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## **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 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)