



# Senate

General Assembly

**File No. 238**

January Session, 2013

Substitute Senate Bill No. 911

*Senate, March 28, 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 MONEY TRANSMISSION, MORTGAGE  
SERVICERS AND CONSUMER COLLECTION AGENCIES.***

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

1 Section 1. Section 36a-595 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 Sections 36a-595 to 36a-610, inclusive, as amended by this act, and  
4 sections 18 and 19 of this act shall be known and may be cited as the  
5 "Money Transmission Act".

6 Sec. 2. Section 36a-596 of the general statutes is repealed and the  
7 following is substituted in lieu thereof (*Effective October 1, 2013*):

8 As used in sections 36a-595 to 36a-610, inclusive, as amended by this  
9 act, and sections 18 and 19 of this act:

10 (1) "Authorized delegate" means a person designated by a person  
11 licensed pursuant to sections 36a-595 to 36a-610, inclusive, as amended  
12 by this act, and sections 18 and 19 of this act to provide money

13 transmission services on behalf of such licensed person.

14 [(1)] (2) "Electronic payment instrument" means a card or other  
15 tangible object for the transmission of money or monetary value or  
16 payment of money which contains a microprocessor chip, magnetic  
17 stripe, or other means for the storage of information, that is prefunded  
18 and for which the value is decremented upon each use, but does not  
19 include a card or other tangible object that is redeemable by the issuer  
20 in the issuer's goods or services.

21 [(2)] (3) "Holder" means a person, other than a purchaser, who is  
22 either in possession of a [Connecticut] payment instrument and is the  
23 named payee thereon or in possession of a [Connecticut] payment  
24 instrument issued or endorsed to such person or bearer or in blank.  
25 "Holder" does not include any person who is in possession of a lost,  
26 stolen or forged [Connecticut] payment instrument.

27 [(3)] (4) "Licensee" means any person licensed or required to be  
28 licensed pursuant to sections 36a-595 to 36a-610, inclusive, as amended  
29 by this act, and sections 18 and 19 of this act.

30 [(4) "Material litigation" means any litigation that, according to  
31 generally accepted accounting principles, is deemed significant to a  
32 person's financial health and would be required to be referenced in a  
33 person's annual audited financial statements, report to shareholders or  
34 similar documents.]

35 (5) "Monetary value" means a medium of exchange, whether or not  
36 redeemable in money.

37 [(6) "Money order" means any check, draft, money order or other  
38 payment instrument. "Money order" does not include a travelers check  
39 or electronic payment instrument.]

40 [(7)] (6) "Money transmission" means engaging in the business of  
41 issuing or selling payment instruments or stored value, receiving  
42 money or monetary value for current or future transmission or the  
43 business of transmitting money or monetary value within the United

44 States or to locations outside the United States by any and all means  
45 including, but not limited to, payment instrument, wire, facsimile or  
46 electronic transfer. [or issuing stored value.]

47 [(8) "Net worth" means the excess of assets over liabilities as  
48 determined by generally accepted accounting principles.]

49 [(9)] ~~(7)~~ "Outstanding" means ~~[,]~~ ~~(A)~~ in the case of a [money order,  
50 travelers check, electronic] payment instrument or stored value, that:  
51 [(A)] ~~(i)~~ It is sold or issued in the United States; [(B)] ~~(ii)~~ a report of it  
52 has been received by a licensee from its [agents] authorized delegates;  
53 and [(C)] ~~(iii)~~ it has not yet been paid by the issuer, and (B) for all other  
54 money transmissions, the value reported to the licensee for which the  
55 licensee or any authorized delegate has received money or its  
56 equivalent value from the customer for transmission, but has not yet  
57 completed the money transmission by delivering the money or  
58 monetary value to the person designated by the customer.

59 [(10)] ~~(8)~~ "Payment instrument" means a check, draft, money order,  
60 travelers check or electronic payment instrument that evidences either  
61 an obligation for the transmission of money or monetary value or  
62 payment of money, or the purchase or the deposit of funds for the  
63 purchase of such check, draft, money order, travelers check or  
64 electronic payment instrument. [A payment instrument is a  
65 "Connecticut payment instrument" if it is sold in this state.]

66 [(11)] ~~(9)~~ "Permissible investment" means: (A) Cash in United States  
67 currency; (B) time deposits, as defined in section 36a-2, or other debt  
68 instruments of a bank; (C) bills of exchange or bankers acceptances  
69 which are eligible for purchase by member banks of the Federal  
70 Reserve System; (D) commercial paper of prime quality; (E) interest-  
71 bearing bills, notes, bonds, debentures or other obligations issued or  
72 guaranteed by: (i) The United States or any of its agencies or  
73 instrumentalities, or (ii) any state, or any agency, instrumentality,  
74 political subdivision, school district or legally constituted authority of  
75 any state if such investment is of prime quality; (F) interest-bearing  
76 bills or notes, or bonds, debentures or preferred stocks, traded on any

77 national securities exchange or on a national over-the-counter market,  
78 if such debt or equity investments are of prime quality; (G) receivables  
79 due from [selling agents] authorized delegates consisting of the  
80 proceeds of the sale of payment instruments which are not past due or  
81 doubtful of collection; (H) gold; and (I) any other investments  
82 approved by the commissioner. Notwithstanding the provisions of this  
83 subdivision, if the commissioner at any time finds that an investment  
84 of a licensee is unsatisfactory for investment purposes, the investment  
85 shall not qualify as a permissible investment.

86 [(12)] (10) "Prime quality" of an investment means that it is within  
87 the top four rating categories in any rating service recognized by the  
88 commissioner unless the commissioner determines for any licensee  
89 that only those investments in the top three rating categories qualify as  
90 "prime quality".

91 [(13)] (11) "Purchaser" means a person who buys or has bought a  
92 [Connecticut] payment instrument or who has given money or  
93 monetary value for current or future transmission.

94 [(14)] (12) "Stored value" means monetary value that is evidenced by  
95 an electronic record. For the purposes of this subdivision, "electronic  
96 record" means information that is stored in an electronic medium and  
97 is retrievable in perceivable form.

98 [(15)] (13) "Travelers check" means a payment instrument for the  
99 payment of money that contains a provision for a specimen signature  
100 of the purchaser to be completed at the time of a purchase of the  
101 instrument and a provision for a countersignature of the purchaser to  
102 be completed at the time of negotiation.

103 [(16)] "Unsafe or unsound practice" means a practice or conduct by a  
104 licensee or an agent of such licensee that is likely to result in a material  
105 loss, insolvency or dissipation of the licensee's assets or otherwise  
106 materially prejudice the interests of purchasers.]

107 Sec. 3. Section 36a-597 of the general statutes is repealed and the

108 following is substituted in lieu thereof (*Effective October 1, 2013*):

109 (a) No person shall engage in the business of [issuing Connecticut  
110 payment instruments, or engage in the business of] money  
111 transmission in this state, or advertise or solicit such services, without  
112 a license issued by the commissioner as provided in [section 36a-600.  
113 No person shall engage in such business or in the business of selling  
114 Connecticut payment instruments as an agent] sections 36a-595 to 36a-  
115 610, inclusive, as amended by this act, and sections 18 and 19 of this  
116 act, except as an [agent] authorized delegate of a person that has been  
117 issued a license by the commissioner [as provided in section 36a-600 or  
118 an entity or a person exempt under section 36a-609] and in accordance  
119 with section 36a-607, as amended by this act. A person shall be deemed  
120 to be engaged in the business of money transmission in this state if  
121 such person: (1) Has a place of business in this state, (2) receives  
122 money or monetary value in this state or from a person located in this  
123 state, (3) transmits money or monetary value from a location in this  
124 state or to a person located in this state, (4) issues stored value or  
125 payment instruments that are sold in this state, or (5) sells stored value  
126 or payment instruments in this state. The licensee [and the agent] shall  
127 promptly notify the commissioner, in writing, of the termination of the  
128 contract between such licensee and [agent] authorized delegate.

129 (b) Any person who knowingly engages in the business of [issuing  
130 Connecticut payment instruments, or who knowingly engages in the  
131 business of] money transmission in this state, without obtaining a  
132 license, as provided in [section 36a-600] sections 36a-595 to 36a-610,  
133 inclusive, as amended by this act, and sections 18 and 19 of this act,  
134 shall be guilty of a class D felony. Each transaction in violation of the  
135 provisions of this subsection shall constitute a separate offense.

136 Sec. 4. Section 36a-598 of the general statutes is repealed and the  
137 following is substituted in lieu thereof (*Effective October 1, 2013*):

138 (a) Each application for an [original] initial or renewal license  
139 required under sections 36a-595 to 36a-610, inclusive, as amended by  
140 this act, and sections 18 and 19 of this act shall be made in writing and

141 under oath to the commissioner in such form as the commissioner may  
142 prescribe. The application shall include:

143 (1) The exact name of the applicant and, if incorporated, the date of  
144 incorporation and the state where incorporated;

145 (2) The complete address of the principal office from which the  
146 business is to be conducted and of the office where the books and  
147 records of the applicant are to be maintained;

148 (3) The complete name and address of each of the applicant's  
149 [~~branches, subsidiaries, affiliates and agents~~] locations and authorized  
150 delegates, if any, [~~engaging in this state in the business of selling or~~  
151 ~~issuing Connecticut payment instruments, or engaging~~] through which  
152 the applicant intends to engage in the business of money transmission  
153 in this state;

154 (4) The name, title, address and telephone number of the person to  
155 whom notice of the commissioner's approval or disapproval of the  
156 application shall be sent and to whom any inquiries by the  
157 commissioner concerning the application shall be directed;

158 (5) The name and residence address of the individual, if the  
159 applicant is an individual; the partners, if the applicant is a  
160 partnership; the directors, trustees, principal officers, and any  
161 shareholder owning ten per cent or more of each class of its securities,  
162 if the applicant is a corporation or association; or the members, if the  
163 applicant is a limited liability company;

164 (6) [~~The most recently~~] (A) A copy of the applicant's audited  
165 financial statements for the most recent fiscal year, (B) if the applicant  
166 is a wholly-owned subsidiary of another corporation, (i) the most  
167 recent audited consolidated annual financial statements of the parent  
168 corporation or the applicant's most recent audited consolidated annual  
169 financial statement, and (ii) the most recent audited unconsolidated  
170 financial statement of the applicant, including its balance sheet and  
171 receipts and disbursements for the preceding year, [prepared by an

172 independent certified public accountant acceptable to the  
173 commissioner] (C) if the applicant is publicly traded, a copy of the  
174 most recent 10-K report that such applicant filed with the Securities  
175 Exchange Commission or, if the applicant is a wholly-owned  
176 subsidiary of a publicly traded company, a copy of the parent  
177 company's most recent 10-K report that such applicant filed with the  
178 Securities and Exchange Commission, and (D) if the applicant or  
179 parent company of a wholly-owned subsidiary applicant is publicly  
180 traded on a foreign exchange, a copy of documentation similar to the  
181 report filed pursuant to subparagraph (C) of this subdivision that such  
182 applicant filed with the applicable securities regulator;

183 (7) A list of the applicant's permissible investments, the book and  
184 market values of such investments, and the dollar amount of the  
185 applicant's aggregate outstanding [payment instruments] money  
186 transmissions (A) as of the date of the financial statement filed in  
187 accordance with subdivision (6) of this subsection; and (B) as of a date  
188 no earlier than thirty business days prior to the filing of the  
189 application;

190 (8) The history of material litigation for the five-year period prior to  
191 the date of the application of the individual, if the applicant is an  
192 individual; the partners, if the applicant is a partnership; the directors,  
193 trustees, principal officers and any shareholder owning ten per cent or  
194 more of each class of its securities, if the applicant is a corporation or  
195 association; or the members, if the applicant is a limited liability  
196 company, and sufficient information pertaining to the history of  
197 material litigation, in a form acceptable to the commissioner, on such  
198 individual or the partners, directors, trustees, principal officers,  
199 members and any shareholder owning ten per cent or more of each  
200 class of the applicant's securities. For purposes of this section, "material  
201 litigation" means any litigation that, according to generally accepted  
202 accounting principles, is deemed significant to a person's financial  
203 health and that such person is required to reference in an annual  
204 audited financial statement, a report to shareholders or a similar  
205 document;

206 (9) (A) The history of criminal convictions of the individual, if the  
207 applicant is an individual; the partners, if the applicant is a  
208 partnership; the directors, trustees, principal officers and any  
209 shareholder owning ten per cent or more of each class of its securities  
210 if the applicant is a corporation or association; or the members, if the  
211 applicant is a limited liability company, and (B) sufficient information  
212 pertaining to the history of criminal convictions, in a form acceptable  
213 to the commissioner, on such individual or the partners, directors,  
214 trustees, principal officers, members and any shareholder owning ten  
215 per cent or more of each class of the applicant's securities;

216 (10) (A) The surety bond required by subsection (a) of section 36a-  
217 602, as amended by this act, if applicable;

218 (B) A list of the investments maintained in accordance with  
219 subsection [(c)] (d) of section 36a-602, as amended by this act, if  
220 applicable, and the book and market values of any such investments (i)  
221 as of the date of the financial statement filed in accordance with  
222 subdivision (6) of this subsection; and (ii) as of a date no earlier than  
223 thirty business days prior to the filing of the application;

224 (11) A statement [of whether the applicant will engage in the  
225 business of issuing money orders, travelers checks or electronic  
226 payment instruments or engage in the business of money transmission  
227 in this state; and] describing the type of money transmission business  
228 that will be conducted by the applicant in this state;

229 (12) The name and address of any financial institution used by the  
230 applicant for its money transmission business in this state;

231 (13) For each authorized delegate, a sample of the contract  
232 evidencing the proposed arrangement between the applicant and the  
233 authorized delegate; and

234 [(12)] (14) Any other information the commissioner may require.

235 (b) The commissioner, in accordance with section 29-17a, may  
236 conduct a state and national criminal history records check of the

237 individual applicant and of each partner, director, trustee, principal  
238 officer, member and shareholder owning ten per cent or more of each  
239 class of the securities of the applicant. The commissioner may deem an  
240 application for a license to engage in the business of [issuing  
241 Connecticut payment instruments or engage in the business of] money  
242 transmission in this state abandoned if the applicant fails to respond to  
243 any request for information required under sections 36a-595 to 36a-610,  
244 inclusive, as amended by this act, and sections 18 and 19 of this act, or  
245 any regulations adopted pursuant to said sections. The commissioner  
246 shall notify the applicant, in writing, that if the applicant fails to  
247 submit such information not later than sixty days after such request,  
248 the application shall be deemed abandoned. An application filing fee  
249 paid prior to the date an application is deemed abandoned pursuant to  
250 this subsection shall not be refunded. Abandonment of an application  
251 pursuant to this subsection shall not preclude the applicant from  
252 submitting a new application for a license under sections 36a-595 to  
253 36a-610, inclusive, as amended by this act, and sections 18 and 19 of  
254 this act.

255 (c) An applicant or licensee shall [promptly] notify the  
256 commissioner, in writing, of any change in the information provided  
257 in the application for license or most recent renewal of such license not  
258 later than fifteen days after the applicant or licensee has reason to  
259 know of such change.

260 (d) A licensee shall not change the name specified on its license  
261 unless, prior to such change in name, the licensee files an application  
262 with the commissioner accompanied by the name change fee specified  
263 in subsection (a) of section 36a-599, as amended by this act, and  
264 receives the approval of the commissioner.

265 (e) A licensee shall provide a written notice to the commissioner  
266 [no] not later than one business day after the licensee has reason to  
267 know of the occurrence of any of the following events:

268 (1) The filing of a petition by or against the licensee under the  
269 United States Bankruptcy Code for bankruptcy or reorganization;

270 (2) The filing of a petition by or against the licensee for receivership,  
271 the commencement of any other judicial or administrative proceeding  
272 for its dissolution or reorganization, or the making of a general  
273 assignment for the benefit of its creditors;

274 (3) The commencement of a proceeding to revoke or suspend its  
275 license to engage in money transmission in another state or a foreign  
276 country, or other formal or informal regulatory action by any  
277 governmental agency against the licensee and the reasons therefor;

278 (4) The commencement of any action by the Attorney General or the  
279 attorney general of any other state and the reasons therefor;

280 (5) The cancellation or other impairment of the licensee's bond or  
281 other security, including notice of claims filed against the licensee's  
282 bond or other security;

283 (6) A conviction or indictment of the licensee or of a partner,  
284 director, trustee, principal officer, member or shareholder owning ten  
285 per cent or more of each class of the licensee's securities for a  
286 misdemeanor involving the money transmission business [or the  
287 business of issuing Connecticut payment instruments,] or a felony; or

288 (7) A conviction or indictment of [its agent] an authorized delegate  
289 for a misdemeanor involving the money transmission business or a  
290 felony.

291 Sec. 5. Section 36a-599 of the general statutes is repealed and the  
292 following is substituted in lieu thereof (*Effective October 1, 2013*):

293 (a) Each application for an [original] initial license shall be  
294 accompanied by a nonrefundable investigation fee of six hundred  
295 twenty-five dollars and a nonrefundable license fee of two thousand  
296 two hundred fifty dollars, except that if such application is filed not  
297 earlier than one year before the date such license will expire, the  
298 applicant shall pay a nonrefundable investigation fee of six hundred  
299 twenty-five dollars and a nonrefundable license fee of one thousand  
300 two hundred fifty dollars. Each application for a renewal license shall

301 be accompanied by a nonrefundable license fee of two thousand two  
302 hundred fifty dollars. ] or in the case of a license that expires on June  
303 30, 2007, a license fee of two thousand two hundred fifty dollars. The  
304 license fee shall be refunded if the application for an original license is  
305 denied, the commissioner refuses to issue a renewal license or an  
306 application for a license or renewal license is withdrawn prior to  
307 issuance of a license or renewal license by the commissioner.] Each  
308 licensee shall pay to the commissioner a nonrefundable name change  
309 fee of two hundred dollars for each application to change a name. No  
310 licensee shall use any name other than the name specified on the  
311 license issued by the commissioner.

312 (b) A license issued pursuant to sections 36a-595 to 36a-610,  
313 inclusive, as amended by this act, and sections 18 and 19 of this act  
314 shall expire at the close of business on September thirtieth of the odd-  
315 numbered year following its issuance, unless renewed or earlier  
316 surrendered, suspended or revoked pursuant to said sections. ]  
317 provided any license that is renewed effective July 1, 2007, shall expire  
318 on September 30, 2009.] Not later than fifteen days after a licensee  
319 ceases to engage [in this state in the business of issuing Connecticut  
320 payment instruments or ceases to engage] in the business of money  
321 transmission in this state for any reason, including a business decision  
322 to terminate operations in this state, license revocation, bankruptcy or  
323 voluntary dissolution, such licensee shall provide written notice of  
324 surrender and surrender to the commissioner [in person or by  
325 registered or certified mail] its license for each location in which such  
326 licensee has ceased to engage in such business. The written notice of  
327 surrender shall identify the location where the records of the licensee  
328 will be stored and the name, address and telephone number of an  
329 individual authorized to provide access to the records. The surrender  
330 of a license does not reduce or eliminate the licensee's civil or criminal  
331 liability arising from acts or omissions occurring prior to the surrender  
332 of the license, including any administrative actions undertaken by the  
333 commissioner to revoke or suspend a license, assess a civil penalty,  
334 order restitution or exercise any other authority provided to the  
335 commissioner.

336 Sec. 6. Section 36a-600 of the general statutes is repealed and the  
337 following is substituted in lieu thereof (*Effective October 1, 2013*):

338 (a) Upon the filing of an application for an [original] initial license,  
339 and the payment of the fees for investigation and license, the  
340 commissioner shall investigate the financial condition and  
341 responsibility, financial and business experience, character and general  
342 fitness of the applicant. The commissioner [shall approve conditionally  
343 any application,] may issue a license if the commissioner finds that:

344 (1) The applicant's financial condition is sound;

345 (2) The applicant's business will be conducted honestly, fairly,  
346 equitably, carefully and efficiently within the purposes and intent of  
347 sections 36a-595 to 36a-610, inclusive, as amended by this act, and  
348 sections 18 and 19 of this act, and in a manner commanding the  
349 confidence and trust of the community;

350 (3) (A) If the applicant is an individual, such individual is in all  
351 respects properly qualified and of good character, (B) if the applicant is  
352 a partnership, each partner is in all respects properly qualified and of  
353 good character, (C) if the applicant is a corporation or association, each  
354 president, chairperson of the executive committee, senior officer  
355 responsible for the corporation's business, chief financial officer or any  
356 other person who performs similar functions as determined by the  
357 commissioner, director, trustee and each shareholder owning ten per  
358 cent or more of each class of the securities of such corporation is in all  
359 respects properly qualified and of good character, or (D) if the  
360 applicant is a limited liability company, each member is in all respects  
361 properly qualified and of good character;

362 (4) The applicant is in compliance with the provisions of sections  
363 [36a-603 and] 36a-602 to 36a-604, inclusive, as amended by this act;

364 (5) No person on behalf of the applicant knowingly has made any  
365 incorrect statement of a material fact in the application, or in any  
366 report or statement made pursuant to sections 36a-595 to 36a-610,

367 inclusive, as amended by this act, and sections 18 and 19 of this act;  
368 [and]

369 (6) No person on behalf of the applicant knowingly has omitted to  
370 state any material fact necessary to give the commissioner any  
371 information lawfully required by the commissioner; and

372 (7) The applicant has paid the investigation fee and license fee  
373 required under section 36a-599, as amended by this act.

374 [(b) If the commissioner conditionally approves an application, the  
375 applicant shall have thirty days, which the commissioner may extend  
376 for cause, to comply with the requirements of section 36a-602. Upon  
377 such compliance, the commissioner's conditional approval shall  
378 become final, and the commissioner shall issue a license to the  
379 applicant. The commissioner shall not issue a license to any applicant  
380 unless the applicant is in compliance with all the requirements of  
381 subsection (a) of this section and section 36a-602 and has paid the  
382 investigation and license fee required under section 36a-599.]

383 [(c)] (b) The commissioner may deny an application if the  
384 commissioner finds that the applicant or any of its partners, directors,  
385 trustees, principal officers or shareholders owning ten per cent or more  
386 of the shares of the applicant or members (1) are listed on the specially  
387 designated nationals and blocked persons list prepared by the United  
388 States Department of the Treasury, or (2) have been convicted of any  
389 misdemeanor involving any aspect of the money transmission  
390 business [or the business of issuing payment instruments,] or any  
391 felony. Any denial of an application by the commissioner shall, when  
392 applicable, be subject to the provisions of section 46a-80.

393 Sec. 7. Section 36a-601 of the general statutes is repealed and the  
394 following is substituted in lieu thereof (*Effective October 1, 2013*):

395 (a) A license may be renewed for the ensuing twenty-four-month  
396 period upon the filing of an application containing all information  
397 required by section 36a-598, as amended by this act. Such renewal

398 application shall be filed on or before September first of the year in  
399 which the license expires. [, or in the case of an application for renewal  
400 of a license that expires on June 30, 2007, on or before June 1, 2007.]  
401 Any renewal application filed with the commissioner after September  
402 first [, or in the case of a license that expires on June 30, 2007, after June  
403 1, 2007,] shall be accompanied by a one-hundred-dollar late fee and  
404 any such filing shall be deemed to be timely and sufficient for  
405 purposes of subsection (b) of section 4-182. If an application for a  
406 renewal license has been filed with the commissioner on or before the  
407 date the license expires, the license sought to be renewed shall  
408 continue in full force and effect until the issuance by the commissioner  
409 of the renewal license applied for or until the commissioner has  
410 notified the licensee in writing of the commissioner's refusal to issue  
411 such renewal license together with the grounds upon which such  
412 refusal is based. The commissioner may refuse to issue a renewal  
413 license on any ground on which the commissioner might refuse to  
414 issue an [original] initial license.

415 (b) If the commissioner determines that a check filed with the  
416 commissioner to pay an investigation or license fee has been  
417 dishonored or if made by ACH, has been returned, the commissioner  
418 shall automatically suspend a renewal license that has been issued but  
419 is not yet effective. The commissioner shall give the licensee notice of  
420 the automatic suspension pending proceedings for refusal to renew  
421 such license and an opportunity for a hearing on such actions in  
422 accordance with section 36a-51.

423 Sec. 8. Section 36a-602 of the general statutes is repealed and the  
424 following is substituted in lieu thereof (*Effective October 1, 2013*):

425 (a) As a condition for the issuance and retention of the license,  
426 applicants for a license and licensees shall file with the commissioner a  
427 surety bond, the form of which shall be approved by the Attorney  
428 General, issued by a bonding company or insurance company  
429 authorized to do business in this state. The bond shall be conditioned  
430 upon the licensee and the licensee's authorized delegates faithfully

431 performing all obligations with respect to the licensee's money  
432 transmission business in this state and conducting such business in  
433 this state consistent with the provisions of sections 36a-595 to 36a-610,  
434 inclusive, as amended by this act, and sections 18 and 19 of this act.  
435 The bond shall be in favor of the commissioner, [cover claims that arise  
436 during the period the license remains in full force and effect and the  
437 succeeding two years after such license has been surrendered, revoked  
438 or suspended or has expired, in accordance with the provisions of  
439 sections 36a-595 to 36a-610, inclusive, and be in the principal sum of (1)  
440 three hundred thousand dollars for any applicant and any licensee that  
441 engages in the business of issuing Connecticut payment instruments  
442 with an average daily balance of outstanding Connecticut payment  
443 instruments during the two previous reporting quarters of three  
444 hundred thousand dollars or less or any licensee that engages in the  
445 business of money transmission with an average weekly amount of  
446 money or monetary value received or transmitted, whichever amount  
447 is greater, during the two previous reporting quarters of one hundred  
448 fifty thousand dollars or less; (2) five hundred thousand dollars for any  
449 licensee that engages in the business of issuing Connecticut payment  
450 instruments with an average daily balance of outstanding Connecticut  
451 payment instruments during the two previous reporting quarters of  
452 greater than three hundred thousand dollars but less than five  
453 hundred thousand dollars or any licensee that engages in the business  
454 of money transmission with an average weekly amount of money or  
455 monetary value received or transmitted, whichever amount is greater,  
456 during the two previous reporting quarters of greater than one  
457 hundred fifty thousand dollars but less than two hundred fifty  
458 thousand dollars; and (3) one million dollars for any licensee that  
459 engages in the business of issuing Connecticut payment instruments  
460 with an average daily balance of outstanding Connecticut payment  
461 instruments during the two previous reporting quarters equal to or  
462 greater than five hundred thousand dollars or any licensee that  
463 engages in the business of money transmission with an average weekly  
464 amount of money or monetary value received or transmitted,  
465 whichever amount is greater, during the two previous reporting

466 quarters of two hundred fifty thousand dollars or greater.] run  
467 concurrently with the period of the license and be in the principal sum  
468 of not less than: (1) Three hundred thousand dollars for any applicant  
469 and any licensee with an average weekly amount of money  
470 transmissions in this state of less than three hundred thousand dollars  
471 for the most recent twelve-month period ending June thirtieth, (2) five  
472 hundred thousand dollars for any licensee with an average weekly  
473 amount of money transmissions in this state equal to or greater than  
474 three hundred thousand dollars but less than or equal to five hundred  
475 thousand dollars for the most recent twelve-month period ending June  
476 thirtieth, or (3) one million dollars for any licensee with an average  
477 weekly amount of money transmissions in this state exceeding five  
478 hundred thousand dollars for the most recent twelve-month period  
479 ending June thirtieth. For purposes of this section, "money  
480 transmission" includes (A) money or monetary value received or  
481 transmitted in this state, and (B) stored value and payment  
482 instruments issued or sold in this state.

483 (b) The proceeds of the bond, even if commingled with other assets  
484 of the licensee, shall be deemed by operation of law to be held in trust  
485 for the benefit of any claimants against the licensee to serve the faithful  
486 performance of the obligations of the licensee and the licensee's  
487 authorized delegates with respect to the [receipt, handling,  
488 transmission or payment of money or monetary value in connection  
489 with the sale and issuance of Connecticut payment instruments or  
490 transmission of money or monetary value] licensee's money  
491 transmission business in this state in the event of the bankruptcy of the  
492 licensee, and shall be immune from attachment by creditors or  
493 judgment creditors. Any person who may be damaged as a result of  
494 the failure by the licensee or the licensee's authorized delegates to  
495 perform obligations with respect to the licensee's money transmission  
496 business in this state may proceed against the licensee's bond to  
497 recover damages. The commissioner may proceed on such bond  
498 against the principal or surety thereon, or both, to collect any civil  
499 penalty imposed upon the licensee pursuant to subsection (a) of  
500 section 36a-50, [ . In the event a license has been surrendered, revoked

501 or suspended or has expired, in accordance with the provisions of  
502 sections 36a-595 to 36a-610, inclusive, the commissioner, in the  
503 commissioner's discretion, may lower the required principal sum of  
504 the bond based on the licensee's level of business and outstanding  
505 Connecticut payment instruments.] any restitution imposed pursuant  
506 to subsection (c) of section 36a-50, and any unpaid costs of  
507 examination of the licensee as determined pursuant to subdivision (6)  
508 of subsection (c) of section 36a-65, as amended by this act. The bond  
509 shall cover claims for damages arising from the licensee's money  
510 transmission business in this state made not later than two years from  
511 the date of the act, error or omission that allegedly caused or resulted  
512 in such damages. When an action is commenced on a licensee's bond,  
513 the commissioner may require the filing of a new bond and,  
514 immediately upon recovery on any action on the bond, the licensee  
515 shall file a new bond. If the commissioner finds that the financial  
516 condition of a licensee so requires, as evidenced by the reduction of  
517 tangible net worth, financial losses or potential losses as a result of a  
518 violation of sections 36a-595 to 36a-610, inclusive, as amended by this  
519 act, or section 18 or 19 of this act, the commissioner may require one or  
520 more additional bonds meeting the standards set forth in this section.  
521 The licensee shall file any such additional bonds not later than ten days  
522 after receipt of the commissioner's written notice of such requirement.

523 [(b)] (c) The surety company may cancel the bond at any time by a  
524 written notice to the licensee, stating the date cancellation shall take  
525 effect. Such notice shall be sent by certified mail to the licensee at least  
526 thirty days prior to the date of cancellation. A surety bond shall not be  
527 cancelled unless the surety company notifies the commissioner in  
528 writing not less than thirty days prior to the effective date of  
529 cancellation. After receipt of such notification from the surety  
530 company, the commissioner shall give written notice to the licensee of  
531 the date such bond cancellation shall take effect. The commissioner  
532 shall automatically suspend the license on such date, unless the  
533 licensee, prior to such date, submits (1) a letter of reinstatement of the  
534 bond from the surety company, (2) a new bond, (3) evidence that all of  
535 the principal sum of such surety bond has been invested as provided

536 in subsection [(c)] (d) of this section, (4) a new bond that replaces the  
537 surety bond in part and evidence that the remaining part of the  
538 principal sum of such surety bond has been invested as provided in  
539 subsection [(c)] (d) of this section, or (5) evidence that the licensee has  
540 ceased business and has surrendered the license. After a license has  
541 been automatically suspended, the commissioner shall give the  
542 licensee notice of the automatic suspension pending proceedings for  
543 revocation or refusal to renew such license and an opportunity for a  
544 hearing on such actions in accordance with section 36a-51 and require  
545 the licensee to take or refrain from taking such action as in the opinion  
546 of the commissioner will effectuate the purposes of this section.

547 [(c)] (d) In lieu of all or part of the principal sum of such surety  
548 bonds, applicants for a license and licensees may invest such sum as  
549 provided in this subsection. The book or market value, whichever is  
550 lower, of such investments shall be equal to the amount of the bond  
551 required by subsection (a) of this section less the amount of the bond  
552 filed with the commissioner by the applicant or licensee. Such  
553 applicants and licensees shall keep such investments with such banks,  
554 Connecticut credit unions or federal credit unions as such applicants or  
555 licensees may designate and the commissioner may approve, and  
556 subject to such conditions as the commissioner deems necessary for the  
557 protection of consumers and in the public interest. As used in this  
558 subsection, "investments" means: (1) Dollar deposits; and (2) interest-  
559 bearing bills, notes, bonds, debentures or other obligations issued or  
560 guaranteed by (A) the United States or any of its agencies or  
561 instrumentalities, or (B) any state, or any agency, instrumentality,  
562 political subdivision, school district or legally constituted authority of  
563 any state if such investment is of prime quality. The investments shall  
564 secure the same obligation as would a surety bond filed under this  
565 section. The investments shall be held at such banks or credit unions to  
566 cover claims during the period the license remains in full force and  
567 effect and the succeeding two years after such license has been  
568 surrendered, revoked or suspended or has expired in accordance with  
569 the provisions of sections 36a-595 to 36a-610, inclusive, as amended by  
570 this act, and sections 18 and 19 of this act. The licensee shall be

571 permitted to collect interest on such investments and at any time to  
572 exchange, examine and compare such investments. The investments  
573 made pursuant to this section, even if commingled with other assets of  
574 the licensee, shall be deemed by operation of law to be held in trust for  
575 the benefit of any claimants against the licensee to serve the faithful  
576 performance of the obligations of the licensee and the licensee's  
577 authorized delegates with respect to the [receipt, handling,  
578 transmission or payment of money or monetary value in connection  
579 with the sale and issuance of Connecticut payment instruments or  
580 transmission of money or monetary value] licensee's money  
581 transmission business in this state in the event of the bankruptcy of the  
582 licensee, and shall be immune from attachment by creditors or  
583 judgment creditors.

584 Sec. 9. Section 36a-603 of the general statutes is repealed and the  
585 following is substituted in lieu thereof (*Effective October 1, 2013*):

586 (a) Each licensee shall at all times maintain permissible investments  
587 having a value, computed in accordance with generally accepted  
588 accounting principles, at least equal to the aggregate amount of its  
589 outstanding [Connecticut payment instruments and stored value]  
590 money transmissions in this state, provided the value of receivables  
591 due from authorized delegates consisting of the proceeds of the sale of  
592 payment instruments that are not past due or doubtful of collection  
593 shall not exceed thirty per cent of the permissible investments held by  
594 the licensee and receivables due from any one person shall not exceed  
595 ten per cent of the value of permissible investments held by the  
596 licensee.

597 (b) As used in subsection (a) of this section, "value" means the lower  
598 of book or market value, except that with regard to debt obligations  
599 which the licensee as a matter of policy retains until maturity, "value"  
600 means the greater of book or market value unless the commissioner  
601 orders that for some or all investments of a particular licensee, "value"  
602 means the lower of book or market value.

603 (c) Permissible investments, even if commingled with other assets of

604 the licensee, shall be deemed by operation of law to be held in trust for  
605 the benefit of any claimants against the licensee to serve the faithful  
606 performance of the obligations of the licensee and the licensee's  
607 authorized delegates with respect to the [receipt, handling,  
608 transmission or payment of money or monetary value in connection  
609 with the sale and issuance of Connecticut payment instruments or  
610 transmission of money or monetary value] licensee's money  
611 transmission business in this state in the event of the bankruptcy of the  
612 licensee, and shall be immune from attachment by creditors or  
613 judgment creditors.

614 Sec. 10. Section 36a-604 of the general statutes is repealed and the  
615 following is substituted in lieu thereof (*Effective October 1, 2013*):

616 (a) Each licensee which issues [Connecticut] or sells payment  
617 instruments in this state which are checks, drafts or money orders shall  
618 at all times have a tangible net worth of at least one hundred thousand  
619 dollars.

620 (b) Each licensee which issues [Connecticut] or sells payment  
621 instruments in this state which are travelers checks or electronic  
622 payment instruments shall at all times have a tangible net worth of at  
623 least one million dollars.

624 (c) Each licensee that engages in the business of money transmission  
625 in this state, except by issuing or selling stored value or payment  
626 instruments, shall at all times have a tangible net worth of at least five  
627 hundred thousand dollars. Each licensee that [engages in the business  
628 of money transmission by issuing] issues or sells stored value in this  
629 state shall at all times have a tangible net worth of at least [five  
630 hundred thousand] one million dollars or a higher amount as  
631 determined by the commissioner, in accordance with generally  
632 accepted accounting principles.

633 Sec. 11. Section 36a-605 of the general statutes is repealed and the  
634 following is substituted in lieu thereof (*Effective October 1, 2013*):

635 In connection with the examination of a licensee under section 36a-  
636 17, the commissioner may also examine the [agents] authorized  
637 delegates of such licensee. The commissioner, in lieu of conducting an  
638 examination, may accept the report of examination of any other state  
639 or federal supervisory agency or any organization affiliated with or  
640 representing such supervisory agency with respect to the examination  
641 or other supervision of any person subject to the provisions of sections  
642 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18  
643 and 19 of this act or a report prepared by an independent accounting  
644 firm, and reports so accepted are considered for purposes of sections  
645 36a-595 to 36a-610, inclusive, as amended by this act, and sections 18  
646 and 19 of this act as an official examination report of the commissioner.

647 Sec. 12. Section 36a-606 of the general statutes is repealed and the  
648 following is substituted in lieu thereof (*Effective October 1, 2013*):

649 (a) On or before the thirtieth day of April each year, each licensee  
650 shall file with the commissioner:

651 (1) [Its most recently audited unconsolidated financial statement,  
652 including its balance sheet and receipts and disbursements for the  
653 preceding year, prepared by an independent certified public  
654 accountant acceptable to the commissioner] (A) A copy of audited  
655 financial statements for the most recent fiscal year, (B) if a wholly-  
656 owned subsidiary of another corporation, (i) the most recent audited  
657 consolidated annual financial statements of the parent corporation or  
658 the licensee's most recent audited consolidated annual financial  
659 statement, and (ii) the most recent audited unconsolidated financial  
660 statement of the licensee, including its balance sheet and receipts and  
661 disbursements for the preceding year, (C) if publicly traded, a copy of  
662 the most recent 10-K report that such applicant filed with the Securities  
663 and Exchange Commission, and (D) if a licensee or parent company of  
664 a wholly-owned subsidiary licensee is publicly traded on a foreign  
665 exchange, a copy of documentation similar to the report filed pursuant  
666 to subparagraph (C) of this subdivision that such applicant filed with  
667 the applicable securities regulator;

668 (2) A list of permissible investments, the book and market value of  
669 such investments, and the dollar amount of the licensee's aggregate  
670 outstanding [payment instruments] money transmissions; and

671 (3) A list of investments maintained in accordance with subsection  
672 [(c)] (d) of section 36a-602, as amended by this act, if applicable, the  
673 book and market values of such investments and the dollar amount of  
674 the licensee's aggregate outstanding [Connecticut payment  
675 instruments and stored value] money transmissions in this state.

676 (b) The lists and other information filed as provided in subdivisions  
677 (2) and (3) of subsection (a) of this section shall be as of the same date  
678 as the financial statement filed in accordance with subdivision (1) of  
679 subsection (a) of this section.

680 (c) The commissioner may require of any licensee such additional  
681 reports, under oath, certified, or otherwise, concerning such licensee's  
682 business in this state as the commissioner may consider necessary for  
683 the enforcement of sections 36a-595 to 36a-610, inclusive, as amended  
684 by this act, and sections 18 and 19 of this act.

685 Sec. 13. Section 36a-606a of the general statutes is repealed and the  
686 following is substituted in lieu thereof (*Effective October 1, 2013*):

687 Each licensee shall comply with the applicable provisions of the  
688 Currency and Foreign Transactions Reporting Act, 31 USC Section  
689 5311 et seq., as from time to time amended, and any regulations  
690 adopted under such provisions, as from time to time amended and  
691 upon request, shall provide proof of such compliance to the  
692 commissioner. In addition to any other remedies provided by law, a  
693 violation of such federal law or regulation shall be deemed a violation  
694 of this section and a basis upon which the commissioner may take  
695 enforcement action pursuant to section 36a-608, as amended by this  
696 act.

697 Sec. 14. Section 36a-607 of the general statutes is repealed and the  
698 following is substituted in lieu thereof (*Effective October 1, 2013*):

699 (a) A licensee may conduct its business at one or more locations  
700 within this state as follows:

701 (1) The business may be conducted by the licensee or through or by  
702 means of such [agents] authorized delegates as the licensee may  
703 periodically designate or appoint. The licensee shall notify the  
704 commissioner of all authorized delegates that act on its behalf. An  
705 [agent] authorized delegate may not engage in the business of [issuing  
706 Connecticut payment instruments or the business of] money  
707 transmission in this state on behalf of a licensee through or by means  
708 of [a subagent] any person who is not an authorized delegate of the  
709 licensee.

710 (2) No license under sections 36a-595 to 36a-610, inclusive, as  
711 amended by this act, and sections 18 and 19 of this act shall be  
712 required of any [agent of a licensee] authorized delegate.

713 (3) Each [agent of a licensee] authorized delegate shall, from the  
714 moment of receipt, hold the proceeds of a sale or delivery of a  
715 licensee's [Connecticut payment instruments] money transmissions in  
716 this state in trust for the benefit of such licensee.

717 (4) A licensee shall be liable for the loss caused to any purchaser or  
718 holder of the licensee's [Connecticut] payment instruments or stored  
719 value sold in this state by the failure of an [agent of the licensee]  
720 authorized delegate to forward to the licensee the amount due from  
721 the proceeds of a sale or delivery of the licensee's [Connecticut]  
722 payment instruments or stored value, or money or monetary value  
723 received for transmission.

724 (5) The licensee shall enter into a contract with each of its [agents]  
725 authorized delegates that requires the [agent] authorized delegate to  
726 operate in full compliance with sections 36a-595 to 36a-610, inclusive,  
727 as amended by this act, and sections 18 and 19 of this act, and provides  
728 that appointment of the [agent] authorized delegate is not effective  
729 during any period when the license of the licensee has been  
730 suspended. The licensee shall provide each [such agent] authorized

731 delegate with policies and procedures sufficient to ensure compliance  
732 with sections 36a-595 to 36a-610, inclusive, as amended by this act, and  
733 sections 18 and 19 of this act.

734 (6) An [agent of a licensee] authorized delegate shall remit all  
735 money owing to the licensee in accordance with the terms of the  
736 contract between the licensee and the [agent] authorized delegate.

737 (7) An [agent of a licensee] authorized delegate shall not provide  
738 money transmission services in this state outside the scope of activity  
739 permissible under the contract between the [agent] authorized  
740 delegate and the licensee.

741 (b) For purposes of subsection (a) of this section, [a licensee]  
742 "licensee" means any person that has obtained a license from the  
743 commissioner as provided in section 36a-600, as amended by this act.  
744 [and any entity or person exempt under section 36a-609.]

745 Sec. 15. Section 36a-608 of the general statutes is repealed and the  
746 following is substituted in lieu thereof (*Effective October 1, 2013*):

747 (a) The commissioner shall make such investigations [and conduct  
748 such hearings] as the commissioner considers necessary to determine  
749 whether any licensee or any other person has violated, is violating or is  
750 about to violate any of the provisions of sections 36a-595 to 36a-610,  
751 inclusive, as amended by this act, or sections 18 and 19 of this act, or  
752 whether any licensee has acted in such manner as otherwise would  
753 justify the suspension or revocation of the license. The provisions of  
754 section 36a-17 shall apply to such investigation. For purposes of this  
755 section, "unsafe or unsound practice" means a practice or conduct by a  
756 licensee or an authorized delegate that is likely to result in a material  
757 loss, insolvency or dissipation of the licensee's assets or otherwise  
758 materially prejudice the interests of purchasers.

759 (b) The commissioner may suspend or revoke a license or take any  
760 other action, in accordance with section 36a-51, on any ground on  
761 which the commissioner might refuse to issue an [original] initial

762 license, for any violation of sections 36a-595 to 36a-610, inclusive, as  
763 amended by this act, or section 18 or 19 of this act, or of any regulation  
764 adopted under said sections, for noncompliance with an order that the  
765 commissioner may issue under said sections to a licensee, for failure of  
766 the licensee to pay a judgment ordered by any court within or outside  
767 this state within thirty days after the judgment becomes final or within  
768 thirty days after expiration or termination of a stay of execution of the  
769 judgment, for engaging in fraud, intentional misrepresentation or  
770 gross negligence, or for engaging in an unsafe [and] or unsound  
771 practice.

772 (c) Whenever it appears to the commissioner that any person has  
773 violated, is violating or is about to violate any provision of sections  
774 36a-595 to 36a-610, inclusive, as amended by this act, or section 18 or  
775 19 of this act, or any regulation adopted under said sections, or any  
776 licensee has failed to pay a judgment ordered by any court within or  
777 outside of this state thirty days after the date on which the judgment  
778 becomes final or thirty days after the date of the expiration or  
779 termination of a stay of execution of the judgment, or engaged in  
780 fraud, intentional misrepresentation or gross negligence, or engaged in  
781 an unsafe [and] or unsound practice, the commissioner may take  
782 action against such person in accordance with sections 36a-50 and 36a-  
783 52.

784 (d) The commissioner may order a licensee to terminate its [agency]  
785 relationship with any [agent] authorized delegate if the commissioner  
786 finds that: (1) The [agent] authorized delegate violated any provision  
787 of sections 36a-595 to 36a-610, inclusive, as amended by this act, or  
788 section 18 or 19 of this act, or any regulation adopted under said  
789 sections or any other law or regulation applicable to the conduct of its  
790 business; (2) the [agent refused to allow an examination of its books  
791 and records regarding the business of such licensee as provided in  
792 section 36a-605] authorized delegate failed to cooperate with an  
793 examination or investigation by the commissioner; (3) the [agent]  
794 authorized delegate engaged in fraud, intentional misrepresentation,  
795 or gross negligence or misappropriated funds; (4) the [agent]

796 authorized delegate has been convicted of a violation of a state or  
797 federal anti-money laundering statute; (5) the competence, experience,  
798 character or general fitness of the [agent] authorized delegate or a  
799 manager, partner, director, trustee, principal officer, member or  
800 shareholder owning ten per cent or more of each class of the [agent's]  
801 authorized delegate's securities demonstrates that it would not be in  
802 the public interest to permit such [agent] authorized delegate to  
803 engage in the business of [issuing Connecticut payment instruments or  
804 the business of] money transmission in this state on behalf of a  
805 licensee; [or] (6) the [agent] authorized delegate is engaging in an  
806 unsafe or unsound practice; or (7) the authorized delegate is convicted  
807 of any act involving fraud or dishonesty.

808 Sec. 16. Section 36a-609 of the general statutes is repealed and the  
809 following is substituted in lieu thereof (*Effective October 1, 2013*):

810 The provisions of sections 36a-597 to [36a-606a] 36a-607, inclusive,  
811 as amended by this act, and sections 18 and 19 of this act shall not  
812 apply to:

813 (1) Any federally insured federal bank, out-of-state bank,  
814 Connecticut bank, Connecticut credit union, federal credit union or  
815 out-of-state credit union, provided such institution does not [issue or  
816 sell Connecticut payment instruments or transmit money or monetary  
817 value] engage in the business of money transmission in this state  
818 through [an agent which] (A) any person who is not a federally  
819 insured federal bank, out-of-state bank, Connecticut bank, Connecticut  
820 credit union, federal credit union or out-of-state credit union, (B) any  
821 person licensed pursuant to sections 36a-595 to 36a-610, inclusive, as  
822 amended by this act, and sections 18 and 19 of this act, or an  
823 authorized delegate acting on behalf of such licensed person, or (C)  
824 any person exempt pursuant to subdivision (2) or (3) of this section;

825 [(2) Any Connecticut bank or Connecticut credit union;]

826 [(3)] (2) The United States Postal Service and any contractor that  
827 engages in the business of money transmission in this state on behalf

828 of the United States Postal Service; and

829 ~~[(4)]~~ (3) A person whose activity is limited to the electronic funds  
830 transfer of governmental benefits for or on behalf of a federal, state or  
831 other governmental agency, quasi-governmental agency or  
832 government sponsored enterprise.

833 Sec. 17. Section 36a-610 of the general statutes is repealed and the  
834 following is substituted in lieu thereof (*Effective October 1, 2013*):

835 The commissioner may adopt regulations, in accordance with  
836 chapter 54, which are necessary or appropriate for the administration  
837 of sections 36a-595 to 36a-609, inclusive, as amended by this act, and  
838 sections 18 and 19 of this act.

839 Sec. 18. (NEW) (*Effective October 1, 2013*) (a) Each licensee, as defined  
840 in section 36a-596 of the general statutes, as amended by this act, shall  
841 maintain and prepare such records as will enable the Banking  
842 Commissioner to determine whether the licensee and any of its  
843 authorized delegates are complying with the provisions of sections  
844 36a-595 to 36a-609, inclusive, of the general statutes as amended by  
845 this act, this section, and section 19 of this act at the office named in the  
846 license, or, if requested by the commissioner, shall make such records  
847 available at such office or send such records to the commissioner by  
848 registered or certified mail, return receipt requested, or by any express  
849 delivery carrier that provides a dated delivery receipt, not later than  
850 five business days after such request by the commissioner. Upon  
851 request, the commissioner may grant a licensee additional time to  
852 make such records available or send such records to the commissioner.

853 (b) Each licensee shall maintain the following records for at least  
854 five years:

855 (1) A record of each payment instrument or stored-value obligation  
856 sold within this state;

857 (2) A general ledger posted at least monthly containing all asset,  
858 liability, capital, income and expense accounts;

- 859 (3) Bank statements and bank reconciliation records;
- 860 (4) Records of outstanding money transmissions in this state;
- 861 (5) Records of each payment instrument and stored value obligation  
862 paid during the previous five years;
- 863 (6) A list of the last known names and addresses of all of the  
864 licensee's authorized delegates; and
- 865 (7) Any other records the commissioner may require.

866 Sec. 19. (NEW) (*Effective October 1, 2013*) A licensee, as defined in  
867 section 36a-596 of the general statutes, as amended by this act, shall  
868 notify the Banking Commissioner in writing not later than fifteen days  
869 after any change in the list of the licensee's authorized delegates or  
870 locations where the licensee or the licensee's authorized delegates  
871 engage in the business of money transmission in this state. Such notice  
872 shall state the name and address of each location and authorized  
873 delegate removed or added to the licensee's list.

874 Sec. 20. Section 36a-715 of the general statutes is repealed and the  
875 following is substituted in lieu thereof (*Effective October 1, 2013*):

876 As used in sections 36a-715 to 36a-718, inclusive, as amended by this  
877 act, and sections 24 to 37, inclusive, of this act, unless the context  
878 otherwise requires:

879 [(1) "First mortgage loan" has the same meaning as provided in  
880 section 36a-485.]

881 [(2) "Mortgage servicing company"] (1) "Mortgage servicer" (A)  
882 means any person, wherever located, who, for such person or on  
883 behalf of the holder of a [first] residential mortgage loan, receives  
884 payments of principal and interest in connection with a [first]  
885 residential mortgage loan, records such payments on such person's  
886 books and records and performs such other administrative functions  
887 as may be necessary to properly carry out the mortgage holder's

888 obligations under the mortgage agreement including, when applicable,  
889 the receipt of funds from the mortgagor to be held in escrow for  
890 payment of real estate taxes and insurance premiums and the  
891 distribution of such funds to the taxing authority and insurance  
892 company, [.] and (B) includes a person who makes payments to  
893 borrowers pursuant to the terms of a home equity conversion  
894 mortgage or reverse mortgage, but (C) does not include (i) a person  
895 exempt from licensure as a mortgage lender or mortgage  
896 correspondent lender pursuant to subsection (b) of section 36a-487  
897 while servicing residential mortgage loans made pursuant to such  
898 exemption, (ii) a person servicing five or fewer residential mortgage  
899 loans within any period of twelve consecutive months, or (iii) any  
900 agency of the federal government, any state or municipal government  
901 or any quasi-governmental agency servicing residential mortgage  
902 loans under the specific authority of the laws of any state or the United  
903 States.

904 (2) "Mortgagee" means the grantee of a residential mortgage,  
905 provided, if the mortgage has been assigned of record, "mortgagee"  
906 means the last person to whom the residential mortgage has been  
907 assigned of record.

908 (3) "Mortgagor" means any person obligated to repay a first  
909 residential mortgage loan.

910 (4) "Residential mortgage loan" means any loan primarily for  
911 personal, family or household use that is secured by a mortgage, deed  
912 of trust or other equivalent consensual security interest on a dwelling,  
913 as defined in Section 103 of the Consumer Credit Protection Act, 15  
914 USC 1602, located in this state or real property located in this state  
915 upon which is constructed or intended to be constructed a dwelling.

916 Sec. 21. Section 36a-716 of the general statutes is repealed and the  
917 following is substituted in lieu thereof (*Effective October 1, 2013*):

918 (a) Any mortgage [servicing company] servicer which receives  
919 funds from a mortgagor to be held in escrow for payment of taxes and

920 insurance premiums shall pay the taxes and insurance premiums of  
921 the mortgagor to the appropriate taxing authority and insurance  
922 company in the amount required and at the time such taxes and  
923 insurance premiums are due provided (1) the mortgage [servicing  
924 company] servicer has been provided with the tax or insurance bills at  
925 least fifteen days prior to the date such taxes and insurance premiums  
926 are due, and (2) the mortgagor has paid to the mortgage [servicing  
927 company] servicer the amounts required to be paid into the escrow  
928 account, as determined by the mortgage [servicing company] servicer,  
929 for all amounts scheduled to be paid to the mortgage [servicing  
930 company] servicer prior to the date such taxes and insurance  
931 premiums are due.

932 (b) Each mortgage [servicing company] servicer shall, through its  
933 own effort and expense, determine and notify the mortgagor of the  
934 amounts necessary to be paid into the escrow account to assure that  
935 sufficient funds will be available for the payment of such taxes and  
936 insurance premiums as of the date such payment is due.

937 (c) If the amount held in the escrow account as of the date such  
938 taxes and insurance premiums are due is insufficient to pay the taxes  
939 and insurance premiums despite compliance by the mortgagor with  
940 subdivision (2) of subsection (a) of this section, the mortgage [servicing  
941 company] servicer shall pay such taxes and insurance premiums from  
942 its own funds. The mortgage [servicing company] servicer shall then  
943 give the mortgagor the option of paying the shortage over a period of  
944 not less than one year. The mortgage [servicing company] servicer  
945 shall not charge or collect interest on such shortage during the one-  
946 year period.

947 Sec. 22. Section 36a-717 of the general statutes is repealed and the  
948 following is substituted in lieu thereof (*Effective October 1, 2013*):

949 Any mortgage [servicing company] servicer which violates any  
950 provision of section 36a-716, as amended by this act, shall be liable to  
951 the mortgagor for: (1) Any penalties, interest or other charges levied by  
952 the taxing authority or insurance company as a result of such violation;

953 (2) any actual damages suffered by the mortgagor as a result of such  
954 violation, including, but not limited to, any amount which would have  
955 been paid by an insurer for a casualty or liability claim had the  
956 insurance policy not been cancelled for nonpayment by the mortgage  
957 [servicing company] servicer; and (3) in the case of any successful  
958 action to enforce the foregoing liability, the costs of the action together  
959 with reasonable attorney's fees as determined by the court.

960 Sec. 23. Section 36a-718 of the general statutes is repealed and the  
961 following is substituted in lieu thereof (*Effective January 1, 2014*):

962 (a) [If the commissioner determines that any mortgage servicing  
963 company has violated any provision of section 36a-716, the  
964 commissioner may take action against such mortgage servicing  
965 company in accordance with sections 36a-50 and 36a-52. The  
966 commissioner may also order the mortgage servicing company to  
967 make restitution to the mortgagor upon fourteen days' notice in  
968 writing. Such notice shall be sent by certified mail, return receipt  
969 requested, or by any express delivery carrier that provides a dated  
970 delivery receipt, to the principal place of business of the mortgage  
971 servicing company and shall state the grounds for the contemplated  
972 action. Within fourteen days of receipt of the notice, the mortgage  
973 servicing company may file a written request for a hearing. If a hearing  
974 is requested, the commissioner shall not issue an order to make  
975 restitution until after such hearing is held. Such hearing shall be  
976 conducted in accordance with the provisions of chapter 54.] No person  
977 shall act as a mortgage servicer, directly or indirectly, of a residential  
978 mortgage loan without first obtaining a license under section 24 of this  
979 act from the commissioner for its main office and each branch office  
980 where such person conducts business as a mortgage servicer, unless  
981 such person is exempt from licensure pursuant to subsection (b) of this  
982 section.

983 (b) The following persons are exempt from mortgage servicer  
984 licensing requirements: (1) Any bank, out-of-state bank, Connecticut  
985 credit union, federal credit union or out-of-state credit union, provided

986 such bank or credit union is federally insured, any operating  
987 subsidiary of a federal bank or federally-chartered out-of-state bank or  
988 any wholly-owned subsidiary of a Connecticut bank or Connecticut  
989 credit union; and (2) any person licensed as a mortgage lender in this  
990 state while acting as a mortgage servicer from a location licensed as a  
991 main office or branch office under sections 36a-485 to 36a-498f,  
992 inclusive, 36a-534a and 36a-534b.

993       Sec. 24. (NEW) (*Effective November 1, 2013*) (a) The Banking  
994 Commissioner may issue a mortgage servicer license, provided the  
995 commissioner shall not issue a mortgage servicer license to any person  
996 unless the commissioner, at a minimum, finds that: (1) The applicant  
997 has identified a qualified individual for its main office and a branch  
998 manager for each branch office where such business is conducted. Any  
999 qualified individual and branch manager shall have supervisory  
1000 authority over the mortgage servicer activities at such qualified  
1001 individual's and branch manager's respective office location and at  
1002 least three years' experience in the mortgage servicing business within  
1003 the five years immediately preceding the date of the application for  
1004 licensure. As used in this subsection, "experience in the mortgage  
1005 servicing business" means paid experience in the servicing of mortgage  
1006 loans, the accounting, receipt and processing of payments on behalf of  
1007 mortgagees or creditors, or the supervision of such activities, or any  
1008 other relevant experience as determined by the commissioner; (2)  
1009 notwithstanding the provisions of section 46a-80 of the general  
1010 statutes, the applicant, the control persons of the applicant, the  
1011 qualified individual and any branch manager with supervisory  
1012 authority at the office for which the license is sought have not been  
1013 convicted of, or pled guilty or nolo contendere to, a felony during the  
1014 seven-year period preceding the date of the application for licensing or  
1015 a felony involving an act of fraud or dishonesty, a breach of trust or  
1016 money laundering in a domestic, foreign or military court at any time  
1017 preceding the date of application, provided any pardon or  
1018 expungement of a conviction shall not be a conviction for purposes of  
1019 this subdivision; (3) the applicant demonstrates that the financial  
1020 responsibility, character and general fitness of the applicant, the

1021 control persons of the applicant, the qualified individual and any  
1022 branch manager having supervisory authority over the office for which  
1023 the license is sought are such as to command the confidence of the  
1024 community and to warrant a determination that the applicant will  
1025 operate honestly, fairly and efficiently within the purposes of sections  
1026 36a-715 to 36a-718, inclusive, of the general statutes, as amended by  
1027 this act, this section, and sections 25 to 37, inclusive, of this act; (4) the  
1028 applicant has met the surety bond requirement under section 27 of this  
1029 act; and (5) the applicant has not made a material misstatement in the  
1030 application. For purposes of this subsection, the level of offense of the  
1031 crime and the status of any conviction, pardon or expungement shall  
1032 be determined by reference to the law of the jurisdiction where the  
1033 case was prosecuted. In the event that such jurisdiction does not use  
1034 the term "felony", "pardon" or "expungement", such terms shall include  
1035 legally equivalent events. If the commissioner fails to make such  
1036 findings, the commissioner shall not issue a license, and shall notify  
1037 the applicant of the denial and the reasons for such denial.

1038 (b) An application for a license as a mortgage servicer or renewal of  
1039 such license shall be filed, in a form prescribed by the commissioner,  
1040 with the system and accompanied by the fees required by section 26 of  
1041 this act. Each such form shall contain content as set forth by instruction  
1042 or procedure of the commissioner and may be changed or updated as  
1043 necessary by the commissioner in order to carry out the purpose of  
1044 sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
1045 amended by this act, this section and sections 25 to 37, inclusive, of this  
1046 act. The applicant shall, at a minimum, furnish to the system  
1047 information concerning the identity of the applicant, any control  
1048 person of the applicant, the qualified individual and any branch  
1049 manager, including personal history and experience in a form  
1050 prescribed by the system and information related to any  
1051 administrative, civil or criminal findings by any governmental  
1052 jurisdiction. The applicant shall promptly notify the commissioner, in  
1053 writing, of any change to the information submitted in connection with  
1054 its application for licensure. For the purpose of this subsection,  
1055 evidence of experience of the qualified individual and any branch

1056 manager shall include: (1) A statement specifying the duties and  
1057 responsibilities of such person's employment, the term of employment,  
1058 including month and year, and the name, address and telephone  
1059 number of a supervisor, employer or, if self-employed, a business  
1060 reference; and (2) if required by the commissioner, copies of W-2  
1061 forms, 1099 tax forms or, if self-employed, 1120 corporate tax returns,  
1062 signed letters from the employer on the employer's letterhead  
1063 verifying such person's duties and responsibilities and term of  
1064 employment, including month and year, and, if such person is unable  
1065 to provide such letters, other proof satisfactory to the commissioner  
1066 that such person meets the experience requirement. The commissioner  
1067 may conduct a criminal history records check of the applicant, any  
1068 control person of the applicant, the qualified individual and any  
1069 branch manager with supervisory authority at the office for which the  
1070 license is sought and require the applicant to submit the fingerprints of  
1071 such persons as part of the application.

1072 (c) (1) The minimum standards for license renewal for a mortgage  
1073 servicer shall include the following: (A) The applicant continues to  
1074 meet the minimum standards under subsection (a) of this section, and  
1075 (B) the mortgage servicer has paid all required fees for renewal of the  
1076 license.

1077 (2) The license of a mortgage servicer failing to satisfy the minimum  
1078 standards for license renewal shall expire. The commissioner may  
1079 adopt procedures for the reinstatement of expired licenses consistent  
1080 with the standards established by the system. The commissioner may  
1081 automatically suspend a mortgage servicer license if the licensee  
1082 receives a deficiency on the system indicating that the payment  
1083 required by section 26 of this act was Returned-ACH or returned  
1084 pursuant to such other term as may be utilized by the system to  
1085 indicate that the payment was not accepted. After a license has been  
1086 automatically suspended pursuant to this section, the commissioner  
1087 shall give such licensee notice of the automatic suspension, pending  
1088 proceedings for revocation or refusal to renew pursuant to section 35  
1089 of this act and an opportunity for a hearing on such action in

1090 accordance with section 36a-51 of the general statutes, and require  
1091 such licensee to take or refrain from taking such action that, in the  
1092 opinion of the commissioner, will effectuate the purposes of this  
1093 section.

1094 (d) Withdrawal of an application for a license filed under this  
1095 section shall become effective upon receipt by the commissioner of a  
1096 notice of intent to withdraw such application. The commissioner may  
1097 deny a license up to the date one year after the effective date of  
1098 withdrawal.

1099 (e) The commissioner may deem an application for a license under  
1100 this section abandoned if the applicant fails to respond to any request  
1101 for information required under sections 36a-715 to 36a-718, inclusive,  
1102 of the general statutes, as amended by this act, and sections 24 to 37,  
1103 inclusive, of this act or the regulations adopted pursuant to said  
1104 sections. The commissioner shall notify the applicant on the system  
1105 that if such information is not submitted not later than sixty days from  
1106 the date of such request, the application shall be deemed abandoned.  
1107 An application filing fee paid prior to the date an application is  
1108 deemed abandoned pursuant to this subsection shall not be refunded.  
1109 Abandonment of an application pursuant to this subsection shall not  
1110 preclude the applicant from submitting a new application for a license.

1111 (f) At least annually, as part of its application, a mortgage servicer  
1112 shall file with the commissioner: (1) A current schedule of the ranges  
1113 of costs and fees it charges mortgagors for its servicing-related  
1114 activities; and (2) a report in a form and format acceptable to the  
1115 commissioner detailing the mortgage servicer's activities in the state,  
1116 including (A) the number of residential mortgage loans the mortgage  
1117 servicer is servicing, (B) the type and characteristics of the residential  
1118 mortgage loans in this state, (C) the number of serviced residential  
1119 mortgage loans in default, along with a breakdown of thirty-day, sixty-  
1120 day and ninety-day delinquencies, (D) information on loss mitigation  
1121 activities, including details on workout arrangements undertaken, and  
1122 (E) information on foreclosures commenced in this state.

1123       Sec. 25. (NEW) (*Effective November 1, 2013*) (a) A mortgage servicer  
1124 license shall not be transferable or assignable. No licensee may use any  
1125 name other than its legal name or a fictitious name approved by the  
1126 Banking Commissioner, provided such licensee may not use its legal  
1127 name if the commissioner disapproves use of such name. Any licensee  
1128 who intends to permanently cease acting as a mortgage servicer at any  
1129 time during a license period for any cause, including, but not limited  
1130 to, bankruptcy or voluntary dissolution, shall file a request to  
1131 surrender the license for each office at which the licensee intends to  
1132 cease to do business, on the system, not later than fifteen days after the  
1133 date of such cessation, provided this requirement shall not apply when  
1134 a license has been suspended pursuant to section 36a-51 of the general  
1135 statutes. No surrender shall be effective until accepted by the  
1136 commissioner.

1137       (b) A mortgage servicer licensee may change the name of the  
1138 licensee or address of any office specified on the most recent filing  
1139 with the system if (1) at least thirty calendar days prior to such change,  
1140 the licensee files such change with the system and, in the case of a  
1141 main office or branch office, provides, directly to the commissioner, a  
1142 bond rider or endorsement, or addendum, as applicable, to the surety  
1143 bond on file with the commissioner that reflects the new name or  
1144 address of the main office or branch office, and (2) the commissioner  
1145 does not disapprove such change, in writing, or request further  
1146 information within such thirty-day period.

1147       (c) The mortgage servicer licensee shall promptly file with the  
1148 system or, if the information cannot be filed on the system, directly  
1149 notify the commissioner, in writing, of the occurrence of any of the  
1150 following events:

1151       (1) Filing for bankruptcy, or the consummation of a corporate  
1152 restructuring, of the licensee;

1153       (2) Filing of a criminal indictment against the licensee, or receiving  
1154 notification of the filing of any criminal felony indictment or felony  
1155 conviction of any of the licensee's officers, directors, members, partners

1156 or shareholders owning ten per cent or more of the outstanding stock;

1157 (3) Receiving notification of the institution of license denial, cease  
1158 and desist, suspension or revocation procedures, or other formal or  
1159 informal regulatory action by any governmental agency against the  
1160 licensee and the reasons for such action;

1161 (4) Receiving notification of the initiation of any action by the  
1162 Attorney General or the attorney general of any other state and the  
1163 reasons for such action;

1164 (5) Suspension or termination of the licensee's status as an approved  
1165 seller or servicer by the Federal National Mortgage Association,  
1166 Federal Home Loan Mortgage Corporation or Government National  
1167 Mortgage Association;

1168 (6) Receiving notification that certain servicing rights of the licensee  
1169 will be rescinded or cancelled, and the reasons provided for such  
1170 rescindment or cancellation;

1171 (7) Receiving notification of filing for bankruptcy of any of the  
1172 licensee's officers, directors, members, partners or shareholders  
1173 owning ten per cent or more of the outstanding stock of the licensee;

1174 (8) Receiving notification of the initiation of a class action lawsuit on  
1175 behalf of consumers against the licensee that is related to the operation  
1176 of the licensed business; or

1177 (9) Any change in the information most recently submitted by the  
1178 licensee in connection with its application.

1179 Sec. 26. (NEW) (*Effective November 1, 2013*) (a) Each mortgage  
1180 servicer license shall expire at the close of business on December  
1181 thirty-first of the year in which it is approved, unless such license is  
1182 renewed, and provided any such license that is approved on or after  
1183 November first shall expire at the close of business on December  
1184 thirty-first of the year following the year in which it is approved. An  
1185 application for renewal of a license shall be filed between November

1186 first and December thirty-first of the year in which the license expires.  
1187 Each applicant for an initial license or renewal of a license as a  
1188 mortgage servicer shall pay to the system any required fees or charges  
1189 and a license fee of one thousand dollars.

1190 (b) All fees paid pursuant to this section, including fees paid in  
1191 connection with an application that is denied or withdrawn prior to  
1192 the issuance of the license, shall be nonrefundable. No fee paid  
1193 pursuant to this section shall be prorated if the license is surrendered,  
1194 revoked or suspended prior to the expiration of the period for which it  
1195 was approved.

1196 Sec. 27. (NEW) (*Effective November 1, 2013*) (a) No mortgage servicer  
1197 license and no renewal of such license shall be granted unless the  
1198 applicant or licensee has filed with the Banking Commissioner a single  
1199 surety bond, written by a surety authorized to write such bonds in this  
1200 state covering its main office and any branch office, in a penal sum of  
1201 one hundred thousand dollars.

1202 (b) The bond required by subsection (a) of this section shall be (1) in  
1203 a form approved by the Attorney General, and (2) conditioned upon  
1204 the mortgage servicer licensee faithfully performing any and all  
1205 written agreements or commitments with or for the benefit of  
1206 mortgagors and mortgagees, truly and faithfully accounting for all  
1207 funds received from a mortgagor or mortgagee by the licensee in the  
1208 licensee's capacity as a mortgage servicer, and conducting such  
1209 mortgage business consistent with the provisions of sections 36a-715 to  
1210 36a-718, inclusive, of the general statutes, as amended by this act, and  
1211 sections 24 to 37, inclusive, of this act. Any mortgagor or mortgagee  
1212 that may be damaged by a mortgage servicer licensee's failure to  
1213 perform any written agreements or commitments, or by the wrongful  
1214 conversion of funds paid by a mortgagor or a mortgagee to a licensee,  
1215 may proceed on such bond against the principal or surety thereon, or  
1216 both, to recover damages. The commissioner may proceed on such  
1217 bond against the principal or surety on such bond, or both, to collect  
1218 any civil penalty imposed upon a licensee pursuant to subsection (a) of

1219 section 36a-50 of the general statutes and any unpaid costs of  
1220 examination of a licensee as determined pursuant to section 36a-65 of  
1221 the general statutes, as amended by this act. The proceeds of the bond,  
1222 even if commingled with other assets of the principal, shall be deemed  
1223 by operation of law to be held in trust for the benefit of such claimants  
1224 against the principal in the event of bankruptcy of the principal and  
1225 shall be immune from attachment by creditors and judgment creditors.  
1226 The bond shall run concurrently with the period of the license for the  
1227 main office and the aggregate liability under the bond shall not exceed  
1228 the penal sum of the bond. The principal shall notify the commissioner  
1229 of the commencement of an action on the bond. When an action is  
1230 commenced on a principal's bond, the commissioner may require the  
1231 filing of a new bond and immediately upon recovery on any action on  
1232 the bond, the principal shall file a new bond.

1233 (c) The surety company shall have the right to cancel the bond at  
1234 any time by a written notice to the principal stating the date  
1235 cancellation shall take effect. Such notice shall be sent by certified mail  
1236 to the principal at least thirty days prior to the date of cancellation. A  
1237 surety bond shall not be cancelled unless the surety company notifies  
1238 the commissioner in writing not less than thirty days prior to the  
1239 effective date of cancellation. After receipt of such notification from the  
1240 surety company, the commissioner shall give written notice to the  
1241 principal of the date such bond cancellation shall take effect. The  
1242 commissioner shall automatically suspend the license of a mortgage  
1243 servicer on such date. No automatic suspension or inactivation shall  
1244 occur if, prior to the date that the bond cancellation shall take effect, (1)  
1245 the principal submits a letter of reinstatement of the bond from the  
1246 surety company or a new bond, or (2) the mortgage servicer licensee  
1247 has ceased business in this state and has surrendered all licenses in  
1248 accordance with section 36a-51 of the general statutes and section 25 of  
1249 this act. After a mortgage servicer license has been automatically  
1250 suspended pursuant to this section, the commissioner shall give such  
1251 licensee notice of the automatic suspension, pending proceedings for  
1252 revocation or refusal to renew pursuant to section 35 of this act and an  
1253 opportunity for a hearing on such action in accordance with section

1254 36a-51 of the general statutes and require such licensee to take or  
1255 refrain from taking such action as in the opinion of the commissioner  
1256 will effectuate the purposes of this section.

1257       Sec. 28. (NEW) (*Effective November 1, 2013*) (a) Each mortgage  
1258 servicer licensee shall maintain adequate records of each residential  
1259 mortgage loan transaction at the office named in the license, or, if  
1260 requested by the Banking Commissioner, shall make such records  
1261 available at such office or send such records to the commissioner by  
1262 registered or certified mail, return receipt requested, or by any express  
1263 delivery carrier that provides a dated delivery receipt, not later than  
1264 five business days after the commissioner makes such request. Upon  
1265 request, the commissioner may grant a licensee additional time to  
1266 make such records available or send them to the commissioner. Such  
1267 records shall provide the following information: (1) An adequate loan  
1268 history for residential mortgage loans upon which payments are  
1269 received or made by the mortgage servicer, itemizing the amount and  
1270 date of each payment and the unpaid balance at all times; (2) the  
1271 original or an exact copy of the note, residential mortgage or other  
1272 evidence of indebtedness and mortgage deed; (3) the name and  
1273 address of the mortgage lender, mortgage correspondent lender and  
1274 mortgage broker, if any, involved in the residential mortgage loan  
1275 transaction; (4) copies of any disclosures or notification provided to the  
1276 mortgagor required by state or federal law; (5) a copy of any  
1277 bankruptcy plan approved in a proceeding filed by the mortgagor or a  
1278 coowner of the property subject to the residential mortgage loan; (6) a  
1279 communications log which documents all verbal communication with  
1280 the mortgagor or the mortgagor's representative; and (7) a copy of all  
1281 notices sent to the mortgagor related to any foreclosure proceeding  
1282 filed against the encumbered property.

1283       (b) For each residential mortgage loan that is serviced by a licensee,  
1284 the licensee shall retain the records of such residential mortgage loan  
1285 transaction for not less than two years following the final payment on  
1286 such residential mortgage loan or the assignment of such residential  
1287 mortgage loan, whichever occurs first, or such longer period as may be

1288 required by any other provision of law. Every licensee shall keep and  
1289 use in its business, books, accounts and records that will enable the  
1290 commissioner to determine whether such licensee is complying with  
1291 the provisions of sections 36a-715 to 36a-718, inclusive, of the general  
1292 statutes, as amended by this act, and sections 24 to 37, inclusive, of this  
1293 act and with any regulations adopted pursuant to said sections.

1294 Sec. 29. (NEW) (*Effective January 1, 2014*) Upon assignment of  
1295 servicing rights on a residential mortgage loan, the mortgage servicer  
1296 shall disclose to the mortgagor (1) any notice required by the Real  
1297 Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq.,  
1298 as from time to time amended, and the regulations promulgated under  
1299 said act, and within the time periods prescribed therein, and (2) a  
1300 schedule of the ranges and categories of such servicer's costs and fees  
1301 for servicing-related activities, which shall comply with state and  
1302 federal law and, if such disclosure is made by a mortgage servicer  
1303 licensee, shall not exceed those reported to the Banking Commissioner  
1304 in accordance with section 24 of this act.

1305 Sec. 30. (NEW) (*Effective January 1, 2014*) A mortgage servicer shall  
1306 act with good faith and fair dealing in its communications, transactions  
1307 and course of dealings with each mortgagor in connection with the  
1308 servicing of the mortgagor's residential mortgage loan, and shall:

1309 (1) Safeguard and account for any money handled for the  
1310 mortgagor;

1311 (2) Follow reasonable and lawful instructions from the mortgagor  
1312 consistent with the underlying note and residential mortgage loan;

1313 (3) Act with reasonable skill, care and diligence;

1314 (4) Promptly provide the mortgagor with an accurate statement of  
1315 account;

1316 (5) Make mortgagors in default aware of loss mitigation options and  
1317 services offered by the mortgage servicer;

1318 (6) Provide trained personnel and telephone facilities sufficient to  
1319 respond promptly to mortgagor inquiries and complaints regarding  
1320 the mortgagor's residential mortgage loan; and

1321 (7) Pursue loss mitigation with the mortgagor whenever possible.

1322 Sec. 31. (NEW) (*Effective January 1, 2014*) A mortgage servicer shall  
1323 comply with all applicable federal laws and regulations relating to  
1324 mortgage loan servicing, including, but not limited to, the Real Estate  
1325 Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., as from  
1326 time to time amended, the Truth-in-Lending Act, 15 USC Section 1601  
1327 et seq., as from time to time amended, and the regulations  
1328 promulgated under said acts. In addition to any other remedies  
1329 provided by law, a violation of such federal law or regulation shall be  
1330 deemed a violation of this section and a basis upon which the Banking  
1331 Commissioner may take enforcement action pursuant to section 35 of  
1332 this act.

1333 Sec. 32. (NEW) (*Effective January 1, 2014*) (a) A mortgage servicer  
1334 shall maintain and keep current a schedule of standard or common  
1335 fees, such as nonsufficient fund fees, that it charges mortgagors. The  
1336 schedule shall identify each fee, provide a plain English explanation of  
1337 the fee and state the amount of the fee or range of amounts or, if there  
1338 is no standard fee, how the fee is calculated or determined. A  
1339 mortgage servicer shall make its schedule available to the mortgagor  
1340 or the mortgagor's authorized representative upon request.

1341 (b) A mortgage servicer may only collect a fee if the fee is for  
1342 services actually rendered and one of the following conditions is met:  
1343 (1) The fee is expressly authorized and clearly and conspicuously  
1344 disclosed by the residential mortgage loan instruments and not  
1345 prohibited by law; (2) the fee is expressly permitted by law and not  
1346 prohibited by the residential mortgage loan instruments; or (3) the fee  
1347 is not prohibited by law or the residential mortgage loan instruments  
1348 and is a reasonable fee for a specific service requested by the  
1349 mortgagor that is assessed only after clear and conspicuous disclosure  
1350 of the fee is provided to the mortgagor and the mortgagor expressly

1351 consents to pay the fee in exchange for the services.

1352 (c) In addition to the limitations in subsection (b) of this section,  
1353 attorney's fees charged in connection with a foreclosure action shall  
1354 not exceed reasonable and customary fees for such work. In the event a  
1355 foreclosure action is terminated prior to the final judgment and sale for  
1356 a loss mitigation option, a reinstatement or payment in full, the  
1357 mortgagor shall only be liable for reasonable and customary fees for  
1358 work actually performed.

1359 (d) A mortgage servicer shall not impose any late fee or delinquency  
1360 charge when the only delinquency is attributable to late fees or  
1361 delinquency charges assessed on an earlier payment, and the payment  
1362 is otherwise a full payment for the applicable period and is paid on its  
1363 due date or within any applicable grace period. Late charges shall not  
1364 be (1) based on an amount greater than the past due amount, (2)  
1365 collected from the escrow account or from escrow surplus without the  
1366 approval of the mortgagor, or (3) deducted from any regular payment.

1367 Sec. 33. (NEW) (*Effective January 1, 2014*) (a) No mortgage servicer  
1368 shall:

1369 (1) Directly or indirectly employ any scheme, device or artifice to  
1370 defraud or mislead mortgagors or mortgagees or to defraud any  
1371 person;

1372 (2) Engage in any unfair or deceptive practice toward any person or  
1373 misrepresent or omit any material information in connection with the  
1374 servicing of the residential mortgage loan, including, but not limited  
1375 to, misrepresenting the amount, nature or terms of any fee or payment  
1376 due or claimed to be due on a residential mortgage loan, the terms and  
1377 conditions of the servicing agreement or the mortgagor's obligations  
1378 under the residential mortgage loan;

1379 (3) Obtain property by fraud or misrepresentation;

1380 (4) Use any unfair or unconscionable means in servicing a  
1381 residential mortgage loan;

1382 (5) Knowingly misapply or recklessly apply residential mortgage  
1383 loan payments to the outstanding balance of a residential mortgage  
1384 loan;

1385 (6) Knowingly misapply or recklessly apply payments to escrow  
1386 accounts;

1387 (7) Place hazard, homeowner's or flood insurance on the mortgaged  
1388 property when the mortgage servicer knows or has reason to know  
1389 that the mortgagor has an effective policy for such insurance;

1390 (8) Fail to comply with section 49-10a of the general statutes, charge  
1391 excessive or unreasonable fees to provide loan payoff information or  
1392 fail to provide loan payoff information promptly upon receipt of a  
1393 written request;

1394 (9) Knowingly or recklessly provide inaccurate information to a  
1395 credit bureau, thereby harming a mortgagor's creditworthiness;

1396 (10) Fail to report both the favorable and unfavorable payment  
1397 history of the mortgagor to a nationally recognized consumer credit  
1398 bureau at least annually if the mortgage servicer regularly reports  
1399 information to a credit bureau;

1400 (11) Collect private mortgage insurance beyond the date for which  
1401 private mortgage insurance is required;

1402 (12) Knowingly or recklessly facilitate the illegal foreclosure of real  
1403 property collateral;

1404 (13) Fail to issue a release of mortgage in accordance with section  
1405 49-8a of the general statutes;

1406 (14) Fail to provide written notice to a mortgagor upon taking action  
1407 to place hazard, homeowner's or flood insurance on the mortgaged  
1408 property, including a clear and conspicuous statement of the  
1409 procedures by which the mortgagor may demonstrate that such  
1410 mortgagor has the required insurance coverage and by which the

1411 mortgage servicer shall terminate the insurance coverage placed by it  
1412 and refund or cancel any insurance premiums and related fees paid by  
1413 or charged to the mortgagor;

1414 (15) Place hazard, homeowner's or flood insurance on a mortgaged  
1415 property, or require a mortgagor to obtain or maintain such insurance,  
1416 in excess of the replacement cost of the improvements on the  
1417 mortgaged property as established by the property insurer;

1418 (16) Fail to provide to the mortgagor a refund of unearned  
1419 premiums paid by a mortgagor or charged to the mortgagor for  
1420 hazard, homeowner's or flood insurance placed by a mortgagee or the  
1421 mortgage servicer if the mortgagor provides reasonable proof that the  
1422 mortgagor has obtained coverage such that the forced placement  
1423 insurance is no longer necessary and the property is insured. If the  
1424 mortgagor provides reasonable proof that no lapse in coverage  
1425 occurred such that the forced placement was not necessary, the  
1426 mortgage servicer shall promptly refund the entire premium;

1427 (17) Require funds to be remitted by means more costly to the  
1428 mortgagor than a bank or certified check or attorney's check from an  
1429 attorney's account;

1430 (18) Refuse to communicate with an authorized representative of the  
1431 mortgagor who provides a written authorization signed by the  
1432 mortgagor, provided the mortgage servicer may adopt procedures  
1433 reasonably related to verifying that the representative is in fact  
1434 authorized to act on behalf of the mortgagor;

1435 (19) Conduct any business covered by sections 36a-715 to 36a-718,  
1436 inclusive, of the general statutes, as amended by this act, and sections  
1437 24 to 37, inclusive, of this act without holding a valid license required  
1438 under this act, or assist or aid and abet any person in the conduct of  
1439 business without a valid license as required under title 36a of the  
1440 general statutes;

1441 (20) Negligently make any false statement or knowingly and

1442 wilfully make any omission of a material fact in connection with any  
1443 information or reports filed with a governmental agency or the system,  
1444 as defined in section 36a-485 of the general statutes, or in connection  
1445 with any investigation conducted by the Banking Commissioner or  
1446 another governmental agency; or

1447 (21) Collect, charge, attempt to collect or charge or use or propose  
1448 any agreement purporting to collect or charge any fee prohibited by  
1449 sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b of the  
1450 general statutes.

1451 (b) A violation of this section shall be deemed an unfair or deceptive  
1452 trade practice and may be enforceable pursuant to chapter 735a of the  
1453 general statutes.

1454 Sec. 34. (NEW) (*Effective November 1, 2013*) (a) In addition to any  
1455 authority provided under title 36a of the general statutes, the Banking  
1456 Commissioner shall have the authority to conduct investigations and  
1457 examinations as follows:

1458 (1) For purposes of initial licensing, license renewal, license  
1459 suspension, license conditioning, license revocation or termination, or  
1460 general or specific inquiry or investigation to determine compliance  
1461 with sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
1462 amended by this act, and sections 24 to 37, inclusive, of this act, the  
1463 commissioner may access, receive and use any books, accounts,  
1464 records, files, documents, information or evidence including, but not  
1465 limited to: (A) Criminal, civil and administrative history information;  
1466 (B) personal history and experience information, including  
1467 independent credit reports obtained from a consumer reporting  
1468 agency described in Section 603(p) of the Fair Credit Reporting Act, 15  
1469 USC 1681a; and (C) any other documents, information or evidence the  
1470 commissioner deems relevant to the inquiry or investigation regardless  
1471 of the location, possession, control or custody of such documents,  
1472 information or evidence.

1473 (2) For the purposes of investigating violations or complaints arising

1474 under sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
1475 amended by this act, and sections 24 to 37, inclusive, of this act or for  
1476 the purposes of examination, the commissioner may review,  
1477 investigate or examine any mortgage servicer licensee or person  
1478 subject to said sections as often as necessary in order to carry out the  
1479 purposes of said sections. The commissioner may direct, subpoena or  
1480 order the attendance of and examine under oath all persons whose  
1481 testimony may be required about the residential mortgage loans or the  
1482 business or subject matter of any such examination or investigation,  
1483 and may direct, subpoena or order such person to produce books,  
1484 accounts, records, files and any other documents the commissioner  
1485 deems relevant to the inquiry.

1486 (b) Each mortgage servicer licensee or person subject to sections 36a-  
1487 715 to 36a-718, inclusive, of the general statutes, as amended by this  
1488 act, and sections 24 to 37, inclusive, of this act shall make or compile  
1489 reports or prepare other information as directed by the commissioner  
1490 in order to carry out the purposes of this section including accounting  
1491 compilations, information lists and data concerning residential  
1492 mortgage loan transactions in a format prescribed by the commissioner  
1493 or such other information the commissioner deems necessary to carry  
1494 out the purposes of sections 36a-715 to 36a-718, inclusive, of the  
1495 general statutes, as amended by this act, and sections 24 to 37,  
1496 inclusive, of this act.

1497 (c) In making any examination or investigation authorized by this  
1498 section, the commissioner may control access to any documents and  
1499 records of the mortgage servicer licensee or person under examination  
1500 or investigation. The commissioner may take possession of the  
1501 documents and records or place a person in exclusive charge of the  
1502 documents and records in the place where they are usually kept.  
1503 During the period of control, no person shall remove or attempt to  
1504 remove any of the documents and records except pursuant to a court  
1505 order or with the consent of the commissioner. Unless the  
1506 commissioner has reasonable grounds to believe the documents or  
1507 records of the mortgage servicer licensee or person have been, or are at

1508 risk of being, altered or destroyed for purposes of concealing a  
1509 violation of sections 36a-715 to 36a-718, inclusive, of the general  
1510 statutes, as amended by this act, or sections 24 to 37, inclusive, of this  
1511 act the mortgage servicer licensee or owner of the documents and  
1512 records shall have access to the documents or records as necessary to  
1513 conduct its ordinary business affairs.

1514 (d) In order to carry out the purposes of this section, the  
1515 commissioner may:

1516 (1) Retain attorneys, accountants or other professionals and  
1517 specialists as examiners, auditors or investigators to conduct or assist  
1518 in conducting examinations or investigations;

1519 (2) Enter into agreements or relationships with other government  
1520 officials or regulatory associations in order to improve efficiencies and  
1521 reduce regulatory burden by sharing resources, standardized or  
1522 uniform methods or procedures, and documents, records, information  
1523 or evidence obtained under this section;

1524 (3) Use, hire, contract or employ public or privately available  
1525 analytical systems, methods or software to examine or investigate the  
1526 mortgage servicer licensee or person subject to sections 36a-715 to 36a-  
1527 718, inclusive, of the general statutes, as amended by this act, and  
1528 sections 24 to 37, inclusive, of this act;

1529 (4) Accept and rely on examination or investigation reports made by  
1530 other government officials, within or without this state; and

1531 (5) Accept audit reports made by an independent certified public  
1532 accountant for the mortgage servicer licensee or person subject to  
1533 sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
1534 amended by this act, and sections 24 to 37, inclusive, of this act in the  
1535 course of that part of the examination covering the same general  
1536 subject matter as the audit and may incorporate the audit report in the  
1537 report of examination, report of investigation or other writing of the  
1538 commissioner.

1539 (e) The authority of this section shall remain in effect, whether such  
1540 mortgage servicer licensee or person subject to sections 36a-715 to 36a-  
1541 718, inclusive, of the general statutes, as amended by this act, and  
1542 sections 24 to 37, inclusive, of this act, acts or claims to act under any  
1543 licensing or registration law of this state, or claims to act without such  
1544 authority.

1545 (f) No mortgage servicer licensee or person subject to investigation  
1546 or examination under this section may knowingly withhold, abstract,  
1547 remove, mutilate, destroy or secrete any books, records, computer  
1548 records or other information.

1549 Sec. 35. (NEW) (*Effective November 1, 2013*) (a) The Banking  
1550 Commissioner may suspend, revoke or refuse to renew any mortgage  
1551 servicer license or take any other action, in accordance with the  
1552 provisions of section 36a-51 of the general statutes, for any reason  
1553 which would be sufficient grounds for the commissioner to deny an  
1554 application for such license under section 24 of this act, or if the  
1555 commissioner finds that the licensee, any control person of the  
1556 licensee, the qualified individual or any branch manager with  
1557 supervisory authority, or trustee, employee or agent of such licensee  
1558 has done any of the following: (1) Made any material misstatement in  
1559 the application; (2) committed any fraud or misrepresentation or  
1560 misappropriated funds; (3) violated any of the provisions of title 36a of  
1561 the general statutes or of any regulations adopted pursuant to such  
1562 title, or any other law or regulation applicable to the conduct of its  
1563 business; or (4) failed to perform any agreement with a mortgagee or a  
1564 mortgagor.

1565 (b) Whenever it appears to the commissioner that any person has  
1566 violated, is violating or is about to violate section 49-8a or 49-10a of the  
1567 general statutes, any of the provisions of title 36a of the general  
1568 statutes or of any regulations adopted pursuant to said sections or title,  
1569 or any licensee has failed to perform any agreement with a mortgagee  
1570 or mortgagor, committed any fraud, made any misrepresentation or  
1571 misappropriated funds, the commissioner may take action against

1572 such person or licensee in accordance with sections 36a-50 and 36a-52  
1573 of the general statutes.

1574 Sec. 36. (NEW) (*Effective November 1, 2013*) The Banking  
1575 Commissioner may adopt such regulations, in accordance with chapter  
1576 54 of the general statutes, as the commissioner deems necessary to  
1577 administer and enforce the provisions of sections 36a-715 to 36a-718,  
1578 inclusive, of the general statutes, as amended by this act, and sections  
1579 24 to 37, inclusive, of this act.

1580 Sec. 37. (NEW) (*Effective January 1, 2014*) Section 36a-718 of the  
1581 general statutes, as amended by this act, and sections 29 to 33,  
1582 inclusive, of this act shall apply to any person who acts as a mortgage  
1583 servicer of residential mortgage loans in this state on or after January 1,  
1584 2014.

1585 Sec. 38. Section 36a-1 of the general statutes is repealed and the  
1586 following is substituted in lieu thereof (*Effective October 1, 2013*):

1587 This title shall be known as the "Banking Law of Connecticut" and  
1588 shall be applicable to all Connecticut banks, Connecticut credit unions,  
1589 mortgage lenders, mortgage correspondent lenders, mortgage brokers,  
1590 mortgage loan originators, loan processors or underwriters, [money  
1591 order and travelers check licensees, check cashing service licensees]  
1592 money transmitters, check cashers, trustees under mortgages or deeds  
1593 of trust of real property securing certain investments, corporations  
1594 exercising fiduciary powers, small loan [licensees] lenders, sales  
1595 finance companies, mortgage [servicing companies] servicers, debt  
1596 adjusters, [persons offering or engaging in debt negotiation] debt  
1597 negotiators, consumer collection agencies and to such other persons as  
1598 subject themselves to the provisions of this title or who, by violating  
1599 any of its provisions, become subject to the penalties provided in this  
1600 title.

1601 Sec. 39. Section 36a-3 of the general statutes is repealed and the  
1602 following is substituted in lieu thereof (*Effective October 1, 2013*):

1603 Other definitions applying to this title or to specified parts thereof  
1604 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 and 36a-615.
- T5 "Advertise", "advertisement" or "advertising". Section 36a-485.
- T6 "Agency bank". Section 36a-285.
- T7 "Agent". Section 36a-494.
- T8 "Alternative mortgage loan". Section 36a-265.
- T9 "Amount financed". Section 36a-690.
- T10 "Annual percentage rate". Section 36a-690.
- T11 "Annual percentage yield". Section 36a-316.
- T12 "Annuities". Section 36a-455a.
- T13 "Applicant". Section 36a-736.
- T14 "APR". Section 36a-746a.
- T15 "Assessment area". Section 36a-37.
- T16 "Assets". Section 36a-70.
- T17 "Associate". Section 36a-184.
- T18 "Associated member". Section 36a-458a.
- T19 "Authorized delegate". Section 36a-596, as amended by this act.
- 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.
- 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.

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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.
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, <u>as</u>
T52	<u>amended by this act.</u>
T53	"Consumer collection agency". Section 36a-800, <u>as amended by this act.</u>
T54	"Consummation". Section 36a-746a.
T55	"Control person". Section 36a-485.
T56	"Controlling interest". Section 36a-276.
T57	"Conventional mortgage rate". Section 36a-760.
T58	"Corporate". Section 36a-435b.
T59	"Credit". Sections 36a-645 and 36a-676.
T60	"Credit manager". Section 36a-435b.
T61	"Creditor". Sections 36a-676, 36a-695 and 36a-800, <u>as amended by this</u>
T62	<u>act.</u>
T63	"Credit card", "cardholder" and "card issuer". Section 36a-676.
T64	"Credit clinic". Section 36a-700.
T65	"Credit rating agency". Section 36a-695.
T66	"Credit report". Section 36a-695.
T67	"Credit sale". Section 36a-676.

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T68	"Credit union service organization". Section 36a-435b.
T69	"Credit union service organization services". Section 36a-435b.
T70	"De novo branch". Section 36a-410.
T71	"Debt". Section 36a-645.
T72	"Debt adjustment". Section 36a-655.
T73	"Debt mutual fund". Sections 36a-275 and 36a-459a.
T74	"Debt securities". Sections 36a-275 and 36a-459a.
T75	"Debtor". Section 36a-655.
T76	"Deliver". Section 36a-316.
T77	"Deposit". Section 36a-316.
T78	"Deposit account". Section 36a-316.
T79	"Deposit account charge". Section 36a-316.
T80	"Deposit account disclosures". Section 36a-316.
T81	"Deposit contract". Section 36a-316.
T82	"Deposit services". Section 36a-425.
T83	"Depositor". Section 36a-316.
T84	"Depository institution". Section 36a-485.
T85	"Derivative transaction". Section 36a-262.
T86	"Director". Section 36a-435b.
T87	"Dwelling". Section 36a-485.
T88	"Earning period". Section 36a-316.
T89	"Electronic payment instrument". Section 36a-596, <u>as amended by this</u>
T90	<u>act</u> .
T91	"Eligible collateral". Section 36a-330.
T92	"Eligible entity". Section 36a-34.
T93	"Employee". Section 36a-485.
T94	"Entity". Section 36a-380.
T95	"Equity mutual fund". Sections 36a-276 and 36a-459a.
T96	"Equity security". Sections 36a-276 and 36a-459a.
T97	"Executive officer". Sections 36a-263 and 36a-469c.
T98	"Expedited Connecticut bank". Section 36a-70.
T99	"Experience in the mortgage business". Section 36a-488.
T100	"Federal banking agency". Section 36a-485.
T101	"Federal Credit Union Act". Section 36a-435b.
T102	"Federal Home Mortgage Disclosure Act". Section 36a-736.

- T103 "FHA loan". Section 36a-760.
- T104 "Fiduciary". Section 36a-365.
- T105 "Filing fee". Section 36a-770.
- T106 "Finance charge". Sections 36a-690 and 36a-770.
- T107 "Financial institution". Sections 36a-41, 36a-44a, 36a-155, 36a-316,
- T108 36a-330, 36a-435b, 36a-736 and 36a-755.
- T109 "Financial records". Section 36a-41.
- T110 "First mortgage loan". Sections 36a-485, 36a-705 [, 36a-715] and 36a-725.
- T111 "Foreign banking corporation". Section 36a-425.
- T112 "Fully indexed rate". Section 36a-760b.
- T113 "General facility". Section 36a-580.
- T114 "Global net payment entitlement". Section 36a-428n.
- T115 "Global net payment obligation". Section 36a-428n.
- T116 "Goods". Sections 36a-535 and 36a-770.
- T117 "Graduated payment mortgage loan". Section 36a-265.
- T118 "Guardian". Section 36a-365.
- T119 "High cost home loan". Section 36a-746a.
- T120 "Holder". Section 36a-596, as amended by this act.
- T121 "Home banking services". Section 36a-170.
- T122 "Home banking terminal". Section 36a-170.
- T123 "Home improvement loan". Section 36a-736.
- T124 "Home purchase loan". Section 36a-736.
- T125 "Home state". Section 36a-410.
- T126 "Housing finance agency". Section 36a-487.
- T127 "Immediate family member". Sections 36a-435b and 36a-485.
- T128 "Independent contractor". Section 36a-485.
- T129 "Individual". Section 36a-485.
- T130 "Insider". Section 36a-454b.
- T131 "Installment loan contract". Sections 36a-535 and 36a-770.
- T132 "Insurance". Section 36a-455a.
- T133 "Insurance bank". Section 36a-285.
- T134 "Insurance department". Section 36a-285.
- T135 "Interest". Section 36a-316.
- T136 "Interest rate". Section 36a-316.
- T137 "Interim interest". Section 36a-746a.

- T138 "Investments". Section 36a-602, as amended by this act.
- T139 "Lender". Sections 36a-746a, 36a-760 and 36a-770.
- T140 "Lessor". Section 36a-676.
- T141 "License". Section 36a-626.
- T142 "Licensee". Sections 36a-596, as amended by this act, 36a-607,
- T143 as amended by this act, and 36a-626.
- T144 "Limited branch". Section 36a-145.
- T145 "Limited facility". Section 36a-580.
- T146 "Loan broker". Section 36a-615.
- T147 "Loan processor or underwriter". Section 36a-485.
- T148 "Loss". Section 36a-330.
- T149 "Made in this state". Section 36a-770.
- T150 "Main office". Section 36a-485.
- T151 "Managing agent". Section 36a-365.
- T152 "Manufactured home". Section 36a-457b.
- T153 "Material litigation". Section [36a-596] 36a-598, as amended by this act.
- T154 "Member". Section 36a-435b.
- T155 "Member business loan". Section 36a-458a.
- T156 "Member in good standing". Section 36a-435b.
- T157 "Membership share". Section 36a-435b.
- T158 "Mobile branch". Sections 36a-145 and 36a-435b.
- T159 "Monetary value". Section 36a-596, as amended by this act.
- T160 ["Money order". Section 36a-596.]
- T161 "Money transmission". Section [36a-365] 36a-596, as amended by this
- T162 act.
- T163 "Mortgage". Section 36a-760g.
- T164 "Mortgage broker". Sections 36a-485, 36a-705 and 36a-760.
- T165 "Mortgage correspondent lender". Section 36a-485.
- T166 "Mortgage insurance". Section 36a-725.
- T167 "Mortgage lender". Sections 36a-485, 36a-705 and 36a-725.
- T168 "Mortgage loan". Sections 36a-261, 36a-265, 36a-457b and 36a-736.
- T169 "Mortgage loan originator". Section 36a-485.
- T170 "Mortgage rate lock-in". Section 36a-705.
- T171 ["Mortgage servicing company". Section 36a-715.]
- T172 "Mortgage servicer". Section 36a-715, as amended by this act.

- T173 "Mortgage". Section 36a-715, as amended by this act.
- T174 "Mortgagor". Section 36a-715, as amended by this act.
- T175 "Motor vehicle". Section 36a-770.
- T176 "Multiple common bond membership". Section 36a-435b.
- T177 "Municipality". Section 36a-800, as amended by this act.
- T178 "Net outstanding member business loan balance". Section 36a-458a.
- T179 "Net worth". Sections 36a-441a [,] and 36a-458a, [and 36a-596.]
- T180 "Network". Section 36a-155.
- T181 "Nonprime home loan". Section 36a-760.
- T182 "Nonrefundable". Section 36a-498.
- T183 "Nontraditional mortgage product". Section 36a-489a.
- T184 "Note account". Sections 36a-301 and 36a-456b.
- T185 "Office". Sections 36a-23, 36a-316 and 36a-485.
- T186 "Officer". Section 36a-435b.
- T187 "Open-end credit plan". Section 36a-676.
- T188 "Open-end line of credit". Section 36a-760.
- T189 "Open-end loan". Section 36a-565.
- T190 "Organization". Section 36a-800, as amended by this act.
- T191 "Out-of-state holding company". Section 36a-410.
- T192 "Outstanding". Section 36a-596, as amended by this act.
- T193 "Passbook savings account". Section 36a-316.
- T194 "Payment instrument". Section 36a-596, as amended by this act.
- T195 "Periodic statement". Section 36a-316.
- T196 "Permissible investment". Section 36a-596, as amended by this act.
- T197 "Person". Sections 36a-184 and 36a-485.
- T198 "Post". Section 36a-316.
- T199 "Prepaid finance charge". Section 36a-746a.
- T200 "Prime quality". Section 36a-596, as amended by this act.
- T201 "Principal amount of the loan". Section 36a-485.
- T202 "Processor". Section 36a-155.
- T203 "Public deposit". Section 36a-330.
- T204 "Purchaser". Section 36a-596, as amended by this act.
- T205 "Qualified financial contract". Section 36a-428n.
- T206 "Qualified public depository" and "depository". Section 36a-330.
- T207 "Real estate". Section 36a-457b.

- T208 "Real estate brokerage activity". Section 36a-485.
- T209 "Records". Section 36a-17.
- T210 "Registered mortgage loan originator". Section 36a-485.
- T211 "Related person". Section 36a-53.
- T212 "Relocate". Sections 36a-145 and 36a-462a.
- T213 "Residential mortgage loan". [Section] Sections 36a-485 and 36a-715, as
- T214 amended by this act.
- T215 "Residential real estate". Section 36a-485.
- T216 "Resulting entity". Section 36a-34.
- T217 "Retail buyer". Sections 36a-535 and 36a-770.
- T218 "Retail credit transaction". Section 42-100b.
- T219 "Retail installment contract". Sections 36a-535 and 36a-770.
- T220 "Retail installment sale". Sections 36a-535 and 36a-770.
- T221 "Retail seller". Sections 36a-535 and 36a-770.
- T222 "Reverse annuity mortgage loan". Section 36a-265.
- T223 "Sales finance company". Sections 36a-535 and 36a-770.
- T224 "Savings department". Section 36a-285.
- T225 "Savings deposit". Section 36a-316.
- T226 "Secondary mortgage loan". Section 36a-485.
- T227 "Security convertible into a voting security". Section 36a-184.
- T228 "Senior management". Section 36a-435b.
- T229 "Settlement agent". Section 36a-494.
- T230 "Share". Section 36a-435b.
- T231 "Simulated check". Section 36a-485.
- T232 "Single common bond membership". Section 36a-435b.
- T233 "Special mortgage". Section 36a-760c.
- T234 "Social purpose investment". Section 36a-277.
- T235 "Sponsored". Section 36a-485.
- T236 "Standard mortgage loan". Section 36a-265.
- T237 "Stored value". Section 36a-596, as amended by this act.
- T238 "System". Section 36a-485.
- T239 "Table funding agreement". Section 36a-485.
- T240 "Tax and loan account". Sections 36a-301 and 36a-456b.
- T241 "The Savings Bank Life Insurance Company". Section 36a-285.
- T242 "Time account". Section 36a-316.

T243 "Travelers check". Section 36a-596, as amended by this act.  
T244 "Troubled Connecticut credit union". Section 36a-448a.  
T245 "Unique identifier". Section 36a-485.  
T246 "Unsecured loan". Section 36a-615.  
T247 "Value". Section 36a-603, as amended by this act.  
T248 "Warehouse agreement". Section 36a-485.

1605 Sec. 40. Subdivision (6) of subsection (c) of section 36a-65 of the  
1606 general statutes is repealed and the following is substituted in lieu  
1607 thereof (*Effective October 1, 2013*):

1608 (6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-  
1609 600, as amended by this act, 36a-628, 36a-656, 36a-671, [or] 36a-801, as  
1610 amended by this act, or section 24 of this act shall pay to the  
1611 commissioner the actual cost of any examination of the licensee, as  
1612 such cost is determined by the commissioner. If the licensee fails to pay  
1613 such cost not later than sixty days after receipt of demand from the  
1614 commissioner, the commissioner may suspend the license until such  
1615 costs are paid.

1616 Sec. 41. Subdivision (4) of subsection (a) of section 36a-412 of the  
1617 general statutes is repealed and the following is substituted in lieu  
1618 thereof (*Effective October 1, 2013*):

1619 (4) (A) The laws of this state, including laws regarding (i)  
1620 community reinvestment pursuant to sections 36a-30 to 36a-33,  
1621 inclusive; (ii) consumer protection pursuant to sections 36a-41 to 36a-  
1622 45, inclusive, 36a-290 to 36a-304, inclusive, 36a-306, 36a-307, 36a-315 to  
1623 36a-323, inclusive, 36a-645 to 36a-647, inclusive, 36a-690, 36a-695 to  
1624 36a-700, inclusive, 36a-705 to 36a-707, inclusive, 36a-715 to 36a-718,  
1625 inclusive, as amended by this act, 36a-725, 36a-726, 36a-755 to 36a-759,  
1626 inclusive, 36a-770 to 36a-788, inclusive, and 36a-800 to 36a-810,  
1627 inclusive, as amended by this act, and sections 24 to 37, inclusive, of  
1628 this act; (iii) fair lending pursuant to sections 36a-737, 36a-740 and 36a-  
1629 741; and (iv) establishment of interstate branches pursuant to section  
1630 36a-145 shall apply to any branch in this state of an out-of-state bank,

1631 other than a federally-chartered out-of-state bank, to the same extent as  
1632 such laws apply to a branch in this state of an out-of-state national  
1633 banking association.

1634 (B) An out-of-state bank, other than a federally-chartered out-of-  
1635 state bank, that establishes a branch in this state may conduct any  
1636 activity at such branch that is permissible under the laws of the home  
1637 state of such out-of-state bank, to the extent such activity is permissible  
1638 either for a Connecticut bank or for a branch in this state of an out-of-  
1639 state national banking association. If the commissioner determines that  
1640 a branch in this state of an out-of-state bank, other than a federally-  
1641 chartered out-of-state bank, is being operated in violation of any  
1642 applicable law of this state or in an unsafe and unsound manner, the  
1643 commissioner may take any enforcement action authorized under this  
1644 title against such out-of-state bank to the same extent as if such branch  
1645 were a Connecticut bank, provided the commissioner shall promptly  
1646 give notice of such action to the home state banking regulator of such  
1647 out-of-state bank and, to the extent practicable, shall consult and  
1648 cooperate with such regulator in pursuing and resolving such action.  
1649 For purposes of this subparagraph, "activity" includes acquiring or  
1650 retaining any investment.

1651 Sec. 42. Section 49-2a of the general statutes is repealed and the  
1652 following is substituted in lieu thereof (*Effective October 1, 2013*):

1653 (a) On and after July 1, 1993, each state bank and trust company,  
1654 national banking association, state or federally chartered savings and  
1655 loan association, savings bank, insurance company and other  
1656 mortgagee or mortgage [servicing company] servicer holding funds of  
1657 a mortgagor in escrow for the payment of taxes and insurance  
1658 premiums with respect to mortgaged property located in this state  
1659 shall pay interest on such funds, except as provided in section 49-2c, as  
1660 amended by this act, at a rate of not less than the average rate paid, as  
1661 of December 30, 1992, on savings deposits by insured commercial  
1662 banks as published in the Federal Reserve Board Bulletin and rounded  
1663 to the nearest one-tenth of one percentage point, except in no event

1664 shall the rate be less than one and one-half per cent. On and after  
1665 January 1, 1994, until September 30, 2012, the rate for each calendar  
1666 year shall be not less than the deposit index as defined in subsection (c)  
1667 of this section for that year and rounded to the nearest one-tenth of one  
1668 percentage point, except in no event shall the rate be less than one and  
1669 one-half per cent. On and after October 1, 2012, the rate for each  
1670 calendar year shall be not less than the deposit index as defined in  
1671 subsection (c) of this section for that year and rounded to the nearest  
1672 one-tenth of one percentage point. Interest payments shall be credited  
1673 on the thirty-first day of December annually toward the payment of  
1674 taxes or insurance premiums as the case may be, on such mortgaged  
1675 property in the ensuing year. If the mortgage debt is paid prior to  
1676 December thirty-first in any year, the interest to the date of payment  
1677 shall be paid to the mortgagor. The provisions of this section shall  
1678 apply only with respect to mortgages on owner-occupied residential  
1679 property consisting of not more than four living units and housing  
1680 cooperatives occupied solely by the shareholders thereof. Any  
1681 mortgagee or mortgage [servicing company] servicer violating the  
1682 provisions of this section shall be fined not more than one hundred  
1683 dollars for each offense.

1684 (b) Each mortgagee or mortgage [servicing company] servicer  
1685 subject to the provisions of this section may contact the Department of  
1686 Banking to ascertain the published deposit index to determine the  
1687 minimum rate paid on funds of a mortgagor held in escrow for the  
1688 payment of taxes and insurance premiums.

1689 (c) The deposit index for each calendar year shall be equal to the  
1690 average rate paid on savings deposits by insured commercial banks as  
1691 last published in the Federal Reserve Board Bulletin in November of  
1692 the prior year. The commissioner shall determine the deposit index for  
1693 each calendar year and publish such deposit index in the Department  
1694 of Banking news bulletin no later than December fifteenth of the prior  
1695 year. For purposes of this section, "Federal Reserve Board Bulletin"  
1696 means the monthly survey of selected deposits published as a special  
1697 supplement to the Federal Reserve Statistical Release Publication H.6

1698 published by the Board of Governors of the Federal Reserve System or,  
1699 if such bulletin is superseded or becomes unavailable, a substantially  
1700 similar index or publication.

1701 Sec. 43. Section 49-2c of the general statutes is repealed and the  
1702 following is substituted in lieu thereof (*Effective October 1, 2013*):

1703 (a) In no event shall interest be required to be paid on escrow  
1704 accounts where (1) there is a contract between the mortgagor and the  
1705 mortgagee, entered into before October 1, 1975, which contains an  
1706 express disclaimer of an obligation on the part of the mortgagee to pay  
1707 interest on the accounts, (2) the payment of such interest would violate  
1708 any federal law or regulation, (3) the accounts are maintained with a  
1709 mortgage [servicing company] servicer, neither affiliated with nor  
1710 owned in whole or in part by the mortgagee, under a written contract  
1711 or any mortgage agreements underlying the contracts, entered into  
1712 before October 1, 1975, which contract does not permit the mortgage  
1713 [servicing company] servicer to earn or receive a return from the  
1714 investment of the accounts or (4) the accounts are maintained in  
1715 connection with mortgage loans entered into (A) on and after October  
1716 1, 1977, and before January 1, 1989, and which are serviced and held  
1717 for sale for not more than one year by a mortgage [servicing company]  
1718 servicer, neither affiliated with nor owned in whole or in part by the  
1719 purchaser of the mortgage loan, and (B) on and after January 1, 1989,  
1720 and which are serviced and held for sale for not more than six months  
1721 by any such mortgage [servicing company] servicer, provided such  
1722 mortgage [servicing company] servicer shall pay interest on an escrow  
1723 account maintained in connection with such mortgage loan if the loan  
1724 is sold within such specified periods and the mortgage [servicing  
1725 company] servicer continues to service the loan.

1726 (b) In no event shall interest be required to be paid at a rate in excess  
1727 of two per cent per annum where (1) there is a contract between the  
1728 mortgagor and the mortgagee entered into before October 1, 1977,  
1729 which contains an express agreement to pay interest at the rate of two  
1730 per cent per annum, or (2) such accounts are maintained in connection

1731 with mortgage loans entered into prior to October 1, 1977, and which  
1732 are serviced and held for sale for not more than one year by a  
1733 mortgage [servicing company] servicer, neither affiliated with nor  
1734 owned in whole or in part by the purchaser of the mortgage loan.

1735 Sec. 44. Section 36a-800 of the general statutes is repealed and the  
1736 following is substituted in lieu thereof (*Effective October 1, 2013*):

1737 As used in sections 36a-800 to 36a-810, inclusive, as amended by this  
1738 act, unless the context otherwise requires:

1739 (1) "Branch office" means a location other than the main office at  
1740 which a licensee or any person on behalf of a licensee acts as a  
1741 consumer collection agency;

1742 [(1)] (2) "Consumer collection agency" means any person (A)  
1743 engaged as a third party in the business of collecting or receiving for  
1744 payment for others of any account, bill or other indebtedness from a  
1745 consumer debtor, [or] (B) engaged directly or indirectly in the business  
1746 of collecting any account, bill or other indebtedness from a consumer  
1747 debtor for such person's own account if the indebtedness was acquired  
1748 from another person and if the indebtedness was either delinquent or  
1749 in default at the time it was acquired, or (C) engaged in the business of  
1750 collecting or receiving for payment property tax from a property tax  
1751 debtor on behalf of a municipality, including any person who, by any  
1752 device, subterfuge or pretense, makes a pretended purchase or takes a  
1753 pretended assignment of accounts from any other person or  
1754 municipality of such indebtedness for the purpose of evading the  
1755 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this  
1756 act. It includes persons who furnish collection systems carrying a name  
1757 which simulates the name of a consumer collection agency and who  
1758 supply forms or form letters to be used by the creditor, even though  
1759 such forms direct the consumer debtor or property tax debtor to make  
1760 payments directly to the creditor rather than to such fictitious agency.  
1761 "Consumer collection agency" further includes any person who, in  
1762 attempting to collect or in collecting such person's own accounts or  
1763 claims from a consumer debtor, uses a fictitious name or any name

1764 other than such person's own name which would indicate to the  
1765 consumer debtor that a third person is collecting or attempting to  
1766 collect such account or claim. "Consumer collection agency" does not  
1767 include [(A)] (i) an individual employed on the staff of a licensed  
1768 consumer collection agency, or by a creditor who is exempt from  
1769 licensing, when attempting to collect on behalf of such consumer  
1770 collection agency, [(B)] (ii) persons not primarily engaged in the  
1771 collection of debts from consumer debtors who receive funds in escrow  
1772 for subsequent distribution to others, including, but not limited to, real  
1773 estate brokers and lenders holding funds of borrowers for payment of  
1774 taxes or insurance, [(C)] (iii) any public officer or a person acting under  
1775 the order of any court, [(D)] (iv) any member of the bar of this state,  
1776 and [(E)] (v) a person who services loans or accounts for the owners  
1777 thereof when the arrangement includes, in addition to requesting  
1778 payment from delinquent consumer debtors, the providing of other  
1779 services such as receipt of payment, accounting, record-keeping, data  
1780 processing services and remitting, for loans or accounts which are  
1781 current as well as those which are delinquent. Any person not  
1782 included in the definition contained in this subdivision is, for purposes  
1783 of sections 36a-645 to 36a-647, inclusive, a "creditor", as defined in  
1784 section 36a-645;

1785 [(2)] (3) "Consumer debtor" means any natural person, not an  
1786 organization, who has incurred indebtedness or owes a debt for  
1787 personal, family or household purposes, including current or past due  
1788 child support, or who has incurred indebtedness or owes a debt to a  
1789 municipality due to a levy by such municipality of a personal property  
1790 tax;

1791 [(3)] (4) "Creditor" means a person, including a municipality, that  
1792 retains, hires, or engages the services of a consumer collection agency;

1793 (5) "Main office" means the main address designated on the  
1794 application;

1795 [(4)] (6) "Municipality" means any town, city or borough,  
1796 consolidated town and city, consolidated town and borough, district as

1797 defined in section 7-324 or municipal special services district  
1798 established under chapter 105a;

1799 [(5)] (7) "Organization" means a corporation, partnership,  
1800 association, trust or any other legal entity or an individual operating  
1801 under a trade name or a name having appended to it a commercial,  
1802 occupational or professional designation;

1803 [(6)] (8) "Property tax" has the meaning given to the term in section  
1804 7-560;

1805 [(7)] (9) "Property tax debtor" means any natural person or  
1806 organization who has incurred indebtedness or owes a debt to a  
1807 municipality due to a levy by such municipality of a property tax.

1808 Sec. 45. Section 36a-801 of the general statutes is repealed and the  
1809 following is substituted in lieu thereof (*Effective October 1, 2013*):

1810 (a) No person shall act within this state as a consumer collection  
1811 agency [without a consumer collection agency license] unless such  
1812 person has first obtained a consumer collection agency license for such  
1813 person's main office and each branch office where such person's  
1814 business is conducted. A consumer collection agency is acting within  
1815 this state if it (1) has its place of business located within this state; (2)  
1816 has its place of business located outside this state and collects from  
1817 consumer debtors or property tax debtors who reside within this state  
1818 for creditors who are located within this state; (3) has its place of  
1819 business located outside this state and regularly collects from  
1820 consumer debtors or property tax debtors who reside within this state  
1821 for creditors who are located outside this state; or (4) has its place of  
1822 business located outside this state and is engaged in the business of  
1823 collecting child support for creditors located within this state from  
1824 consumer debtors who are located outside this state.

1825 (b) [(1)] Any person desiring to act within this state as a consumer  
1826 collection agency shall make a written application to the commissioner  
1827 for such license in such form as the commissioner prescribes. Such

1828 application shall be accompanied by [(A)] (1) a financial statement  
1829 prepared by a certified public accountant or a public accountant, the  
1830 accuracy of which is sworn to under oath before a notary public by the  
1831 proprietor, a general partner or a corporate officer or a member duly  
1832 authorized to execute such documents, [(B) (i)] (2) (A) the history of  
1833 criminal convictions of the [(I)] (i) applicant; [(II)] (ii) partners, if the  
1834 applicant is a partnership; [(III)] (iii) members, if the applicant is a  
1835 limited liability company or association; or [(IV)] (iv) officers, directors  
1836 and principal employees, if the applicant is a corporation, and [(ii)] (B)  
1837 sufficient information pertaining to the history of criminal convictions  
1838 of such applicant, partners, members, officers, directors and principal  
1839 employees [in a form acceptable to the commissioner, (C)] as the  
1840 commissioner deems necessary to make the findings under subsection  
1841 (c) of this section, (3) a license fee of eight hundred dollars, or in the  
1842 case of an initial application that is filed not earlier than one year  
1843 before the date such license will expire, a license fee of four hundred  
1844 dollars, and [(D)] (4) an investigation fee of one hundred dollars. The  
1845 commissioner shall cause to be made such inquiry and examination as  
1846 to the qualifications of each such applicant or any partner, member,  
1847 officer, director or principal employee of the applicant as the  
1848 commissioner deems necessary. The commissioner, in accordance with  
1849 section 29-17a, may conduct a state and national criminal history  
1850 records check of the applicant and of each partner, member, officer,  
1851 director and principal employee of such applicant. Each applicant shall  
1852 furnish satisfactory evidence to the commissioner that the applicant is  
1853 a person of good moral character and is financially responsible. [If the  
1854 commissioner is satisfied that such applicant is in all respects properly  
1855 qualified and trustworthy and that the granting of such license is not  
1856 against the public interest, the commissioner may issue to such  
1857 applicant a license, in such form as the commissioner may adopt, to act  
1858 within this state as a consumer collection agency.]

1859 (c) If the commissioner finds, upon the filing of an application for a  
1860 consumer collection agency, that (1) the financial responsibility,  
1861 character, reputation, integrity and general fitness of the applicant and  
1862 the partners of such applicant if the applicant is a partnership, of the

1863 members if the applicant is a limited liability company or association,  
1864 and of the officers, directors and principal employees if the applicant is  
1865 a corporation, are such to warrant belief that the business will be  
1866 operated soundly and efficiently, in the public interest and consistent  
1867 with the purposes of sections 36a-800 to 36a-810, inclusive, as amended  
1868 by this act, and (2) the applicant is solvent and no proceeding in  
1869 bankruptcy, receivership or assignment for the benefit of creditors has  
1870 been commenced against the applicant, the commissioner may, upon  
1871 such finding, issue the applicant a consumer collection agency license.  
1872 If the commissioner fails to make such findings, the commissioner  
1873 shall not issue a license and shall notify the applicant of the reasons for  
1874 such denial. The commissioner may deny an application if the  
1875 commissioner finds that the applicant or any partner, member, officer,  
1876 director or principal employee of such applicant has been convicted of  
1877 any misdemeanor involving any aspect of the consumer collection  
1878 agency business, or any felony. Any denial of an application by the  
1879 commissioner shall, when applicable, be subject to the provisions of  
1880 section 46a-80. Any such license issued by the commissioner shall  
1881 expire at the close of business on September thirtieth of the odd-  
1882 numbered year following its issuance, unless such license is renewed.  
1883 The commissioner may renew such application, in the commissioner's  
1884 discretion, upon filing of a proper renewal application accompanied by  
1885 a license fee of eight hundred dollars, and satisfactory proof that such  
1886 applicant at that time possesses the required qualifications for the  
1887 license. The commissioner may deny a renewal application if the  
1888 commissioner finds that the applicant has been convicted of any  
1889 misdemeanor involving any aspect of the consumer collection agency  
1890 business, or any felony. Any denial of an application by the  
1891 commissioner shall, when applicable, be subject to the provisions of  
1892 section 46a-80. Such renewal application shall be filed with the  
1893 commissioner on or before September first of the year in which the  
1894 license expires. Any renewal application filed with the commissioner  
1895 after September first shall be accompanied by a one-hundred-dollar  
1896 late fee and any such filing shall be deemed to be timely and sufficient  
1897 for purposes of subsection (b) of section 4-182. Whenever an

1898 application for a license, other than a renewal application, is filed  
1899 under sections 36a-800 to 36a-810, inclusive, as amended by this act, by  
1900 any person who was a licensee under said sections 36a-800 to 36a-810,  
1901 inclusive, as amended by this act, and whose license expired less than  
1902 sixty days prior to the date such application was filed, such application  
1903 shall be accompanied by a one-hundred-dollar processing fee in  
1904 addition to the application fee.

1905 (d) To further the enforcement of this section and to determine the  
1906 eligibility of any person holding a license, the commissioner may, as  
1907 often as the commissioner deems necessary, examine the licensee's  
1908 books and records, and may, at any time, require the licensee to submit  
1909 such a financial statement for the examination of the commissioner, so  
1910 that the commissioner may determine whether the licensee is  
1911 financially responsible to carry on a consumer collection agency  
1912 business within the intents and purposes of sections 36a-800 to 36a-  
1913 810, inclusive, as amended by this act. Any financial statement  
1914 submitted by a licensee shall be confidential and shall not be a public  
1915 record unless introduced in evidence at a hearing conducted by the  
1916 commissioner.

1917 (e) The applicant or licensee shall notify the commissioner, in  
1918 writing, of any change in the information provided in its initial  
1919 application for a license or most recent renewal application for such  
1920 license, as applicable, not later than ten business days after the  
1921 occurrence of the event that results in such information becoming  
1922 inaccurate.

1923 (f) The commissioner may deem an application for a license to act as  
1924 a consumer collection agency abandoned if the applicant fails to  
1925 respond to any request for information required under sections 36a-  
1926 801 to 36a-810, inclusive, as amended by this act, or any regulations  
1927 adopted pursuant to said sections 36a-801 to 36a-810, inclusive, as  
1928 amended by this act. The commissioner shall notify the applicant, in  
1929 writing, that if the applicant fails to submit such information not later  
1930 than sixty days after the date on which such request for information

1931 was made, the application shall be deemed abandoned. An application  
1932 filing fee paid prior to the date an application is deemed abandoned  
1933 pursuant to this subsection shall not be refunded. Abandonment of an  
1934 application pursuant to this subsection shall not preclude the applicant  
1935 from submitting a new application for a license under sections 36a-801  
1936 to 36a-810, inclusive, as amended by this act.

1937 [(2)] (g) If the commissioner determines that a check filed with the  
1938 commissioner to pay a fee under subdivision (1) of this subsection has  
1939 been dishonored, the commissioner shall automatically suspend the  
1940 license or a renewal license that has been issued but is not yet effective.  
1941 The commissioner shall give the licensee notice of the automatic  
1942 suspension pending proceedings for revocation or refusal to renew  
1943 and an opportunity for a hearing on such actions in accordance with  
1944 section 36a-51.

1945 [(3)] (h) No abatement of the license fee shall be made if the license  
1946 is surrendered, revoked or suspended prior to the expiration of the  
1947 period for which it was issued. All fees required by this section shall be  
1948 nonrefundable.

1949 [(c)] (i) No person licensed to act within this state as a consumer  
1950 collection agency shall do so under any other name or at any other  
1951 place of business than that named in the license. Any change of  
1952 location of a place of business of a licensee shall require prior written  
1953 notice to the commissioner. Not more than one place of business shall  
1954 be maintained under the same license but the commissioner may issue  
1955 more than one license to the same licensee upon compliance with the  
1956 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this  
1957 act, as to each new licensee. A license shall not be transferable or  
1958 assignable. Any licensee holding, applying for, or seeking renewal of  
1959 more than one license may, at its option, file the bond required under  
1960 section 36a-802 separately for each place of business licensed, or to be  
1961 licensed, or a single bond, naming each place of business, in an amount  
1962 equal to twenty-five thousand dollars for each place of business.

1963 Sec. 46. (NEW) (*Effective October 1, 2013*) (a) Each consumer

1964 collection agency shall maintain its consumer debtor and creditor  
1965 records so as to clearly identify the amounts and dates of all payments  
1966 collected or received from consumer debtors and all remittances made  
1967 to creditors. Consumer debtor and creditor records shall be kept so as  
1968 to be readily available to the Banking Commissioner and retained for a  
1969 period of not less than two years after the date of final entry thereon.  
1970 All accounting records shall be maintained in accordance with  
1971 generally accepted accounting practices. Each consumer collection  
1972 agency engaged in the business of collecting child support shall  
1973 maintain originals or copies of the written agreements entered into  
1974 with the creditors to whom the child support is owed for a period of  
1975 not less than two years after the date of the last payment made by the  
1976 consumer debtor to the consumer collection agency.

1977 (b) Each third party consumer collection agency shall deposit funds  
1978 collected or received from consumer debtors for payment for others on  
1979 an account, bill or other indebtedness in one or more trust accounts  
1980 maintained at a bank, Connecticut credit union, federal credit union or  
1981 an out-of-state bank that maintains in this state a branch as defined in  
1982 section 36a-410 of the general statutes, which accounts shall be  
1983 reconciled monthly. Such funds shall not be commingled with funds of  
1984 the consumer collection agency or used in the conduct of the consumer  
1985 collection agency's business. Such account shall not be used for any  
1986 purpose other than (1) the deposit of funds received from consumer  
1987 debtors, (2) the payment of such funds to creditors, (3) the refund of  
1988 any overpayments to be made to consumer debtors, and (4) the  
1989 payment of earned fees to the consumer collection agency, which shall  
1990 be withdrawn on a monthly basis. Except for payments authorized by  
1991 subdivisions (2) to (4), inclusive, of this subsection, any withdrawal  
1992 from such account, including, but not limited to, any service charge or  
1993 other fee imposed against such account by a depository institution,  
1994 shall be reimbursed by the consumer collection agency to such account  
1995 not more than thirty days after the withdrawal. Funds received from  
1996 consumer debtors shall be posted to their respective accounts in  
1997 accordance with generally accepted accounting practices.

1998       Sec. 47. (NEW) (*Effective October 1, 2013*) Each consumer collection  
1999 agency shall comply with the applicable provisions of the Fair Debt  
2000 Collection Practices Act, 15 USC Section 1692 et seq., as from time to  
2001 time amended, and any regulations adopted under said act. In  
2002 addition to any other remedies provided by law, a violation of such  
2003 federal law or regulation shall be deemed to be a violation of this  
2004 section and a basis upon which the Banking Commissioner may take  
2005 enforcement action pursuant to section 36a-804 of the general statutes.

2006       Sec. 48. Section 36a-805 of the general statutes is repealed and the  
2007 following is substituted in lieu thereof (*Effective October 1, 2013*):

2008       (a) No consumer collection agency shall: (1) Furnish legal advice or  
2009 perform legal services or represent that it is competent to do so, or  
2010 institute judicial proceedings on behalf of others; (2) communicate with  
2011 consumer debtors or property tax debtors in the name of an attorney  
2012 or upon the stationery of an attorney, or prepare any forms or  
2013 instruments which only attorneys are authorized to prepare; (3)  
2014 [purchase or] receive assignments as a third party of claims for the  
2015 purpose of collection or institute suit thereon in any court; (4) assume  
2016 authority on behalf of a creditor to employ or terminate the services of  
2017 an attorney unless such creditor has authorized such agency in writing  
2018 to act as such creditor's agent in the selection of an attorney to collect  
2019 the creditor's accounts; (5) demand or obtain in any manner a share of  
2020 the proper compensation for services performed by an attorney in  
2021 collecting a claim, whether or not such agency has previously  
2022 attempted collection thereof; (6) solicit claims for collection under an  
2023 ambiguous or deceptive contract; (7) refuse to return any claim or  
2024 claims upon written request of the creditor, claimant or forwarder,  
2025 which claims are not in the process of collection after the tender of  
2026 such amounts, if any, as may be due and owing to the agency; (8)  
2027 advertise or threaten to advertise for sale any claim as a means of  
2028 forcing payment thereof, unless such agency is acting as the assignee  
2029 for the benefit of creditors; (9) refuse or fail to account for and remit to  
2030 its clients all money collected which is not in dispute within sixty days  
2031 from the last day of the month in which said money is collected; (10)

2032 refuse or intentionally fail to return to the creditor all valuable papers  
2033 deposited with a claim when such claim is returned; (11) refuse or fail  
2034 to furnish at intervals of not less than ninety days, upon the written  
2035 request of the creditor, claimant or forwarder, a written report upon  
2036 claims received from such creditor, claimant or forwarder; (12)  
2037 [commingle money collected for a creditor, claimant or forwarder with  
2038 its own funds or use any part of a creditor's, claimant's or forwarder's  
2039 money in the conduct of its business; (13)] add any post charge-off  
2040 charge or fee for cost of collection, unless such cost is a court cost, to  
2041 the amount of any claim which it receives for collection or knowingly  
2042 accept for collection any claim to which any such charge or fee has  
2043 already been added to the amount of the claim unless (A) the  
2044 consumer debtor is legally liable [therefor, in which case, the collection  
2045 charge or fee may not be in excess of] for such charge or fee as  
2046 determined by the contract or other evidence of an agreement between  
2047 the consumer debtor and creditor, a copy of which shall be obtained by  
2048 or available to the consumer collection agency from the creditor and  
2049 maintained as part of the records of the consumer collection agency or  
2050 the creditor, or both, and (B) the total charge or fee for cost of collection  
2051 does not exceed fifteen per cent of the total amount actually collected  
2052 [on] and accepted by the creditor as payment in full satisfaction of the  
2053 debt; [(14)] (13) use or attempt to use or make reference to the term  
2054 "bonded by the state of Connecticut", "bonded" or "bonded collection  
2055 agency" or any combination of such terms or words, except that the  
2056 word "bonded" may be used on the stationery of any such agency in  
2057 type not larger than twelve-point; (14) when the debt is beyond the  
2058 statute of limitations, fail to inform the consumer debtor in its initial  
2059 communication with such consumer debtor that (A) when it is  
2060 collecting on debt that is not past the date for obsolescence provided  
2061 for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c, (i)  
2062 the law limits how long it may bring a lawsuit against such consumer  
2063 debtor with regard to such debt, and (ii) because of the age of such  
2064 debt, it will not bring a lawsuit against such consumer debtor with  
2065 regard to such debt, but, if such consumer debtor fails to pay the debt,  
2066 it may report or continue to report such debt to the credit reporting

2067 agencies as unpaid, and (B) when it is collecting on debt that is past the  
2068 date for obsolescence provided for in Section 605(a) of the Fair Credit  
2069 Reporting Act, 15 USC 1681c, (i) the law limits how long it may bring a  
2070 lawsuit against such consumer debtor with regard to such debt, and  
2071 (ii) because of the age of such debt, it will not bring a lawsuit against  
2072 such consumer debtor with regard to such debt or report such debt to  
2073 any credit reporting agencies; or (15) engage in any activities  
2074 prohibited by sections 36a-800 to 36a-810, inclusive, as amended by  
2075 this act.

2076 (b) No consumer collection agency shall impose a charge or fee for  
2077 any child support payments collected through the efforts of a  
2078 governmental agency. If the imposition of a charge or fee is permitted  
2079 under section 36a-801b, no consumer collection agency shall impose a  
2080 charge or fee for the collection of any child support overdue at the time  
2081 of the contract in excess of twenty-five per cent of overdue support  
2082 actually collected.

2083 (c) (1) No consumer collection agency shall receive any property tax  
2084 on behalf of a creditor that is a municipality, unless the consumer  
2085 collection agency has procured from an insurer authorized to transact  
2086 business in this state an insurance policy providing coverage against  
2087 loss of money, securities or other property, including loss arising from  
2088 any fraudulent or dishonest act of any employee, officer or director of  
2089 the consumer collection agency, with limits of at least two million  
2090 dollars. It shall be the obligation of the municipality to ensure  
2091 compliance with the requirements of this subdivision.

2092 (2) A municipality that enters into an agreement with a consumer  
2093 collection agency to collect and receive for payment property tax on  
2094 behalf of the municipality may also require such consumer collection  
2095 agency to file a bond with the municipality in an amount not  
2096 exceeding the total amount of the property tax to be collected on behalf  
2097 of the municipality. Such bond, the form of which shall be approved  
2098 by the municipality, shall be written by a surety authorized to write  
2099 bonds in this state and shall contain a provision requiring the surety to

2100 provide the municipality with written notice of cancellation of such  
 2101 bond. Such notice shall be sent by certified mail to the municipality at  
 2102 least thirty days prior to the date of cancellation. The bond shall be  
 2103 conditioned that such consumer collection agency shall well, truly and  
 2104 faithfully account for all funds collected and received by the consumer  
 2105 collection agency for the municipality pursuant to such agreement. If  
 2106 the municipality is damaged by the wrongful conversion of any  
 2107 property tax debtor funds received by the consumer collection agency,  
 2108 the municipality may proceed on such bond against the principal or  
 2109 surety on the bond, or both, to recover damages. The proceeds of the  
 2110 bond, even if commingled with the other assets of the consumer  
 2111 collection agency, shall be deemed by operation of law to be held in  
 2112 trust for the benefit of the municipality in the event of bankruptcy of  
 2113 the consumer collection agency and shall be immune from attachment  
 2114 by creditors and judgment creditors.

2115 Sec. 49. Section 36a-808 of the general statutes is repealed and the  
 2116 following is substituted in lieu thereof (*Effective October 1, 2013*):

2117 Whenever the commissioner has reason to believe that any  
 2118 consumer collection agency is engaging in this state in any act or  
 2119 practice in the conduct of such business which is not defined in section  
 2120 36a-805, as amended by this act, and that such act or practice is unfair  
 2121 or deceptive, the commissioner may take action against such consumer  
 2122 collection agency in accordance with [section] sections 36a-50 and 36a-  
 2123 52.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	36a-595
Sec. 2	<i>October 1, 2013</i>	36a-596
Sec. 3	<i>October 1, 2013</i>	36a-597
Sec. 4	<i>October 1, 2013</i>	36a-598
Sec. 5	<i>October 1, 2013</i>	36a-599
Sec. 6	<i>October 1, 2013</i>	36a-600
Sec. 7	<i>October 1, 2013</i>	36a-601
Sec. 8	<i>October 1, 2013</i>	36a-602

Sec. 9	<i>October 1, 2013</i>	36a-603
Sec. 10	<i>October 1, 2013</i>	36a-604
Sec. 11	<i>October 1, 2013</i>	36a-605
Sec. 12	<i>October 1, 2013</i>	36a-606
Sec. 13	<i>October 1, 2013</i>	36a-606a
Sec. 14	<i>October 1, 2013</i>	36a-607
Sec. 15	<i>October 1, 2013</i>	36a-608
Sec. 16	<i>October 1, 2013</i>	36a-609
Sec. 17	<i>October 1, 2013</i>	36a-610
Sec. 18	<i>October 1, 2013</i>	New section
Sec. 19	<i>October 1, 2013</i>	New section
Sec. 20	<i>October 1, 2013</i>	36a-715
Sec. 21	<i>October 1, 2013</i>	36a-716
Sec. 22	<i>October 1, 2013</i>	36a-717
Sec. 23	<i>January 1, 2014</i>	36a-718
Sec. 24	<i>November 1, 2013</i>	New section
Sec. 25	<i>November 1, 2013</i>	New section
Sec. 26	<i>November 1, 2013</i>	New section
Sec. 27	<i>November 1, 2013</i>	New section
Sec. 28	<i>November 1, 2013</i>	New section
Sec. 29	<i>January 1, 2014</i>	New section
Sec. 30	<i>January 1, 2014</i>	New section
Sec. 31	<i>January 1, 2014</i>	New section
Sec. 32	<i>January 1, 2014</i>	New section
Sec. 33	<i>January 1, 2014</i>	New section
Sec. 34	<i>November 1, 2013</i>	New section
Sec. 35	<i>November 1, 2013</i>	New section
Sec. 36	<i>November 1, 2013</i>	New section
Sec. 37	<i>January 1, 2014</i>	New section
Sec. 38	<i>October 1, 2013</i>	36a-1
Sec. 39	<i>October 1, 2013</i>	36a-3
Sec. 40	<i>October 1, 2013</i>	36a-65(c)(6)
Sec. 41	<i>October 1, 2013</i>	36a-412(a)(4)
Sec. 42	<i>October 1, 2013</i>	49-2a
Sec. 43	<i>October 1, 2013</i>	49-2c
Sec. 44	<i>October 1, 2013</i>	36a-800
Sec. 45	<i>October 1, 2013</i>	36a-801
Sec. 46	<i>October 1, 2013</i>	New section
Sec. 47	<i>October 1, 2013</i>	New section
Sec. 48	<i>October 1, 2013</i>	36a-805
Sec. 49	<i>October 1, 2013</i>	36a-808

**BA**      *Joint Favorable Subst.*

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

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Banking Dept.	BF - Revenue Gain	up to 235,000	See Below

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain of up to \$235,000 in FY 14 to the Banking Fund by expanding the definition of persons required to pay the license fee for collection agencies (\$800 license fee) and mortgage servicers (\$1,000 license fee). It is anticipated that the collection agency fee change will increase the number of licensees by 200 and the mortgage servicer change by 75. The above fees are payable biennially and it is possible some of the anticipated revenue could occur in FY 15 rather than FY 14.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of applicants.

**OLR Bill Analysis****sSB 911*****AN ACT CONCERNING MONEY TRANSMISSION, MORTGAGE SERVICERS AND CONSUMER COLLECTION AGENCIES.*****SUMMARY:**

This bill makes numerous changes to the money transmission act, requirements for mortgage servicers, and consumer collection agency statutes.

Among the changes to the money transmission act, the bill expands licensing requirements; alters bonding, investment, and net worth requirements for these businesses; allows licensees to use authorized delegates, rather than agents, to conduct business; changes the information applicants and licensees must provide to the banking commissioner; and alters the exemptions from the act's provisions.

Among the changes to mortgage serving companies, the bill renames them "mortgage servicers"; expands the scope of services subject to licensure; adds new licensing, application, fee, bonding, and recordkeeping requirements; specifies standards of conduct for servicers; and provides the commissioner with authority to conduct investigations and examinations and take enforcement action against violators.

Among the changes to the consumer collection agency statutes, the bill subjects debt buyers to the same requirements as consumer collection agencies; expands licensing requirements; adds new fund management and recordkeeping requirements; requires consumer collection agencies to determine a debtor's legal obligation to pay collection fees; and requires consumer collection agencies to advise debtors that their debt may be uncollectible due to a statute of limitations.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2013, except the mortgage servicers portion of the bill has various effective dates; see relevant sections.

### **§§ 1-19 – THE MONEY TRANSMISSION ACT**

Generally, the money transmission act covers businesses, other than banks, that receive and transmit money. It requires these businesses to be licensed, imposes financial conditions on them, and subjects them to Banking Department oversight.

### **§§ 2 & 3 – Covered Activities**

Current law requires a license for someone who is in the business of (1) issuing Connecticut payment instruments or (2) receiving money for transmission or transmitting it by any means, or issuing stored value. The bill eliminates the distinction between these two businesses and incorporates both under the term “money transmission” business. It extends the licensure requirement to anyone (1) issuing or selling payment instruments or stored value including payment instruments that are checks or drafts and (2) advertising or soliciting money transmission services.

The bill deems someone to be engaged in the money transmission business in Connecticut if the person:

1. has a place of business in Connecticut,
2. receives money or monetary value (a) in Connecticut or (b) from a person located in Connecticut,
3. transmits money or monetary value (a) from a location in Connecticut or (b) to a person located in Connecticut,
4. issues stored value or payment instruments that are sold in Connecticut, or
5. sells stored value or payment instruments in Connecticut.

As under current law, conducting business without a license is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both.

### **§§ 2 and 4 – Application Information**

The bill changes the information license applicants must provide to the banking commissioner. As under current law, applicants must provide information on a number of topics, including principal office location; information, including past criminal convictions, on the applicant and any partners, directors, trustees, officers, shareholders with at least 10% of each class of securities, or members; and material litigation in the last five years.

Instead of requiring the name and address of each branch, subsidiary, affiliate, or agent in the state engaged in the (1) business of selling or issuing Connecticut payment instruments or (2) money transmission business, the bill requires the name and address of each location and authorized delegate through which the licensee will engage in the money transmission business.

The bill also requires applicants to submit:

1. the name and address of any financial institution used for money transmission business in the state and
2. a sample of the contract showing the proposed arrangement between the applicant and any authorized delegate.

The bill also changes the audits and financial statements that applicants must provide. Currently, they must provide an audited, unconsolidated financial statement, including a balance sheet, receipts, and disbursements for the preceding year prepared by an independent certified public accountant acceptable to the commissioner.

The bill instead requires:

1. the applicant's audited financial statement for the most recent fiscal year;

2. if the applicant is a wholly-owned subsidiary of a corporation, the (a) applicant's or parent corporation's most recent audited consolidated annual financial statements and (b) applicant's audited unconsolidated financial statement including balance sheet, receipts, and disbursements for the preceding year;
3. if the applicant is a publicly traded entity, the applicant's most recent 10-K report filed with the federal Securities and Exchange Commission (SEC) (an annual report on the company's performance);
4. if the applicant is a wholly owned subsidiary of a publicly traded company, the parent company's most recent 10-K report filed with the SEC; and
5. if the applicant or parent of a wholly-owned subsidiary is publicly traded on a foreign exchange, documents similar to the 10-K report filed with the appropriate securities regulator.

Current law requires the applicant to state whether he or she will engage in issuing money orders, travelers checks, or electronic payment instruments or the money transmission business. The bill instead requires the applicant to describe the type of money transmission business he or she will conduct.

**Outstanding Money Transmissions.** Currently, applicants must provide the dollar amount of its outstanding payment instruments as of (1) the date of the financial statement it must file and (2) a date within 30 days of filing the application. The bill instead requires them to provide the dollar amount of any outstanding money transmissions.

It also alters when a payment instrument is considered "outstanding." Under current law, a money order, travelers check, electronic payment instrument, or stored value is considered "outstanding" if it is sold or issued in the U.S., the licensee received a report of it from its agent (or authorized delegate under the bill), and it has not yet been paid by the issuer. Under the bill, checks and drafts

are considered outstanding under the same circumstances. The bill provides that for other types of money transmissions, “outstanding” means the value reported to the licensee for which the licensee or authorized delegate has received money or its equivalent from the customer for transmission but has not completed the transmission by delivering the money or value to the person designated by the customer.

#### **§ 4 – Notices to Commissioner**

The bill requires an applicant seeking an initial or renewed license to give the commissioner notice of any change in information within 15 days of learning of it. Currently, changes must be reported promptly.

The law requires a licensee to provide written notice to the commissioner within one business day of having reason to know of certain convictions. Currently, this includes conviction of the licensee or a partner, director, trustee, principal officer, member, or shareholder owning at least 10% of each class of the licensee’s securities of a (1) misdemeanor involving money transmission or issuing Connecticut payment instruments or (2) felony. The bill also requires notice of indictments for these crimes.

Currently, an applicant must notify the commissioner of an agent’s felony conviction. The bill instead applies this notice requirement to crimes by authorized delegates and expands it to include a delegate’s (1) conviction of a misdemeanor involving money transmission and (2) indictment for one of these misdemeanors or a felony.

#### **§ 5 – Nonrefundable Fees**

The bill makes the initial license and license renewal fees nonrefundable. Current law requires the commissioner to refund the fee when an original license is denied, the commissioner refuses to renew a license, or an application is withdrawn before issuance or renewal. The license fee is \$2,250, except it is \$1,250 if paid more than a year before a license’s expiration. As under current law, applicants pay a nonrefundable \$625 investigation fee.

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**§ 5 – Surrendering Licenses**

Currently, within 15 days of ceasing business in the state, a licensee must surrender its license to the commissioner in person or by registered or certified mail. The bill instead require written notice of surrender to the commissioner and no longer specifies how the licensee must surrender the license. The bill requires the notice to (1) identify the location where the licensee's records will be stored and (2) provide the name, address, and phone number of an individual authorized to give access to the records. The bill specifies that surrendering the license does not reduce or eliminate the licensee's civil or criminal liability for acts or omissions before the surrender, including administrative actions by the commissioner to revoke or suspend a license, assess a civil penalty, order restitution, or exercise other authority.

**§ 6 – Application Approval**

Currently, the commissioner must conditionally approve a license application after making certain findings and give the applicant 30 days, which the commissioner can extend for cause, to meet the law's bonding or investment requirements and achieve final approval for a license. The bill eliminates the conditional approval process and requires an applicant to meet all of these requirements before the commissioner can issue a license.

**§ 6 – Application Denial for Specially Designated Nationals**

The bill allows the commissioner to deny an application if the applicant or any of its partners, directors, trustees, principal officers, major shareholders (at least 10% owners), or members is listed on the specially designated nationals and blocked persons list prepared by the U.S. Treasury Department. (The Treasury Department's Office of Foreign Assets Control publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers. Collectively, such individuals and companies are called "specially designated nationals" and their assets are blocked and U.S. persons are generally prohibited from dealing

with them.)

### **§ 7 – License Suspension for Unpaid Fee**

The bill requires the commissioner to automatically suspend an issued but not yet effective license renewal if the required investigation or license fee is paid by ACH (automated clearing house, an electronic network for financial transactions) and returned. The law already requires this suspension when a fee is paid by a dishonored check.

### **§ 8 – Bond Requirements**

The bill changes bonding requirements for licensees. As under current law, the bond must be in favor of the commissioner. Under the bill, the bond runs concurrently with the license instead of being in force for the license period and two years after the license is surrendered, revoked, suspended, or expires.

The bill specifies that the bond is conditioned on the licensee's and its authorized delegates' (1) faithful performance of their obligations related to the money transmission business in the state and (2) conducting business in the state consistent with the laws.

The bill alters the bond requirements as displayed in Table 1.

Table 1: Bond Requirements for Licenses Under Current Law and the Bill

<b>Amount of bond</b>	<b>When Required Under Current Law</b>	<b>When Required Under the Bill</b>
\$300,000	Licensee has: <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of up to \$300,000 or</li> <li>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of up to \$150,000</li> </ul>	For last year ending June 30, licensee has under \$300,000 average weekly amount of: <ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in the state</li> </ul>
\$500,000	Licensee has: <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut</li> </ul>	For last year ending June 30, licensee has between \$300,000 and \$500,000 average weekly amount of:

	<p>payment instruments during the two previous reporting quarters of more than \$300,000 but less than \$500,000 or</p> <ul style="list-style-type: none"> <li>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of more than \$150,000 but less than \$250,000</li> </ul>	<ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in the state</li> </ul>
\$1 million	<p>Licensee has:</p> <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of \$500,000 or more or</li> <li>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of \$250,000 or more</li> </ul>	<p>For last year ending June 30, licensee has over \$500,000 average weekly amount of:</p> <ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in the state</li> </ul>

The law deems the licensee’s bond proceeds held in trust for benefit of claimants against the licensee’s faithful performance of its obligations. The bill alters the scope of the licensee’s obligations to match the bill’s expansion of the money transmission business and also makes the bond subject to an authorized delegate’s obligations. (The bill also makes these changes regarding the investments a licensee may make in place of some or all of the bond requirement.)

The law allows the commissioner to proceed on the bond against the principal, surety, or both to collect a civil penalty in Banking Department enforcement proceedings. The bill allows (1) the commissioner to collect restitution and unpaid costs of examining the licensee on the bond and (2) a person who may be damaged by the licensee’s or authorized delegate’s failure to perform their obligations in Connecticut to proceed against the bond to recover damages. The bill limits claims on the bond to those made within two years of the act, error, or omission that allegedly caused or resulted in damage.

The bill eliminates the commissioner's authority to lower the amount required on a bond based on a licensee's level of business and outstanding Connecticut payment instruments after a license is surrendered, revoked, suspended, or expires.

The bill:

1. allows the commissioner to require a new bond when there is an action on a bond;
2. requires a licensee to file a new bond immediately when there is a recovery on a bond; and
3. allows the commissioner to require additional bonds if the licensee's financial condition requires it, based on a reduction of tangible net worth, financial losses, or potential losses due to statutory violations (the licensee must file such bonds within 10 days of receiving written notice from the commissioner requiring them).

### **§ 9 – Investments**

Current law requires a licensee to maintain permissible investments with a value, using generally accepted accounting principles, of at least the aggregate amount of its outstanding Connecticut payment instruments and stored value. The bill instead requires the investment to at least equal all outstanding money transmissions in the state. The bill specifies that the value of receivables due from authorized delegates' proceeds from selling payment instruments that are not past due or doubtful of collection cannot exceed 30% of the permissible investments. It prohibits receivables due from one person from exceeding 10% of the permissible investments.

Under current law, these investments are held in trust for the licensee's faithful performance of his or her obligations. The bill alters the scope of the licensee's obligations to match the bill's definition of the money transmission business and also makes the investments subject to an authorized delegate's obligations.

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**§ 10 – Net Worth Requirements**

The bill changes the different net worth requirements set in current law for licensees. It subjects those who sell payment instruments to the net worth requirements and requires that calculations be based on tangible assets, which excludes intangible assets such as intellectual property rights.

Currently, licensees issuing Connecticut money orders must maintain a minimum \$100,000 net worth. The bill also applies this requirement to licensees issuing or selling checks or drafts.

Currently, licensee who issue stored value must maintain a minimum \$500,000 net worth. The bill increases the net worth requirement to \$1 million and retains the commissioner's authority to require a higher amount under generally accepted accounting principles.

The bill requires licensees that issue or sell other forms of money transmission to have a net worth of \$500,000, the requirement under current law for those issuing them.

**§ 12 – Annual Information From Licensees**

The bill changes the information that licensees must provide to the commissioner each year.

Currently, they must provide the most recently audited unconsolidated financial statement, including balance sheets, receipts, and disbursements for the preceeding year, prepared by an independent certified public accountant acceptable to the commissioner. Instead, the bill requires:

1. the licensee's audited financial statement for the most recent fiscal year;
2. if the licensee is a wholly-owned subsidiary of a corporation, the
  - (a) parent corporation's or licensee's most recently audited consolidated annual financial statements and
  - (b) licensee's most

recently audited, unconsolidated financial statement, including balance sheets, receipts, and disbursements for the preceeding year;

3. if the licensee is a publicly traded entity, the licensee's most recent 10-K report filed with the SEC; and
4. if the licensee or parent of a wholly-owned subsidiary is publicly traded on a foreign exchange, documents similar to the 10-K report filed with the appropriate securities regulator.

The bill also makes conforming changes to reflect the bill's changes to the definition of the money transmission business.

### **§ 13 – Compliance with Federal Reporting Law**

The law requires licensees to comply with the federal Currency and Foreign Transactions Reporting Act (which requires reporting to combat money laundering and other criminal activities) and any regulations under it. The bill requires a licensee, at the commissioner's request, to provide proof of compliance with the federal law. The bill makes a violation of the federal law or its regulations also a violation of the money transmission act and a basis for an enforcement action by the commissioner.

### **§§ 2, 3, 11, 14-15, & 19 – Authorized Delegates**

Instead of allowing licensees to conduct business through agents, the bill allows them to do so through authorized delegates. The bill defines an authorized delegate as a person designated by a licensee to provide money transmission services on the licensee's behalf. It requires delegates to only work with licensed entities. It prohibits them from working with an entity exempt from licensing, which current law allows for an agent.

The bill requires licensees to notify the commissioner of all their authorized delegates. Under current law, agents cannot engage in business for a licensee through subagents. The bill only allows authorized delegates to engage in business through other authorized

delegates of the same licensee. Currently, the licensee and agent must notify the commissioner in writing if they terminate their contract. The bill only requires the licensee to provide this notice if a licensee-authorized delegate contract is terminated.

The bill applies many of the rules that currently apply to agents to authorized delegates, including that:

1. they do not need a license but must have a contract with a licensee and only provide services within the contract's scope,
2. they hold proceeds in trust for licensees and must remit money under the contract's terms,
3. licensees are liable for any loss to a purchaser or holder of a payment instrument or stored value sold in Connecticut due to an authorized delegate's failure to forward the amount due,
4. their contracts are ineffective when a licensee's license is suspended,
5. licensees must provide delegates with policies and procedures to ensure compliance with the law,
6. the commissioner can examine them, and
7. the commissioner can terminate the relationship between the delegate and licensee.

Under current law, one of the reasons the commissioner can order a licensee to terminate its relationship with an agent is the agent's refusal to allow an examination of its books and records. The bill instead applies this to authorized delegates when the delegate fails to cooperate with an examination or investigation by the commissioner. It also allows the commissioner to terminate the relationship when an authorized delegate is convicted of an act involving fraud or dishonesty.

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**Notice of Changes.** The bill requires a licensee to notify the

commissioner in writing within 15 days of any change in the licensee's list of authorized delegates or locations where the licensee or its authorized delegates engage in the money transmission business in Connecticut. The notice must state the name of each delegate and its location.

### **§§ 15 & 18 – Records Requirements**

The bill requires licensees to maintain and prepare records that enable the commissioner to determine whether the licensee and its authorized delegates are complying with the law. The records must be at the office named in the license. At the commissioner's request, the licensee must make the records available at that office or send them to the commissioner within five business days by (1) registered or certified mail, return receipt requested or (2) express delivery carrier that provides a dated delivery receipt. The commissioner can grant additional time on request.

The bill requires licensees to maintain for at least five years:

1. a record of each payment instrument or stored value obligation sold in Connecticut;
2. a general ledger posted at least monthly with all asset, liability, capital, income, and expense accounts;
3. bank statements and reconciliation records;
4. records of outstanding money transmissions in Connecticut;
5. records of each payment instrument and stored value obligation paid in the last five years;
6. the last known names and addresses of all authorized delegates; and
7. other records the commissioner requires.

As with other violations of the money transmission act, the bill

makes violations of these provisions grounds to suspend, refuse to renew, or revoke a license.

### **§ 16 – Exclusions from Act’s Provisions**

Under current law, the money transmission act’s provisions generally do not apply to federally insured federal banks, out-of-state banks, federal credit unions, and out-of-state credit unions unless they act through an agent that is not (1) one of these entities or (2) a Connecticut credit union. The bill instead provides that the act does not apply to these entities if they do not act through anyone (1) who is not one of these types of entities or a Connecticut bank or credit union, (2) licensed under the money transmission act or one of their authorized delegates, or (3) exempt from licensure.

Under current law, Connecticut banks and credit unions are generally exempt from the act. The bill exempts them under the same conditions as the other entities listed above.

The law also generally exempts the U.S. Postal Service from the money transmission act’s provisions. The bill exempts contractors who engage in the business of money transmission in Connecticut on the service’s behalf.

As under current law, someone is exempt if their only activity is electronic funds transfers of government benefits for or on behalf of a federal, state, other government, or quasi-governmental agency or government-sponsored enterprise.

While current law exempted these entities from most of the act’s provisions, it required them to follow provisions on agents, including authorizing them to conduct business through agents, making them liable for losses, establishing agents’ duties to hold and remit money, and contract requirements. The bill provides that exempt entities are not required to follow these provisions as applied to authorized delegates under the bill.

### **§ 17 – Regulations**

The bill extends the commissioner's authority to adopt regulations to cover new provisions added by the bill.

## **§§ 20-43 – MORTGAGE SERVICERS**

### **§ 20 – Definition**

By law a mortgage servicing company is any person, who services a first mortgage loan. The bill retitles the term "mortgage servicing company" to "mortgage servicer" and expands the scope of services to include (1) residential mortgage loans beyond the first loan, (2) home equity conversion mortgages, and (3) reverse mortgages.

The bill specifies that the following are not mortgage servers:

1. anyone exempt from licensure as a mortgage lender or mortgage correspondent lender while servicing residential mortgage loans, including bona fide non-profits and small loan lenders;
2. a person servicing no more than five residential mortgage loans within any consecutive 12 months; and
3. any federal, state or municipal government agency, or any quasi-governmental agency authorized by state or federal law to service residential mortgage loans.

By law a "mortgagor" is any person who is obligated to repay a first mortgage loan. The bill limits this to first residential mortgage loans.

The bill defines "mortgagee" as the grantee of a residential mortgage or the last person to whom the residential mortgage has been assigned of record. A "residential mortgage loan" is any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a (1) single or multi-family (up to four units) residence located in Connecticut or (2) real property that is located in the state and slated as the future site for residential home(s).

EFFECTIVE DATE: October 1, 2013

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**§ 23 – Licensure Requirement**

The bill requires any person acting as a mortgage servicer to obtain a license from the banking commissioner for its main office and each branch office from which it conducts business.

The bill exempts the following from the mortgage servicer licensing requirements:

1. any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union, provided such bank or credit union is federally insured, any operating subsidiary of a federal bank or federally-chartered out-of-state bank or any wholly-owned subsidiary of a Connecticut bank or Connecticut credit union; and
2. any person licensed as a mortgage lender in this state while acting as a mortgage servicer from a location licensed as a main office or branch office.

It repeals provisions related to the banking commissioner's powers to take action against a mortgage servicing company for failing to provide services, including paying the mortgagor's taxes and insurance premiums from the designated escrow account. The bill provides new enforcement authority.

EFFECTIVE DATE: January 1, 2014

**§ 24 – Application Requirements*****Prerequisites to Licensure***

The bill allows the commissioner to issue a mortgage servicer license only if the applicant:

1. has identified a someone within its main office and each branch office who (a) has supervisory authority over the mortgage servicer activities at his or her office location and (b) has at least three years' experience in the mortgage servicing business within the five years immediately preceding the date of the

- application (here after referred to as qualified individual);
2. the control persons of the applicant, the qualified individual and any branch manager with supervisory authority at the office for which the license is sought have not been convicted of, or pled guilty or nolo contendere to (a) a felony during the seven-year period before the date of the application, or (b) a felony involving an act of fraud or dishonesty, a breach of trust or money laundering in a domestic, foreign, or military court at any time before the date of application;
  3. demonstrates that the financial responsibility, character, and general fitness of the applicant, the control persons of the applicant (see BACKGROUND), the qualified individual, and any branch manager having supervisory authority over the office for which the license is sought warrant a determination that the applicant will operate honestly, fairly, and efficiently, and consistent with the bill's and law's purpose;
  4. has met the bill's surety bond requirement; and
  5. has not made a material misstatement in the application.

The bill prohibits the commissioner from issuing a license if he fails to make such findings and requires him to notify the applicant of the denial and the reasons for such denial.

The bill defines "experience in the mortgage servicing business" as paid experience in the servicing of mortgage loans, the accounting, receipt and processing of payments on behalf of mortgagees or creditors, or the supervision of such activities, or any other relevant experience as determined by the commissioner.

The bill does not consider pardons and expungements under Connecticut law to be convictions for the purpose of a mortgage servicer license application. It specifies that the level and status of such events must be determined by the law of the jurisdiction where the case was prosecuted. If such jurisdiction does not use the term

"felony," "pardon," or "expungement," then legally equivalent terms apply.

***Application***

An applicant for a mortgage servicer license or renewal of such license must:

1. file an application form, prescribed by the commissioner, along with the required \$1,000 licensing fee with the Nationwide Mortgage Licensing System and Registry (see "system" in BACKGROUND);
2. furnish the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual, and any branch manager, including personal history and experience in a form prescribed by the system; and
3. furnish information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

The applicant must promptly notify the commissioner, in writing, of any change to the information submitted in connection with its application.

The bill specifies that evidence of experience of the qualified individual and any branch manager must include:

1. a statement specifying the duties and responsibilities of the person's employment, the term of employment, including month and year, and the name, address, and telephone number of a supervisor, employer or, if self-employed, a business reference; and
2. if required by the commissioner, copies of W-2 forms, 1099 tax forms or, if self-employed, 1120 corporate tax returns, signed letters from the employer on the employer's letterhead verifying such person's duties and responsibilities and term of employment, including month and year, and, if such person is

unable to provide such letters, other proof satisfactory to the commissioner that such person meets the experience requirement.

The bill allows the commissioner to (1) conduct a criminal history records check of the applicant, any control person of the applicant, the qualified individual and any branch manager with supervisory authority at the office for which the license is sought and (2) require the applicant to submit fingerprints as part of the application.

### ***License Renewal***

An applicant seeking to renew a mortgage servicer license must (1) continue to meet the minimum standards for licensure, and (2) pay the required renewal fees. The license expires if the minimum standards for renewal are not met.

The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the system.

The commissioner may automatically suspend a mortgage servicer license if payment of the required fees is returned or not accepted. The commissioner must (1) give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew set out in the bill and an opportunity for a hearing, and (2) require the licensee to take or refrain from taking action as specified by the commissioner.

### ***Withdrawn or Abandoned Application***

An applicant who wishes to withdraw an application for a license must submit a notice of such intent to the commissioner. The withdrawal becomes effective when the notice is received by the commissioner. The bill allows the commissioner to deny a subsequent license up to one year after the effective date of withdrawal.

The bill allows the commissioner to deem an application abandoned if the applicant fails to respond to any request for information required

by law. The commissioner must notify the applicant, on the system, that if the information is not submitted within 60 days from the request date, the application will be deemed abandoned. Application fees for abandoned applications must not be refunded. However, the bill allows the applicant to submit a new application.

### ***Annual Application Filing***

The bill requires a mortgage servicer to file with the commissioner, at least annually, (1) a current schedule of the ranges of costs and fees it charges mortgagors for its servicing-related activities, and (2) a report in a form and format acceptable to the commissioner detailing the mortgage servicer's activities in the state, including:

1. the number of residential mortgage loans the mortgage servicer is servicing;
2. the type and characteristics of the loans;
3. the number of serviced loans in default, along with a breakdown of 30-day, 60-day, and 90-day delinquencies;
4. information on loss mitigation activities, including details on workout arrangements undertaken; and
5. information on foreclosures commenced in the state.

EFFECTIVE DATE: November 1, 2013

### ***§ 25 – Filing Requirements***

The bill specifies various filing requirements concerning a mortgage servicer license, including (1) the process for surrendering a license, (2) name requirements, and (3) the timeframe within which the commissioner must be notified of certain events.

### ***Transferability and Surrender of License***

The bill prohibits the transfer or assignment of a mortgage servicer license. A licensee must file a request, on the system, to surrender the license for each office at which the licensee intends to cease to do

business, within 15 days after it ceases acting as a mortgage servicer. The surrender takes effect when the commissioner accepts the request.

***Name and Address***

A licensee must use its legal name, unless the commissioner disapproves, or a fictitious name approved by the commissioner.

A mortgage servicer licensee may change its name or the address of any office specified on the most recent filing with the system if (1) the licensee files such change, with the system, at least 30 calendar days prior to the change, and (2) the commissioner does not disapprove such change, in writing, or request further information within the 30-day period. In the case of a main office or branch office, the licensee must provide the commissioner, a bond rider or endorsement, or addendum, as applicable, to the surety bond on file that reflects the new name or address of the main office or branch office.

***Other Filing Requirements***

The mortgage servicer licensee must promptly file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, if the licensee:

1. files for bankruptcy, or the consummation of a corporate restructuring, of the licensee;
2. is criminally indicted, or receives notice that any of the licensee's officers, directors, members, partners or shareholders owning 10% or more of the outstanding stock is indicted for or convicted of a felony;
3. receives notice of the institution of license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons for such action;
4. receives notice that the attorney general of this or any other state has initiated an action, presumably against the licensee,

and the reasons for it;

5. knows that its status as an approved seller or servicer has been suspended or terminated by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association;
6. receives notice that certain servicing rights of the licensee will be rescinded or cancelled, and the reasons for it;
7. receives notice that any of the licensee's officers, directors, members, partners or shareholders owning 10% or more of the outstanding stock of the licensee has filed for bankruptcy;
8. receives notice of a consumer class action lawsuit against the licensee that is related to the operation of the licensed business;  
or
9. any change in the information most recently submitted by the licensee in connection with its application.

EFFECTIVE DATE: November 1, 2013

### **§ 26 – Terms and Fees**

A mortgage servicer license expires at the close of business on December 31 of the year in which it is approved, unless the license is renewed or the license was approved on or after November 1, in which case it expires at the close of business on December 31 of the year following the year in which it is approved.

Renewal applications must be filed between November 1 and December 31 of the year in which the license expires. A license fee of \$1,000 along with any required fees or charges must be paid to the system for an initial license or renewal. All fees are nonrefundable and cannot be prorated.

EFFECTIVE DATE: November 1, 2013

### **§ 27 – Bond Requirements**

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An applicant or licensee must file, with the commissioner, a \$100,000 surety bond. The bond must be written by a surety authorized to write such bonds in the state covering its main office and any branch office. The bond must run concurrently with the period of the license for the main office. The aggregate liability under the bond must not exceed \$100,000.

The required bond must be (1) in a form approved by the attorney general, and (2) conditioned upon the mortgage servicer licensee faithfully performing any and all written agreements or commitments with or for the benefit of mortgagors and mortgagees, truly and faithfully accounting for all funds received from a mortgagor or mortgagee by the licensee in the licensee's capacity as a mortgage servicer, and conducting such mortgage business in compliance with the law.

Any mortgagor or mortgagee may proceed on such bond against the principal or surety of the bond, or both, to recover damages. The commissioner may proceed on such bond against the principal or surety of the bond, or both, to collect (1) any civil penalty imposed upon a licensee and (2) any unpaid costs of examination of a licensee.

Under the bill, bond proceeds are deemed to be held in trust for the benefit of claimants in the event of bankruptcy of the principal and must be immune from attachment by creditors and judgment creditors.

The bill requires the principal to notify the commissioner of the commencement of an action on the bond. When an action is commenced on a principal's bond, the commissioner may require the filing of a new bond. The principal must file a new bond immediately upon recovery on any action on the bond.

### ***Cancellation of the Bond***

The surety company may cancel the bond at any time by a written notice to the principal and the commissioner stating the effective date of the cancellation. The notice must be sent by certified mail to the principal at least 30 days prior to the date of cancellation. The

commissioner must give the principle notice of the pending cancellation and suspend the principal's license on the date of cancellation.

Automatic suspension or inactivation is halted if, prior to the effective date of the bond cancellation, (1) the principal submits a letter of reinstatement of the bond from the surety company or a new bond or (2) the mortgage servicer licensee has ceased business in the state and has surrendered all licenses.

The commissioner must (1) give a licensee notice of an automatic suspension, pending proceedings for revocation or refusal to renew and an opportunity for a hearing, and (2) require the licensee to take or refrain from taking action as specified by the commissioner.

EFFECTIVE DATE: November 1, 2013

### **§ 28 – Records Retention**

A mortgage servicer licensee must (1) maintain adequate records of each residential mortgage loan transaction at the office named in the license, or, (2) if requested by the commissioner, make the records available at such office or send them to the commissioner within five business days of the request, by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The commissioner may grant additional time. The records must provide the following information:

1. an adequate loan history for residential mortgage loans upon which payments are received or made by the mortgage servicer, itemizing the amount and date of each payment and the unpaid balance at all times;
2. the original or an exact copy of the note, residential mortgage, or other evidence of indebtedness and mortgage deed;
3. the name and address of the mortgage lender, mortgage correspondent lender, and mortgage broker, if any, involved in

the residential mortgage loan transaction;

4. copies of any disclosures or notification provided to the mortgagor required by state or federal law;
5. a copy of any bankruptcy plan approved in a proceeding filed by the mortgagor or a co-owner of the property subject to the residential mortgage loan;
6. a communications log which documents all verbal communication with the mortgagor or the mortgagor's representative; and
7. a copy of all notices sent to the mortgagor related to any foreclosure proceeding filed against the encumbered property.

The bill requires the licensee to retain the records of each residential mortgage loan transaction for at least two years following the final payment on each residential mortgage loan it services or the assignment of such loan, whichever occurs first, or any longer period required by law.

The bill also requires every licensee to keep and use books, accounts, and records that will enable the commissioner to determine whether such licensee is complying with the provisions of the mortgage servicers law.

EFFECTIVE DATE: November 1, 2013

### **§ 29 – Assignment and Disclosure Requirements**

The bill requires a mortgage servicer who has assigned the servicing rights on a residential mortgage loan, to disclose to the mortgagor (1) any notice required by the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. § 2601 et seq.) and related regulations within the prescribed time periods; and (2) a schedule of the ranges and categories of the servicer's costs and fees for servicing-related activities, which must comply with state and federal law and cannot exceed those reported to the commissioner if the servicer is a licensee.

EFFECTIVE DATE: January 1, 2014

## **§§ 30-32 – Standards of Conduct**

### **Standard of Care**

A mortgage servicer must act with good faith and fair dealing in its communications, transactions, and course of dealings with each mortgagor in connection with the servicing of the mortgagor's residential mortgage loan, and must:

1. safeguard and account for any money handled for the mortgagor;
2. follow reasonable and lawful instructions from the mortgagor consistent with the underlying note and residential mortgage loan;
3. act with reasonable skill, care, and diligence;
4. promptly provide the mortgagor with an accurate statement of account;
5. make mortgagors in default aware of loss mitigation options and services offered by the mortgage servicer;
6. provide trained personnel and telephone facilities sufficient to respond promptly to mortgagor inquiries and complaints regarding the mortgagor's residential mortgage loan; and
7. pursue loss mitigation with the mortgagor whenever possible.

### **Violation of Federal Law**

A mortgage servicer must comply with all applicable federal laws and regulations relating to mortgage loan servicing and allows the commissioner to, in addition to any other remedies provided by law, take enforcement action for any such violation.

### **Limitations on Mortgage Servicer Fees**

A mortgage servicer must maintain and keep current a schedule of

standard or common fees that it charges mortgagors. The schedule must (1) identify each fee, (2) provide a plain English explanation of the fee, and (3) state the amount of the fee or range of amounts or, if there is no standard fee, how the fee is calculated or determined. A mortgage servicer must make its schedule available to the mortgagor or the mortgagor's authorized representative upon request.

A mortgage servicer may collect a fee only for services actually rendered and when it:

1. is expressly authorized and clearly and conspicuously disclosed by the residential mortgage loan instruments and not prohibited by law;
2. is expressly permitted by law and not prohibited by the residential mortgage loan instruments; or
3. is not prohibited by law or the residential mortgage loan instruments and is a reasonable fee for a specific service requested by the mortgagor that is assessed only after clear and conspicuous disclosure of the fee is provided to the mortgagor and the mortgagor expressly consents to pay the fee in exchange for the services.

The bill also prohibits attorney's fees charged in connection with a foreclosure action from exceeding reasonable and customary fees for such work. If a foreclosure action is terminated prior to the final judgment and sale for a loss mitigation option, a reinstatement or payment in full, the mortgagor is only liable for reasonable and customary fees for work actually performed.

The bill prohibits any late fee or delinquency charge when (1) the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment, and (2) the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace period.

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It prohibits late charges (1) in excess of the past due amount, (2)

being collected from the escrow account or from escrow surplus without the approval of the mortgagor, or (3) being deducted from any regular payment.

EFFECTIVE DATE: January 1, 2014

**§ 33 – Prohibited Practices**

The bill prohibits a mortgage servicer from:

1. directly or indirectly employing any scheme, device, or artifice to defraud or mislead mortgagors or mortgagees or to defraud any person;
2. engaging in any unfair or deceptive practice toward any person or misrepresenting or omitting any material information in connection with the servicing of the residential mortgage loan;
3. obtaining property by fraud or misrepresentation;
4. using any unfair or unconscionable means in servicing a residential mortgage loan;
5. knowingly misapplying or recklessly applying residential mortgage loan payments to the outstanding balance of a residential mortgage loan;
6. knowingly misapplying or recklessly applying payments to escrow accounts;
7. placing hazard, homeowner's, or flood insurance on the mortgaged property when the mortgage servicer knows or has reason to know that the mortgagor has an effective policy for such insurance;
8. failing to comply with a request for a payoff or reinstatement statement, charging excessive or unreasonable fees to provide loan payoff information, or failing to provide loan payoff information promptly upon receipt of a written request;

9. knowingly or recklessly providing inaccurate information to a credit bureau, causing harm to a mortgagor's creditworthiness;
10. failing to report both the favorable and unfavorable payment history of the mortgagor to a nationally recognized consumer credit bureau at least annually if the mortgage servicer regularly reports information to a credit bureau;
11. collecting private mortgage insurance beyond the date for which private mortgage insurance is required;
12. knowingly or recklessly facilitating the illegal foreclosure of real property collateral;
13. failing to issue a release of mortgage;
14. failing to provide written notice to a mortgagor upon taking action to place hazard, homeowner's or flood insurance on the mortgaged property, including a clear and conspicuous statement of the procedures by which the mortgagor may demonstrate that such mortgagor has the required insurance coverage and by which the mortgage servicer shall terminate the insurance coverage placed by it and refund or cancel any insurance premiums and related fees paid by or charged to the mortgagor;
15. placing hazard, homeowner's, or flood insurance on mortgaged property, or requiring a mortgagor to obtain or maintain such insurance, in excess of the replacement cost of the improvements on the mortgaged property as established by the property insurer;
16. failing to provide to the mortgagor a refund of unearned premiums paid by a mortgagor or charged to the mortgagor for hazard, homeowner's, or flood insurance placed by a mortgagee or the mortgage servicer if the mortgagor provides reasonable proof that the mortgagor has obtained coverage such that the forced placement insurance is no longer necessary and the

property is insured (if the mortgagor provides reasonable proof that no lapse in coverage occurred, the mortgage servicer must promptly refund the entire premium);

17. requiring funds to be remitted by means more costly to the mortgagor than a bank or certified check or attorney's check from an attorney's account;
18. refusing to communicate with a mortgagor's authorized representative who provides a written authorization signed by the mortgagor (licensee is allowed to adopt procedures to verify that the representative is authorized to act on behalf of the mortgagor);
19. conducting any business as a mortgage servicer without holding a valid license, or while assisting or aiding and abetting any person in the conduct of business without a valid license;
20. negligently making any false statement or knowingly and willfully making any omission of a material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency;
21. collecting, charging, attempting to collect or charge, or using or proposing any agreement purporting to collect or charge any fee prohibited by law.

A violation of these requirements is deemed an unfair or deceptive trade practice and may be enforceable under the Connecticut Unfair Trade Practices Act (CUTPA).

EFFECTIVE DATE: January 1, 2014

### **§§ 34 & 36 & 40 – Investigation and Examination**

The commissioner may conduct investigations and examinations for purposes of initial licensing, license renewal, license suspension,

license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with the law. He may also investigate violations or complaints as often as he deems necessary.

The commissioner (1) must have full access to any books, accounts, records, files, documents, information or evidence relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence; and (2) may direct, subpoena, or order the attendance of and examine under oath any person whose testimony may be required or any books, accounts, records, files or documents the commissioner deems relevant.

A licensee or anyone subject to this bill is required to make or compile reports or prepare other information as directed by the commissioner.

The commissioner may (1) control access to any documents and records of the licensee or person under examination or investigation, and (2) take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. The bill prohibits the removal or attempted removal of any of the documents and records during the control period, except by court order or with the commissioner's consent. The mortgage servicer licensee or owner of the documents and records must have access to the documents or records as needed to conduct ordinary business, unless the commissioner has reason to believe that the documents or records are at risk of being altered or destroyed.

Under the bill, the commissioner may:

1. retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators to conduct or assist in conducting examinations or investigations;
2. enter into agreements or relationships with other government officials or regulatory associations in order to improve

efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under its authority;

3. use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the mortgage servicer licensee;
4. accept and rely on examination or investigation reports made by other government officials, within or without this state; and
5. accept audit reports made by an independent certified public accountant for the mortgage servicer licensee in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of examination, report of investigation or other writing of the commissioner.

A mortgage servicer licensee or person subject to investigation or examination under this bill cannot knowingly withhold, abstract, remove, mutilate, destroy, or conceal any books, records, computer records or other information.

Licensees must pay the actual cost of any examination of the licensee, as determined by the commissioner. The commissioner may suspend the license for nonpayment after 60 days.

EFFECTIVE DATE: November 1, 2013, except the requirement for a licensee to pay the cost for an examination is effective October 1, 2013

### **§ 35 – Enforcement**

The commissioner may suspend, revoke or refuse to renew any mortgage servicer license or take any other action (1) for any reason which would be sufficient grounds for him to deny an application for the license or (2) if the commissioner finds that the licensee, any control person of the licensee, the qualified individual or any branch

manager with supervisory authority, or trustee, employee or agent of such licensee has done any of the following:

1. made any material misstatement in the application;
2. committed any fraud or misrepresentation or misappropriated funds;
3. violated any of the provisions of the banking statutes or of any related regulations, or any other law or regulation applicable to the conduct of its business; or
4. failed to perform any agreement with a mortgagee or a mortgagor.

The commissioner may take any action allowed under state banking laws against any person whenever it appears to him that such person has violated, is violating, or is about to violate the law. By law such actions include sending notice of a violation after holding an investigation, offering a hearing on the matter, civil penalties up to \$100,000 per violation, orders of restitution, and other actions.

The bill allows the commissioner to adopt implementing regulations.

EFFECTIVE DATE: November 1, 2013

**§§ 38-42 & 21-22 – Conforming Changes**

The bill makes numerous conforming changes to reflect the retitled term (mortgage servicer) and its revised definition.

EFFECTIVE DATE: October 1, 2013

**§§ 44-49 – CONSUMER COLLECTION AGENCIES**

**§ 44 – Definition**

The bill brings debt buyers under the jurisdiction of the consumer collection agency statutes by amending the definition of “consumer collection agency” to include any person who buys debt that is

delinquent or in default and then engages in the business of collecting on such debt.

Under current law, a consumer collection agency is generally any person engaged in the business of collecting or receiving (1) payment for others of any account, bill, or other indebtedness from a consumer, or (2) payment for property tax from a property tax debtor on behalf of a municipality.

#### **§ 45 – Licensure Requirements**

By law, a person acting as a consumer collection agency in Connecticut must obtain a license from the Banking Department. The bill requires a person to obtain a license for both the main office and each branch office where such business is conducted.

Current law allows the commissioner to issue a license if (1) he is satisfied that the applicant is properly qualified and trustworthy in all respects and (2) granting the license is not against the public interest. The bill instead allows the commissioner to issue a license only if:

1. applicants, partners, members, officers, directors, and principal employees (i.e., related persons) demonstrate financial responsibility, character, reputation, integrity, and general fitness to warrant the belief that the applicant will operate soundly, efficiently, in the public interest, and consistent with the law's purposes and
2. the applicant is financially solvent (e.g., not involved in bankruptcy or receivership proceedings).

The bill requires the commissioner to deny a license if he fails to make such findings and requires him to notify an applicant of the reasons for such a denial.

The bill also makes a conforming change.

#### **§ 46 – Records Retention**

The bill requires each consumer collection agency to maintain its

consumer debtor and creditor records for at least two years after (1) the final entry date or (2) if the agency collects child support, the last payment date.

The records must clearly identify all consumer debtors' payment amounts and dates and remittances made to creditors. Agencies collecting child support must also keep originals or copies of the agreements they entered into with creditors owed the child support. These records must follow generally accepted accounting practices and be made available to the Banking Commissioner.

The bill also requires each third party consumer collection agency to deposit funds it collects on behalf of others in one or more trust accounts in a Connecticut financial institution (e.g., bank or credit union). The accounts must be reconciled monthly and cannot be comingled with the agency's funds or used by the agency to conduct business. The bill specifies that these accounts may be used only to: (1) deposit funds received from consumer debtors (using generally accepted accounting practices), (2) pay these funds to creditors, (3) refund overpayments to consumer debtors, and (4) pay consumer collection agency fees monthly. The bill requires any withdrawal from the account, other than for these specified reasons, to be reimbursed by the consumer collection agency within 30 days after the withdrawal.

#### **§ 48 – Prohibited Practices**

The bill removes the current prohibition on consumer collection agencies from (1) purchasing claims for the purpose of collection or filing a law suit and (2) comingling money collected for a creditor, claimant, or forwarder with its own funds or using the money to conduct business.

The law prohibits a consumer collection agency from charging a consumer a fee when collecting a debt, unless the consumer is legally liable for the fee. In this case, the fee cannot exceed 15% of the amount collected. The bill requires the agency to obtain from the creditor a copy of any contract or agreement between the consumer and creditor

to determine if the consumer is legally liable for the fee. It also allows the agency to charge the consumer a fee for court costs, which is not subject to the 15% limit.

The bill prohibits a consumer collection agency from failing to inform a consumer in its initial communication that it is collecting a debt that is beyond the statute of limitation. Specifically, the agency must inform the consumer that (1) the law limits the time within which it can bring a lawsuit against the consumer regarding the debt and (2) because of the debt's age, the agency will not bring such a lawsuit, but may report the debt to credit reporting agencies as unpaid unless the debt has passed the time limit under federal law for doing so (see BACKGROUND).

### **§§ 47 & 49 – Enforcement**

The bill requires each consumer collection agency to comply with the federal Fair Debt Collection Practices Act. It allows the banking commissioner to take certain enforcement actions against an agency who fail to do so, including license suspension, revocation, and non-renewal.

The bill also allows the commissioner to issue a cease and desist order to a consumer collection agency he believes is engaging in unfair or deceptive practices. The law already allows him to impose a civil penalty for such a violation.

## **BACKGROUND**

### **System**

“System” means 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 (CGS § 36a-485).

### **Control Person**

“Control person” means an individual that directly or indirectly exercises control over another person. “Control” means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise (CGS § 36a-485).

### ***Information Excluded from Consumer Reports***

The federal Fair Credit Reporting Act prohibits a consumer reporting agency from reporting accounts that have been (1) charged off (i.e., the original creditor deems it uncollectable), (2) placed for collection, (3) or subject to similar action (e.g., delinquent debts) that are more than seven years old, unless it involves a credit transaction of \$150,000 or more. The seven-year period starts 180 days from the date of the original delinquency (15 U.S.C § 1681c(i)).

### ***Related Bills***

The Banks Committee favorably reported sSB 826 on March 14, 2013, which authorizes the commissioner to use the Nationwide Mortgage Licensing System and Registry for licensing or registration of any person engaged in the financial services industry within the jurisdiction of the commissioner.

The Banks Committee favorably reported sHB 6173 on March 14, 2013, which expands the definition of “creditor” to include “debt buyers” making them subject to the statutory requirements applicable to creditors.

## **COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/14/2013)