exchange facilitator violates the prudent investor standard if:

(1) Exchange funds are knowingly commingled by the exchange facilitator with the operating accounts of the exchange facilitator; or

(2) Exchange funds are loaned or otherwise transferred to any person or entity affiliated with or related to the exchange facilitator except that this subdivision shall not apply to a transfer made pursuant to the exchange contract (A) for payment of an exchange expense or completion of the acquisition of the replacement property, (B) for depositing exchange funds with a financial institution, or (C) to an exchange accommodation titleholder, a trustee of a qualified trust or a qualified escrow agent.

(b) Exchange funds are not subject to execution or attachment on any claim against the exchange facilitator. An exchange facilitator shall not knowingly keep or cause to be kept any money in any financial institution under any name designating the money as belonging to a client of the exchange facilitator unless the money equitably belongs to the client and was actually entrusted to the exchange facilitator by the client.

Sec. 11. (NEW) (*Effective October 1, 2013*) No exchange facilitator or, in the case of an exchange facilitator that is an entity, no owner, officer, director or employee of such exchange facilitator, shall knowingly:

(1) Make any material misrepresentations concerning any exchange facilitator transaction that are intended to mislead;

(2) Pursue a continued or flagrant course of misrepresentation or making false statements through advertising or by any other means;

(3) Fail, within a reasonable time, to account for any money or property belonging to another person that may be in the possession or under the control of the exchange facilitator;

(4) Engage in any conduct constituting fraudulent or dishonest dealings;

(5) Commit any crime related to the exchange facilitation business involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery or other theft of property, except that commission of such crime by an officer, director or employee shall not be considered a violation of this section, provided (A) the employment or appointment of such officer, director or employee has been terminated, and (B) no clients of the exchange facilitator were harmed or full restitution has been made to all harmed clients;

(6) Materially fail to fulfill the exchange facilitator's contractual duties to the client to deliver property or funds to the client unless such failure is due to circumstances beyond the control of the exchange facilitator; and

(7) Materially violate any provision of sections 6 to 10, inclusive, of this act or the regulations adopted by the Banking Commissioner in accordance with section 9 of this act.

Sec. 12. (NEW) (*Effective October 1, 2013*) (a) A person who violates any provision of sections 6 to 11, inclusive, of this act is subject to civil suit in a court of competent jurisdiction.

(b) Any person who commences a civil action pursuant to subsection (a) of this section shall notify the Department of Banking upon filing such action.

Sec. 13. Section 36a-330 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in sections 36a-330 to 36a-338, inclusive, as amended by this act, unless the context otherwise requires:

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

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

(3) "Eligible collateral" means **[**(A) United States treasury bills, notes and bonds, (B) United States government agency securities, (C) United States agency variable-rate securities, (D) mortgage pass-through or participation certificates or similar securities, (E) performing one-to-four-family residential mortgage loans that meet the following criteria: (i) The mortgage loan has a loan-to-value ratio which is less than or equal to eighty per cent for loans without private mortgage insurance, or a loan-to-value ratio which is less than or equal to ninety-five per cent for loans with private mortgage insurance; and (ii) the mortgage loan has a payment history of not more than one payment over thirty days in arrears during the past twelve consecutive months or, if the loan has a payment history of less than twelve months in duration, the loan meets the documentation requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided, in the case of a subsequent default under any such mortgage loan that continues uncured for more than sixty days, such loan shall no longer qualify as eligible collateral and shall be

replaced by a performing mortgage loan that meets the criteria set forth in this subdivision, and (F) state and municipal bonds**]** the following investments for which prices or values are quoted or readily available: (A) General obligations that are guaranteed fully as to principal and interest by the United States or this state or for which the full faith and credit of the United States or this state is pledged for the payment of principal and interest; (B) general obligations of any agency of the United States, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest; (C) mortgage pass-through or participation certificates or similar securities that have been issued or guaranteed by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association; (D) general obligations of municipalities and states other than this state that are rated in the three highest rating categories by a rating agency recognized by the commissioner; and (E) revenue obligations for essential services, including education, transportation, emergency, water and sewer services of municipalities and states that are rated in the three highest rating categories by a rating agency recognized by the commissioner and that are determined to be a prudent investment by the governing board of the qualified public depository, by a management committee or board committee appointed by such governing board or by an officer appointed by such governing board, management committee or board committee;

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

(5) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of

deposit liabilities or the appointment of a receiver for a qualified public depository;

(6) "Net worth ratio" has the same meaning as "net worth ratio" as provided in 12 CFR 702.2, as from time to time amended;

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

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

(9) "Risk-based capital ratio" has the same meaning as "total risk-based capital ratio" as provided in Section 325.2 of Subpart 325 of the Federal Deposit Insurance Corporation Rules and Regulations, as amended from time to time;

(10) "Tier one leverage ratio" has the same meaning as "leverage ratio" as provided in Section 325.2 of Subpart 325 of the Federal Deposit Insurance Corporation Rules and Regulations, as amended from time to time; and

[(8)**]** (11) "Uninsured public deposit" means the portion of a public deposit that is not insured or guaranteed by the Federal Deposit Insurance Corporation or by the National Credit Union Administration. For purposes of this subdivision, amounts of a public deposit that are insured by the Federal Deposit Insurance Corporation

or the National Credit Union Administration include amounts that have been redeposited, with the authorization of the public depositor, into deposit accounts in one or more federally insured banks, out-of-state banks, Connecticut credit unions or federal credit unions, including the qualified public depository, provided the full amounts so included are eligible for insurance coverage by the Federal Deposit Insurance Corporation or by the National Credit Union Administration.

Sec. 14. Section 36a-333 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

[(a) To secure public deposits, each qualified public depository shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount at least equal to the following percentage of uninsured public deposits held by the depository: (1) For any qualified public depository having a risk-based capital ratio of ten per cent or greater, a sum equal to ten per cent of all uninsured public deposits held by the depository; (2) for any qualified public depository having a risk-based capital ratio of less than ten per cent but greater than or equal to eight per cent, a sum equal to twenty-five per cent of all uninsured public deposits held by the depository; (3) for any qualified public depository having a risk-based capital ratio of less than eight per cent but greater than or equal to three per cent, a sum equal to one hundred per cent of all uninsured public deposits held by the depository; (4) for any qualified public depository having a risk-based capital ratio of less than three per cent, and, notwithstanding the provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository which has been conducting business in this state for a period of less than two years except for a qualified public depository that is a successor institution to a qualified public depository which conducted business in this state for two years or more, a sum equal to one hundred twenty

per cent of all uninsured public deposits held by the depository; provided, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository that is an uninsured bank, a sum equal to one hundred twenty per cent of all public deposits held by the depository; and (6) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository that is subject to an order to cease and desist, consent order or a preliminary warning letter, or has entered into a stipulation and agreement, memorandum of understanding or a letter of understanding and agreement with a bank or credit union supervisor, a sum equal to one hundred twenty per cent of all uninsured public deposits held by the depository, or, in the case of such a qualified public depository that satisfies the requirements of subsection (f) of this section, a sum equal to one hundred per cent of all uninsured public deposits held by the depository.**]**

(a) (1) To secure public deposits, each qualified public depository that is not under a formal regulatory order shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount not less than twenty-five per cent of all uninsured public deposits held by the depository, provided if such depository: (A) Is a bank or out-of-state bank having a tier one leverage ratio of not less than six per cent and a risk-based capital ratio of not less than twelve per cent, or is a credit union or federal credit union having a net worth ratio of not less than eight per cent, the amount of eligible collateral shall be a sum not less than ten per cent of all uninsured deposits held by the depository; or (B) is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent

or a risk-based capital ratio of less than ten per cent, or is a credit union or federal credit union having a net worth ratio of less than seven per cent, the amount of eligible collateral shall be not less than a sum equal to one hundred ten per cent of all uninsured public deposits held by the depository.

(2) Notwithstanding the provisions of subdivisions (1) and (3) of this subsection, to secure public deposits, each qualified public depository that (A) has been conducting business in this state for a period of less than two years, except for a depository that is a successor institution to a depository which conducted business in this state for two years or more, or (B) is an uninsured bank, shall at all times maintain, segregated from its other assets as required under subsection (b) of this section, eligible collateral in an amount not less than one hundred twenty per cent of all uninsured public deposits held by the depository.

(3) To secure public deposits, each qualified public depository that is under a formal regulatory order shall at all times maintain, segregated from its other assets as required under subsection (b) of this section, eligible collateral in an amount not less than one hundred ten per cent of all uninsured public deposits held by the depository. However, if such regulatory order is not related to capital, asset quality, earnings or liquidity, the depository notifies each of its public depositors of the issuance of such order and such depository is a bank or out-of-state bank having a tier one leverage ratio of not less than five per cent and risk-based capital ratio of not less than ten per cent or a credit union or federal credit union having a net worth ratio of not less than seven per cent, such depository may reduce the amount of eligible collateral it is required to maintain under this subdivision to an amount not less than seventy-five per cent of all uninsured public deposits held by the depository, provided if such depository is a bank or out-of-state bank having a tier one leverage ratio of not less than

seven and one-half per cent and a risk-based capital ratio of not less than fourteen per cent or a credit union or federal credit union having a net worth ratio of not less than nine and one-half per cent, the amount of eligible collateral may be reduced to a sum not less than fifty per cent of all uninsured public deposits held by the depository.

(4) Notwithstanding the provisions of this subsection, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under **[**subdivisions (1) to (6), inclusive,**]** subdivision (1) or (3) of this subsection, as applicable. For purposes of this subsection, the amount of all uninsured public deposits held by the depository shall be determined at the close of business on the day of receipt of any public deposit and any deficiency in the amount of eligible collateral required under this section shall be cured not later than the close of business on the following business day. For purposes of this subsection, the depository's tier one leverage ratio and risk-based capital ratio or net worth ratio shall be determined, in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, based on the most recent quarterly call report, provided **[**(A)**]** if, during any calendar quarter after the issuance of such report, the depository experiences a decline in its tier one leverage ratio, risk-based capital ratio or net worth ratio to a level that would require the depository to maintain a higher amount of eligible collateral under **[**subdivisions (1) to (4), inclusive, or subdivision (6)**]** subdivision (1) or (3) of this subsection, the depository shall increase the amount of eligible collateral maintained by it to the minimum required under **[**subdivisions (1) to (4), inclusive, or subdivision (6)**]** subdivision (1) or (3) of this subsection, as applicable, based on such lower tier one leverage ratio, risk-based capital ratio or net worth ratio and shall notify the commissioner of its actions. **[**; and (B) if, during any calendar quarter after the issuance of such report, the commissioner reasonably

determines that the depository's risk-based capital ratio is likely to decline to a level that would require the depository to maintain a higher amount of eligible collateral under subdivisions (1) to (4), inclusive, or subdivision (6) of this subsection, the commissioner may require that the depository increase the amount of eligible collateral maintained by it to the minimum required under subdivisions (1) to (4), inclusive, or subdivision (6) of this subsection, as applicable, based on the commissioner's determination of such lower risk-based capital ratio. For purposes of determining the minimum market value of the eligible collateral under subsection (e) of this section, a qualified public depository shall apply the collateral ratio using uninsured public deposits.**]** The commissioner may, at any time, require the depository to increase its eligible collateral to an amount greater than that required by subdivision (1) or (3) of this subsection, as applicable, up to a maximum amount of one hundred twenty per cent, if the commissioner reasonably determines that such increase is necessary for the protection of public deposits. If the commissioner determines that such increase in eligible collateral is no longer necessary for the protection of public deposits, the commissioner may allow the depository to adjust the amount downward, as the circumstances warrant, to an amount not less than the minimum amount required by subdivision (1) or (3) of this subsection, as applicable.

(5) For purposes of this subsection, "formal regulatory order" means a written agreement related to enforcement, including a letter of understanding or agreement or a written order, that a supervisory agency is required to publish or publishes on its web site, but does not include any written agreement or written order under which the sole obligation of the depository is to pay a civil money penalty, fine or restitution.

(b) Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of five per cent or greater or a

risk-based capital ratio of **[**eight**]** ten per cent or greater shall transfer eligible collateral maintained under subsection (a) of this section to its own trust department, provided such trust department is located in this state unless the commissioner approves otherwise, to the trust department of another financial institution, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent or a risk-based capital ratio of less than **[**eight**]** ten per cent and each qualified public depository that is a credit union or federal credit union shall transfer eligible collateral maintained under subsection (a) of this section to the trust department of a financial institution that is not owned or controlled by the depository or by a holding company owning or controlling the depository, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Such transfers of eligible collateral shall be made in a manner prescribed by the commissioner. **[**Eligible collateral shall be valued at market value or as determined by the commissioner if market value is not readily determinable, and the**]** The qualified public depository shall determine and adjust the market value of such eligible collateral **[**shall be determined and adjusted on a quarterly**]** on a monthly basis. Without the requirement of any further action, the commissioner shall have, for the benefit of public depositors, a perfected security interest in all such eligible collateral held in such segregated trust accounts, granted pursuant to and in accordance with the terms of the agreement between the public depositor and the qualified public depository. Such security interest shall have priority over all other perfected security interests and liens. The commissioner may, at any time, require the depository to value the collateral more frequently than monthly if the

commissioner reasonably determines that such valuation is necessary for the protection of public deposits. Each holder of eligible collateral shall file with the commissioner, at the end of each calendar quarter, a report with the CUSIP number, description and par value of each investment it holds as eligible collateral.

(c) The depository shall have the right to make substitutions of eligible collateral at any time without notice. The depository shall have the right to reduce the amount of eligible collateral maintained by it that is in excess of the amount required under subsection (a) of this section. **[**provided such reduction shall be determined based on the amount of all uninsured public deposits held by the depository and the depository's risk-based capital ratio as determined in accordance with said subsection (a). The depository shall provide written notice to its public depositors of any such reduction in the amount of eligible collateral maintained under subsection (a) of this section.**]**

[(d)**]** The income from the assets which constitute segregated eligible collateral shall belong to the depository without restriction.

[(e) Eligible collateral pledged to secure public deposits under subsection (a) of this section shall have a minimum market value as expressed in the following collateral ratios:

Form of Eligible Collateral Pledged	Collateral Ratio (Market value divided by public deposit plus accrued interest)
1. United States Treasury bills, notes and bonds	
A. Maturing in less than one year	102%
B. Maturing in one to five years	105%

C. Maturing in more than five years	110%
D. Zero-coupon treasury securities with maturities exceeding ten years	120%
2. Actively traded United States government agency securities	
A. Maturing in less than one year	103%
B. Maturing in one to five years	107%
C. Maturing in more than five years	115%
3. United States government agency variable rate securities	103%
4. Government National Mortgage Association mortgage pass-through or participation certificates or similar securities	
A. Current issues	115%
B. Older issues	120%
C. Issues for which prices are not quoted	125%
5. Other United States government securities	125%
6. Other mortgage pass-through or participation certificates or similar securities	125%
7. One-to-four family residential mortgages	125%
8. State and municipal bonds	
A. General obligation bonds	
i. Maturing in less than one year	102%
ii. Maturing in one to five years	107%
iii. Maturing in more than five years	110%
B. Revenue bonds	
i. Maturing in less than one year	105-110%
ii. Maturing in one to five years	110-120%
iii. Maturing in more than five years	120-130%

(f) A qualified public depository that is subject to an order to cease and desist, consent order or a preliminary warning letter, or has entered into a stipulation and agreement, memorandum of understanding or a letter of understanding and agreement with a bank or credit union supervisor, may maintain eligible collateral in a sum equal to or greater than one hundred per cent of all uninsured public deposits held by the depository, provided (1) the depository has a risk-based capital ratio of twelve per cent or greater, and (2) the depository satisfies the following conditions, to the extent applicable: (A) The depository may not pledge eligible collateral in the form described in subsection (e)6. of this section, except for mortgage pass-through or participation certificates or similar securities that have been issued or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and for which prices are quoted; (B) the depository may not pledge eligible collateral in the form described in subsection (e)4.C. of this section; (C) if the public depository pledges eligible collateral in the form described in subsection (e)7. of this section, the collateral ratio for such mortgages shall be one hundred fifty per cent; and (D) if the public depository pledges eligible collateral in the form described in subsection (e)8. of this section, such collateral shall be rated in the three highest rating categories by a rating service recognized by the commissioner. The depository may pledge any other eligible collateral that is not limited by subdivision (2) of this subsection.**]**

Sec. 15. Section 36a-338 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

On each call report date, each qualified public depository shall file with the commissioner a written report, certified under oath, indicating (1) the qualified public depository's <u>tier one leverage ratio and</u> risk-based capital ratio **[**and total capital**]** <u>or net worth ratio</u>, as determined in accordance with applicable federal regulations and

regulations adopted by the commissioner in accordance with chapter 54, (2) the uninsured and total amount of public deposits held by the qualified public depository other than deposits that have been redeposited into the qualified public depository by another insured depository institution pursuant to a reciprocal deposit arrangement that makes such funds eligible for insurance coverage by the Federal Deposit Insurance Corporation or the National Credit Union Administration, (3) the **[**amount and nature**]** description and market value of any eligible collateral segregated and designated to secure the uninsured public deposits in accordance with sections 36a-330 to 36a-338, inclusive, as amended by this act, and (4) the amount and the name of the issuer of any letter of credit issued pursuant to section 36a-337. Each depository shall furnish a copy of its most recent report to any public depositor having public funds on deposit in the depository, upon request of the depositor. Any public depository which refuses or neglects to furnish any report or give any information as required by this section shall no longer be a qualified public depository and shall be excluded from the right to receive public deposits.

Sec. 16. Section 12-195h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

Any municipality, by resolution of its legislative body, as defined in section 1-1, may assign, for consideration, any and all liens filed by the tax collector to secure unpaid taxes on real property as provided under the provisions of this chapter. The consideration received by the municipality shall be negotiated between the municipality and the assignee. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as such municipality and municipality's tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private

party holding a lien on real property. The assignee, or any subsequent assignee, shall provide written notice of an assignment, not later than thirty days after the date of such assignment, to any holder of a mortgage, on the real property that is the subject of the assignment, provided such holder is of record as of the date of such assignment. Such notice shall include information sufficient to identify (1) the property that is subject to the lien and in which the holder has an interest, (2) the name and addresses of the assignee, and (3) the amount of unpaid taxes, interest and fees being assigned relative to the subject property as of the date of the assignment.

Sec. 17. Section 36a-275 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) As used in this section, the term "debt securities" means (1) any marketable obligation evidencing indebtedness of any person in the form of direct, assumed or guaranteed bonds, notes or debentures or any security that has attributes similar to such marketable obligations; (2) any obligation identified by certificates of participation in investments described in subdivision (1) of this subsection in which a Connecticut bank could invest directly; or (3) repurchase agreements, and the term "debt mutual fund" means a partnership interest in, shares of stock of, units of beneficial interest in or other ownership interest in any one investment company registered under the Investment Company Act of 1940, as from time to time amended, commonly described as mutual funds, money market funds, investment trusts or business trusts, provided the portfolios of such investment companies consist solely of investments described in subdivision (1) of this subsection.

(b) In addition to other investments authorized by this part, any Connecticut bank may purchase or hold for its own account debt securities and debt mutual funds without regard to any other liability to the Connecticut bank of the maker, obligor, guarantor or issuer of

such debt securities and debt mutual funds, provided: (1) The debt securities and debt mutual funds are rated in the three highest rating categories by a rating service of such securities recognized by the commissioner or, if not so rated, are determined by the bank's governing board to be a prudent investment; (2) unless the bank obtains the prior approval of the commissioner, the total amount of the debt securities and debt mutual funds of any one maker, obligor or issuer purchased or held by a Connecticut bank or for a Connecticut bank's account may not exceed, at any time, twenty-five per cent of its total equity capital and reserves for loan and lease losses; and (3) the total amount of any debt securities and debt mutual funds purchased or held by a Connecticut bank or for a Connecticut bank's account pursuant to this subsection may not exceed at any time twenty-five per cent of its assets.

(c) In addition to other investments authorized by this part, any Connecticut bank may purchase or hold for its own account the following debt securities and debt mutual funds without regard to any other liability to the Connecticut bank of the maker, obligor, guarantor or issuer of such debt securities and debt mutual funds, provided (1) the debt securities and debt mutual funds are rated in the three highest rating categories by a rating service recognized by the commissioner, or, if not so rated, determined by the bank's governing board to be a prudent investment; (2) unless the bank obtains the prior approval of the commissioner, the total amount of the debt securities and debt mutual funds of any one maker, obligor or issuer purchased or held by a Connecticut bank or for a Connecticut bank's account may not exceed, at any time, seventy-five per cent of its total equity capital and reserves for loan and lease losses; and (3) the total amount of any debt securities and debt mutual funds purchased or held by a Connecticut bank or for a Connecticut bank's account pursuant to this subsection may not exceed at any time fifty per cent of its assets:

(A) General obligations of any agency of the United States, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest;

(B) Residential mortgage pass-through securities and other residential mortgage-backed securities, including collateralized mortgage obligations and real estate investment conduits that are issued or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, provided said association or corporation is operating at the time of issuance or guarantee under the conservatorship or receivership of the Federal Housing Finance Agency; and

(C) Debt mutual funds, provided the portfolios of the investment companies consist solely of investments described in subparagraphs (A) and (B) of this subdivision.

[(c)**]** (d) In addition to other investments authorized by this part, any Connecticut bank may purchase or hold for its own account the following debt securities and debt mutual funds without regard to any other liability to the Connecticut bank of the maker, obligor, guarantor or issuer of such debt securities and debt mutual funds, provided the debt securities and debt mutual funds are rated in the three highest rating categories by a rating service recognized by the commissioner or, if not so rated, determined by the bank's governing board to be a prudent investment:

(1) The general obligations of the United States or this state;

(2) Securities which are guaranteed fully as to principal and interest by the United States or this state or for which the full faith and credit of the United States or this state is pledged for the payment of

principal and interest;

(3) Securities, including repurchase agreements, the principal and interest of which are irrevocably secured by securities described in subdivisions (1) and (2) of this subsection; and

[(4) General obligations of any agency of the United States, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest; and**]**

[(5)**]** (4) Debt mutual funds, provided the portfolios of the investment companies consist solely of investments described in subdivisions (1) to **[**(4)**]** (3), inclusive, of this subsection.

Sec. 18. Subsection (c) of section 20-529b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(c) Except in cases of breach of contract or substandard performance of services or where the parties have mutually agreed upon an alternate payment schedule in writing, each appraisal management company operating in this state shall make payment to an appraiser for the completion of an appraisal or valuation assignment not later than **[**sixty**]** forty-five days after the date on which such appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

Approved June 18, 2013