



General Assembly

February Session, 2014

***Raised Bill No. 5352***

LCO No. 1593



Referred to Committee on BANKS

Introduced by:  
(BA)

***AN ACT CONCERNING MORTGAGE SERVICERS.***

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

1 Section 1. Section 36a-715 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 As used in sections 36a-715 to 36a-718, inclusive, as amended by this  
4 act, and sections 5 to 16, inclusive, of this act, unless the context  
5 otherwise requires:

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

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

15 obligations under the mortgage agreement including, when applicable,  
16 the receipt of funds from the mortgagor to be held in escrow for  
17 payment of real estate taxes and insurance premiums and the  
18 distribution of such funds to the taxing authority and insurance  
19 company, and (B) includes a person who makes payments to  
20 borrowers pursuant to the terms of a home equity conversion  
21 mortgage or reverse mortgage. "Mortgage servicer" does not include:  
22 (i) A person exempt from licensure as a mortgage lender or mortgage  
23 correspondent lender pursuant to subsection (b) of section 36a-487  
24 while servicing residential mortgage loans made pursuant to such  
25 exemption, (ii) a person servicing five or fewer residential mortgage  
26 loans within any period of twelve consecutive months, and (iii) any  
27 agency of the federal government, any state or municipal government  
28 or any quasi-governmental agency servicing residential mortgage  
29 loans under the specific authority of the laws of any state or the United  
30 States.

31 (2) "Mortgagee" means the grantee of a residential mortgage,  
32 provided if the residential mortgage has been assigned of record,  
33 "mortgagee" means the last person to whom the residential mortgage  
34 has been assigned of record.

35 (3) "Mortgagor" means any person obligated to repay a [first]  
36 residential mortgage loan.

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

43 (5) "System" has the same meaning as provided in section 36a-485.

44 Sec. 2. Section 36a-716 of the general statutes is repealed and the  
45 following is substituted in lieu thereof (*Effective October 1, 2014*):

46 (a) Any mortgage [servicing company which] servicer who receives  
47 funds from a mortgagor to be held in escrow for payment of taxes and  
48 insurance premiums shall pay the taxes and insurance premiums of  
49 the mortgagor to the appropriate taxing authority and insurance  
50 company in the amount required and at the time such taxes and  
51 insurance premiums are due provided (1) the mortgage [servicing  
52 company] servicer has been provided with the tax or insurance bills at  
53 least fifteen days prior to the date such taxes and insurance premiums  
54 are due, and (2) the mortgagor has paid to the mortgage [servicing  
55 company] servicer the amounts required to be paid into the escrow  
56 account, as determined by the mortgage [servicing company] servicer,  
57 for all amounts scheduled to be paid to the mortgage [servicing  
58 company] servicer prior to the date such taxes and insurance  
59 premiums are due.

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

65 (c) If the amount held in the escrow account as of the date such  
66 taxes and insurance premiums are due is insufficient to pay the taxes  
67 and insurance premiums despite compliance by the mortgagor with  
68 subdivision (2) of subsection (a) of this section, the mortgage [servicing  
69 company] servicer shall pay such taxes and insurance premiums from  
70 its own funds. The mortgage [servicing company] servicer shall then  
71 give the mortgagor the option of paying the shortage over a period of  
72 not less than one year. The mortgage [servicing company] servicer  
73 shall not charge or collect interest on such shortage during the one-  
74 year period.

75 Sec. 3. Section 36a-717 of the general statutes is repealed and the  
76 following is substituted in lieu thereof (*Effective October 1, 2014*):

77 Any mortgage [servicing company which] servicer who violates any  
78 provision of section 36a-716, as amended by this act, shall be liable to  
79 the mortgagor for: (1) Any penalties, interest or other charges levied by  
80 the taxing authority or insurance company as a result of such violation;  
81 (2) any actual damages suffered by the mortgagor as a result of such  
82 violation, including, but not limited to, any amount which would have  
83 been paid by an insurer for a casualty or liability claim had the  
84 insurance policy not been cancelled for nonpayment by the mortgage  
85 [servicing company] servicer; and (3) in the case of any successful  
86 action to enforce the foregoing liability, the costs of the action together  
87 with reasonable attorney's fees as determined by the court.

88 Sec. 4. Section 36a-718 of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective January 1, 2015*):

90 [If the commissioner determines that any mortgage servicing  
91 company has violated any provision of section 36a-716, the  
92 commissioner may take action against such mortgage servicing  
93 company in accordance with sections 36a-50 and 36a-52. The  
94 commissioner may also order the mortgage servicing company to  
95 make restitution to the mortgagor upon fourteen days' notice in  
96 writing. Such notice shall be sent by certified mail, return receipt  
97 requested, or by any express delivery carrier that provides a dated  
98 delivery receipt, to the principal place of business of the mortgage  
99 servicing company and shall state the grounds for the contemplated  
100 action. Within fourteen days of receipt of the notice, the mortgage  
101 servicing company may file a written request for a hearing. If a hearing  
102 is requested, the commissioner shall not issue an order to make  
103 restitution until after such hearing is held. Such hearing shall be  
104 conducted in accordance with the provisions of chapter 54.]

105 (a) No person shall act as a mortgage servicer, directly or indirectly,  
106 without first obtaining a license under section 5 of this act from the  
107 commissioner for its main office and each branch office where such  
108 business is conducted, unless such person is exempt from licensure

109 pursuant to subsection (b) of this section.

110 (b) The following persons are exempt from mortgage servicer  
111 licensing requirements: (1) Any bank, out-of-state bank, Connecticut  
112 credit union, federal credit union or out-of-state credit union, provided  
113 such bank or credit union is federally insured, any operating  
114 subsidiary of a federal bank or federally-chartered out-of-state bank or  
115 any wholly owned subsidiary of a Connecticut bank or Connecticut  
116 credit union; and (2) any person licensed as a mortgage lender in this  
117 state while acting as a mortgage servicer from a location licensed as a  
118 main office or branch office under sections 36a-485 to 36a-498f,  
119 inclusive, 36a-534a and 36a-534b.

120 Sec. 5. (NEW) (*Effective November 1, 2014*) (a) The Banking  
121 Commissioner shall issue a mortgage servicer license to an applicant  
122 for such license if the commissioner finds that: (1) The applicant has  
123 identified a qualified individual for its main office and a branch  
124 manager for each branch office where such business is conducted; (2)  
125 notwithstanding the provisions of section 46a-80 of the general  
126 statutes, the applicant, the control persons of the applicant, the  
127 qualified individual and any branch manager with supervisory  
128 authority at the office for which the license is sought have not been  
129 convicted of or plead guilty or nolo contendere to, in a domestic,  
130 foreign or military court, a felony during the seven-year period  
131 preceding the date of the application for licensing or a felony involving  
132 an act of fraud or dishonesty, a breach of trust or money laundering at  
133 any time preceding the date of application, provided any pardon or  
134 expungement of a conviction shall not be a conviction for purposes of  
135 this subdivision; (3) the applicant demonstrates that the financial  
136 responsibility, character and general fitness of the applicant, the  
137 control persons of the applicant, the qualified individual and any  
138 branch manager having supervisory authority over the office for which  
139 the license is sought command the confidence of the community and  
140 warrant a determination that the applicant will operate honestly, fairly  
141 and efficiently within the purposes of sections 36a-715 to 36a-718,

142 inclusive, of the general statutes, as amended by this act, and sections 5  
143 to 16, inclusive, of this act; (4) the applicant has met the surety bond  
144 requirement under section 8 of this act; (5) the applicant has not made  
145 a material misstatement in the application; and (6) the applicant has  
146 met any other similar requirements as determined by the  
147 commissioner. If the commissioner fails to make such findings, the  
148 commissioner shall not issue a license, and shall notify the applicant of  
149 the denial and the reasons for such denial. Any qualified individual  
150 and branch manager identified pursuant to subdivision (1) of this  
151 subsection shall have supervisory authority over the mortgage servicer  
152 activities at the respective office location and at least three years'  
153 experience in the mortgage servicing business within the five years  
154 immediately preceding the date of the application for licensure. As  
155 used in this subsection, "experience in the mortgage servicing  
156 business" means paid experience in the servicing of mortgage loans, in  
157 the accounting, receipt and processing of payments on behalf of  
158 mortgagees or creditors, or in the supervision of such activities, or any  
159 other relevant experience as determined by the commissioner. For  
160 purposes of this subsection, the level of offense of the crime and the  
161 status of any conviction, pardon or expungement shall be determined  
162 by reference to the law of the jurisdiction where the case was  
163 prosecuted. In the event such jurisdiction does not use the term  
164 "felony", "pardon" or "expungement", such terms shall include legally  
165 equivalent events.

166 (b) An application for a license as a mortgage servicer or renewal of  
167 such license shall be filed, in a form prescribed by the commissioner,  
168 with the system and accompanied by the fees required by section 7 of  
169 this act. Each such form shall contain content as set forth by instruction  
170 or procedure of the commissioner and may be changed or updated as  
171 necessary by the commissioner in order to carry out the purpose of  
172 sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
173 amended by this act, and sections 6 to 16, inclusive, of this act. The  
174 applicant shall, at a minimum, furnish to the system information

175 concerning the identity of the applicant, any control person of the  
176 applicant, the qualified individual and any branch manager, including  
177 personal history and experience in a form prescribed by the system  
178 and information related to any administrative, civil or criminal  
179 findings by any governmental jurisdiction. The applicant shall  
180 promptly notify the commissioner, in writing, of any change to the  
181 information submitted in connection with its application for licensure.  
182 For the purpose of this subsection, evidence of experience of the  
183 qualified individual and any branch manager shall include: (A) A  
184 statement specifying the duties and responsibilities of such person's  
185 employment, the term of employment, including month and year, and  
186 the name, address and telephone number of a supervisor, employer or,  
187 if self-employed, a business reference; and (B) if required by the  
188 commissioner, copies of W-2 forms, 1099 tax forms or, if self-  
189 employed, 1120 corporate tax returns, signed letters from the employer  
190 on the employer's letterhead verifying such person's duties and  
191 responsibilities and term of employment including month and year,  
192 and, if such person is unable to provide such letters, other proof  
193 satisfactory to the commissioner that such person meets the experience  
194 requirement. The commissioner may conduct a criminal history  
195 records check of the applicant, any control person of the applicant, the  
196 qualified individual and any branch manager with supervisory  
197 authority at the office for which the license is sought and require the  
198 applicant to submit the fingerprints of such persons as part of the  
199 application.

200 (c) (1) The minimum standards for license renewal for a mortgage  
201 servicer shall include the following: (A) The applicant continues to  
202 meet the minimum standards under subsection (a) of this section; and  
203 (B) the mortgage servicer has paid all required fees for renewal of the  
204 license.

205 (2) The license of a mortgage servicer failing to satisfy the minimum  
206 standards for license renewal shall expire upon the failure to satisfy  
207 such standards. The commissioner may adopt procedures for the

208 reinstatement of expired licenses consistent with the standards  
209 established by the system. The commissioner may automatically  
210 suspend a mortgage servicer license if the licensee receives a deficiency  
211 on the system indicating that the payment required by section 7 of this  
212 act was Returned-ACH or returned pursuant to such other term as  
213 may be utilized by the system to indicate that the payment was not  
214 accepted. After a license has been automatically suspended pursuant  
215 to this section, the commissioner shall give such licensee notice of the  
216 automatic suspension, pending proceedings for revocation or refusal  
217 to renew pursuant to section 15 of this act and an opportunity for a  
218 hearing on such action in accordance with section 36a-51 of the general  
219 statutes, and require such licensee to take or refrain from taking such  
220 action that, in the opinion of the commissioner, will effectuate the  
221 purposes of this section.

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

226 (e) The commissioner may deem an application for a license under  
227 this section abandoned if the applicant fails to respond to any request  
228 for information required under sections 36a-715 to 36a-718, inclusive,  
229 of the general statutes, as amended by this act, and sections 5 to 16,  
230 inclusive, of this act or the regulations adopted pursuant to said  
231 sections. The commissioner shall notify the applicant on the system  
232 that if such information is not submitted not later than sixty days from  
233 the date of such request, the application shall be deemed abandoned.  
234 An application filing fee paid prior to the date an application is  
235 deemed abandoned pursuant to this subsection shall not be refunded.  
236 Abandonment of an application pursuant to this subsection shall not  
237 preclude the applicant from submitting a new application for a license.

238 (f) At least annually, as part of its application, a mortgage servicer  
239 shall file with the commissioner (1) a current schedule of the ranges of

240 costs and fees it charges mortgagors for its servicing-related activities;  
241 and (2) a report in a form and format acceptable to the commissioner  
242 detailing the mortgage servicer's activities in the state, including (A)  
243 the number of residential mortgage loans the mortgage servicer is  
244 servicing, (B) the type and characteristics of the residential mortgage  
245 loans in this state, (C) the number of serviced residential mortgage  
246 loans in default, along with a breakdown of thirty-day, sixty-day and  
247 ninety-day delinquencies, (D) information on loss mitigation activities,  
248 including details on workout arrangements undertaken, and (E)  
249 information on foreclosures commenced in this state.

250       Sec. 6. (NEW) (*Effective November 1, 2014*) (a) A mortgage servicer  
251 license shall not be transferable or assignable. No licensee may use any  
252 name other than its legal name or a fictitious name approved by the  
253 Banking Commissioner, provided such licensee may not use its legal  
254 name if the commissioner disapproves use of such name. Any licensee  
255 who intends to permanently cease acting as a mortgage servicer at any  
256 time during a license period for any cause, including, but not limited  
257 to, bankruptcy or voluntary dissolution, shall file a request to  
258 surrender the license for each office at which the licensee intends to  
259 cease to do business, on the system, not later than fifteen days after the  
260 date of such cessation, provided this requirement shall not apply when  
261 a license has been suspended pursuant to section 36a-51 of the general  
262 statutes. No surrender shall be effective until accepted by the  
263 commissioner.

264       (b) A mortgage servicer licensee may change the name of the  
265 licensee or address of any office specified on the most recent filing  
266 with the system if (1) at least thirty calendar days prior to such change,  
267 the licensee files such change with the system and, in the case of a  
268 main office or branch office, provides, directly to the commissioner, a  
269 bond rider or endorsement, or addendum, as applicable, to the surety  
270 bond on file with the commissioner that reflects the new name or  
271 address of the main office or branch office; and (2) the commissioner  
272 does not disapprove such change, in writing, or request further

273 information within such thirty-day period.

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

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

280 (2) Filing of a criminal indictment against the licensee or receiving  
281 notification of the filing of any criminal felony indictment or felony  
282 conviction of any of the licensee's officers, directors, members, partners  
283 or shareholders owning ten per cent or more of the outstanding stock;

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

288 (4) Receiving notification of the initiation of any action by the  
289 Attorney General or the attorney general of any other state and the  
290 reasons for such action;

291 (5) Suspension or termination of the licensee's status as an approved  
292 seller or servicer by the Federal National Mortgage Association,  
293 Federal Home Loan Mortgage Corporation or Government National  
294 Mortgage Association;

295 (6) Receiving notification that certain servicing rights of the licensee  
296 will be rescinded or cancelled, and the reasons provided therefor;

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

300 (8) Receiving notification of the initiation of a class action lawsuit on

301 behalf of consumers against the licensee that is related to the operation  
302 of the licensed business; or

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

305 Sec. 7. (NEW) (*Effective November 1, 2014*) (a) Each mortgage servicer  
306 license shall expire at the close of business on December thirty-first of  
307 the year in which it is approved, unless such license is renewed, and  
308 provided any such license that is approved on or after November first  
309 shall expire at the close of business on December thirty-first of the year  
310 following the year in which it is approved. An application for renewal  
311 of a license shall be filed between November first and December thirty-  
312 first of the year in which the license expires. Each applicant for an  
313 initial license or renewal of a license as a mortgage servicer shall pay to  
314 the system any required fees or charges and a license fee of one  
315 thousand dollars.

316 (b) All fees paid pursuant to this section, including fees paid in  
317 connection with an application that is denied or withdrawn prior to  
318 the issuance of the license, shall be nonrefundable. No fee paid  
319 pursuant to this section shall be prorated if the license is surrendered,  
320 revoked or suspended prior to the expiration of the period for which it  
321 was approved.

322 Sec. 8. (NEW) (*Effective November 1, 2014*) (a) No mortgage servicer  
323 license and no renewal thereof shall be granted unless the applicant or  
324 licensee has filed with the Banking Commissioner a single surety bond,  
325 written by a surety authorized to write such bonds in this state  
326 covering its main office and any branch office, in a penal sum of one  
327 hundred thousand dollars.

328 (b) The bond required by subsection (a) of this section shall be (1) in  
329 a form approved by the Attorney General; and (2) conditioned upon  
330 the mortgage servicer licensee faithfully performing any and all  
331 written agreements or commitments with or for the benefit of

332 mortgagors and mortgagees, truly and faithfully accounting for all  
333 funds received from a mortgagor or mortgagee by the licensee in the  
334 licensee's capacity as a mortgage servicer, and conducting such  
335 mortgage business consistent with the provisions of sections 36a-715 to  
336 36a-718, inclusive, of the general statutes, as amended by this act, and  
337 sections 5 to 16, inclusive, of this act. Any mortgagor or mortgagee that  
338 may be damaged by a mortgage servicer licensee's failure to perform  
339 any written agreements or commitments, or by the wrongful  
340 conversion of funds paid by a mortgagor or a mortgagee to a licensee,  
341 may proceed on such bond against the principal or surety thereon, or  
342 both, to recover damages. The commissioner may proceed on such  
343 bond against the principal or surety on such bond, or both, to collect  
344 any civil penalty imposed upon a licensee pursuant to subsection (a) of  
345 section 36a-50 of the general statutes and any unpaid costs of  
346 examination of a licensee as determined pursuant to section 36a-65 of  
347 the general statutes, as amended by this act. The proceeds of the bond,  
348 even if commingled with other assets of the principal, shall be deemed  
349 by operation of law to be held in trust for the benefit of such claimants  
350 against the principal in the event of bankruptcy of the principal and  
351 shall be immune from attachment by creditors and judgment creditors.  
352 The bond shall run concurrently with the period of the license for the  
353 main office and the aggregate liability under the bond shall not exceed  
354 the penal sum of the bond. The principal shall notify the commissioner  
355 of the commencement of an action on the bond. When an action is  
356 commenced on a principal's bond, the commissioner may require the  
357 filing of a new bond and immediately on recovery on any action on the  
358 bond, the principal shall file a new bond.

359 (c) The surety company shall have the right to cancel the bond at  
360 any time by a written notice to the principal stating the date  
361 cancellation shall take effect. Such notice shall be sent by certified mail  
362 to the principal at least thirty days prior to the date of cancellation. A  
363 surety bond shall not be cancelled unless the surety company notifies  
364 the commissioner, in writing, not less than thirty days prior to the

365 effective date of cancellation. After receipt of such notification from the  
366 surety company, the commissioner shall give written notice to the  
367 principal of the date such bond cancellation shall take effect. The  
368 commissioner shall automatically suspend the license of a mortgage  
369 servicer on such date. No automatic suspension or inactivation shall  
370 occur if, prior to the date that the bond cancellation shall take effect, (1)  
371 the principal submits a letter of reinstatement of the bond from the  
372 surety company or a new bond; or (2) the mortgage servicer licensee  
373 has ceased business in this state and has surrendered all licenses in  
374 accordance with section 36a-51 of the general statutes and section 6 of  
375 this act. After a mortgage servicer license has been automatically  
376 suspended pursuant to this section, the commissioner shall give such  
377 licensee notice of the automatic suspension, pending proceedings for  
378 revocation or refusal to renew pursuant to section 15 of this act and an  
379 opportunity for a hearing on such action in accordance with section  
380 36a-51 of the general statutes and require such licensee to take or  
381 refrain from taking such action as in the opinion of the commissioner  
382 will effectuate the purposes of this section.

383       Sec. 9. (NEW) (*Effective November 1, 2014*) (a) Each mortgage servicer  
384 licensee shall maintain adequate records of each residential mortgage  
385 loan transaction at the office named in the license, or, if requested by  
386 the Banking Commissioner, shall make such records available at such  
387 office or send such records to the commissioner by registered or  
388 certified mail, return receipt requested, or by any express delivery  
389 carrier that provides a dated delivery receipt, not later than five  
390 business days after requested by the commissioner to do so. Upon  
391 request, the commissioner may grant a licensee additional time to  
392 make such records available or send them to the commissioner. Such  
393 records shall provide the following information: (1) An adequate loan  
394 history for residential mortgage loans upon which payments are  
395 received or made by the mortgage servicer, itemizing the amount and  
396 date of each payment and the unpaid balance at all times; (2) the  
397 original or an exact copy of the note, residential mortgage or other

398 evidence of indebtedness and mortgage deed; (3) the name and  
399 address of the mortgage lender, mortgage correspondent lender and  
400 mortgage broker, if any, involved in the residential mortgage loan  
401 transaction; (4) copies of any disclosures or notification provided to the  
402 mortgagor required by state or federal law; (5) a copy of any  
403 bankruptcy plan approved in a proceeding filed by the mortgagor or a  
404 co-owner of the property subject to the residential mortgage loan; (6) a  
405 communications log that documents all verbal communication with  
406 the mortgagor or the mortgagor's representative; and (7) a copy of all  
407 notices sent to the mortgagor related to any foreclosure proceeding  
408 filed against the encumbered property.

409 (b) For each residential mortgage loan that is serviced by a licensee,  
410 the licensee shall retain the records of such residential mortgage loan  
411 transaction for not less than two years following the final payment on  
412 such residential mortgage loan, or the assignment of such residential  
413 mortgage loan, whichever occurs first, or such longer period as may be  
414 required by any other provision of law. Every licensee shall keep and  
415 use in its business those books, accounts and records that will enable  
416 the commissioner to determine whether such licensee is complying  
417 with the provisions of sections 36a-715 to 36a-718, inclusive, of the  
418 general statutes, as amended by this act, and sections 5 to 16, inclusive,  
419 of this act and with any regulations adopted pursuant thereto.

420 Sec. 10. (NEW) (*Effective January 1, 2015*) Upon assignment of  
421 servicing rights on a residential mortgage loan, the mortgage servicer  
422 shall disclose to the mortgagor: (1) Any notice required by the Real  
423 Estate Settlement Procedures Act of 1974, 12 USC Section 2601 et seq.,  
424 as from time to time amended, and the regulations promulgated  
425 thereunder, and within the time periods prescribed therein; and (2) a  
426 schedule of the ranges and categories of its costs and fees for its  
427 servicing-related activities, which shall comply with state and federal  
428 law and, if such disclosure is made by a mortgage servicer licensee,  
429 shall not exceed those reported to the Banking Commissioner in  
430 accordance with section 5 of this act.

431 Sec. 11. (NEW) (*Effective January 1, 2015*) A mortgage servicer shall  
432 comply with all applicable federal laws and regulations relating to  
433 mortgage loan servicing, including, but not limited to, the Real Estate  
434 Settlement Procedures Act of 1974, 12 USC Section 2601 et seq., the  
435 Truth-in-Lending Act, 15 USC Section 1601 et seq., as from time to time  
436 amended, and the regulations promulgated thereunder. In addition to  
437 any other remedies provided by law, a violation of any such federal  
438 law or regulation shall be deemed a violation of this section and a basis  
439 upon which the Banking Commissioner may take enforcement action  
440 pursuant to section 15 of this act.

441 Sec. 12. (NEW) (*Effective January 1, 2015*) (a) A mortgage servicer  
442 shall maintain and keep current a schedule of standard or common  
443 fees, such as nonsufficient fund fees, that it charges mortgagors. The  
444 schedule shall identify each fee, provide a plain English explanation of  
445 the fee and state the amount of the fee or range of amounts or, if there  
446 is no standard fee, how the fee is calculated or determined. A  
447 mortgage servicer shall make its schedule available to the mortgagor  
448 or the mortgagor's authorized representative upon request.

449 (b) A mortgage servicer shall not impose any late fee or delinquency  
450 charge when the only delinquency is attributable to late fees or  
451 delinquency charges assessed on an earlier payment, and the payment  
452 is otherwise a full payment for the applicable period and is paid on its  
453 due date or within any applicable grace period. Late charges shall not  
454 be (1) based on an amount greater than the past due amount; (2)  
455 collected from the escrow account or from escrow surplus without the  
456 approval of the mortgagor; or (3) deducted from any regular payment.

457 Sec. 13. (NEW) (*Effective January 1, 2015*) No mortgage servicer shall:

458 (1) Directly or indirectly employ any scheme, device or artifice to  
459 defraud or mislead mortgagors or mortgagees or to defraud any  
460 person;

461 (2) Engage in any unfair or deceptive practice toward any person or

462 misrepresent or omit any material information in connection with the  
463 servicing of the residential mortgage loan, including, but not limited  
464 to, misrepresenting the amount, nature or terms of any fee or payment  
465 due or claimed to be due on a residential mortgage loan, the terms and  
466 conditions of the servicing agreement or the mortgagor's obligations  
467 under the residential mortgage loan;

468 (3) Obtain property by fraud or misrepresentation;

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

471 (5) Knowingly misapply or recklessly apply residential mortgage  
472 loan payments to the outstanding balance of a residential mortgage  
473 loan;

474 (6) Knowingly misapply or recklessly apply payments to escrow  
475 accounts;

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

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

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

485 (10) Fail to report both the favorable and unfavorable payment  
486 history of the mortgagor to a nationally recognized consumer credit  
487 bureau at least annually if the mortgage servicer regularly reports  
488 information to a credit bureau;

489 (11) Collect private mortgage insurance beyond the date for which

490 private mortgage insurance is required;

491 (12) Knowingly or recklessly facilitate the illegal foreclosure of real  
492 property collateral;

493 (13) Fail to issue a release of mortgage in accordance with section  
494 49-8a of the general statutes;

495 (14) Fail to provide written notice to a mortgagor upon taking action  
496 to place hazard, homeowner's or flood insurance on the mortgaged  
497 property, including a clear and conspicuous statement of the  
498 procedures by which the mortgagor may demonstrate that he or she  
499 has the required insurance coverage and by which the mortgage  
500 servicer shall terminate the insurance coverage placed by it and refund  
501 or cancel any insurance premiums and related fees paid by or charged  
502 to the mortgagor;

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

507 (16) Fail to provide to the mortgagor a refund of unearned  
508 premiums paid by a mortgagor or charged to the mortgagor for  
509 hazard, homeowner's or flood insurance placed by a mortgagee or the  
510 mortgage servicer if the mortgagor provides reasonable proof that the  
511 mortgagor has obtained coverage such that the forced placement  
512 insurance is no longer necessary and the property is insured. If the  
513 mortgagor provides reasonable proof that no lapse in coverage  
514 occurred such that the forced placement was not necessary, the  
515 mortgage servicer shall promptly refund the entire premium;

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

519 (18) Refuse to communicate with an authorized representative of the  
520 mortgagor who provides a written authorization signed by the  
521 mortgagor, provided the mortgage servicer may adopt procedures  
522 reasonably related to verifying that the representative is in fact  
523 authorized to act on behalf of the mortgagor;

524 (19) Conduct any business covered by sections 36a-715 to 36a-718,  
525 inclusive, of the general statutes, as amended by this act, and sections 5  
526 to 16, inclusive, of this act without holding a valid license required  
527 under said sections, or assist or aid and abet any person in the conduct  
528 of business without a valid license as required under title 36a of the  
529 general statutes;

530 (20) Negligently make any false statement or knowingly and  
531 wilfully make any omission of a material fact in connection with any  
532 information or reports filed with a governmental agency or the system,  
533 as defined in section 36a-485 of the general statutes, or in connection  
534 with any investigation conducted by the Banking Commissioner or  
535 another governmental agency;

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

540 Sec. 14. (NEW) (*Effective November 1, 2014*) (a) In addition to any  
541 authority provided under title 36a of the general statutes, the Banking  
542 Commissioner shall have the authority to conduct investigations and  
543 examinations as follows:

544 (1) For purposes of initial licensing, license renewal, license  
545 suspension, license conditioning, license revocation or termination, or  
546 general or specific inquiry or investigation to determine compliance  
547 with sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
548 amended by this act, and sections 5 to 16, inclusive, of this act, the  
549 commissioner may access, receive and use any books, accounts,

550 records, files, documents, information or evidence including, but not  
551 limited to, (A) criminal, civil and administrative history information;  
552 (B) personal history and experience information, including  
553 independent credit reports obtained from a consumer reporting  
554 agency described in Section 603(p) of the Fair Credit Reporting Act, 15  
555 USC 1681a; and (C) any other documents, information or evidence the  
556 commissioner deems relevant to the inquiry or investigation regardless  
557 of the location, possession, control or custody of such documents,  
558 information or evidence.

559 (2) For the purposes of investigating violations or complaints arising  
560 under sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
561 amended by this act, and sections 5 to 16, inclusive, of this act or for  
562 the purposes of examination, the commissioner may review,  
563 investigate or examine any mortgage servicer licensee or person  
564 subject to said sections as often as necessary in order to carry out the  
565 purposes of said sections. The commissioner may direct, subpoena or  
566 order the attendance of and examine under oath all persons whose  
567 testimony may be required about the residential mortgage loans or the  
568 business or subject matter of any such examination or investigation,  
569 and may direct, subpoena or order such person to produce books,  
570 accounts, records, files and any other documents the commissioner  
571 deems relevant to the inquiry.

572 (b) Each mortgage servicer licensee or person subject to sections 36a-  
573 715 to 36a-718, inclusive, of the general statutes, as amended by this  
574 act, and sections 5 to 16, inclusive, of this act shall make or compile  
575 reports or prepare other information as directed by the commissioner  
576 in order to carry out the purposes of this section including accounting  
577 compilations, information lists and data concerning residential  
578 mortgage loan transactions in a format prescribed by the commissioner  
579 or such other information the commissioner deems necessary to carry  
580 out the purposes of sections 36a-715 to 36a-718, inclusive, of the  
581 general statutes, as amended by this act, and sections 5 to 16, inclusive,  
582 of this act.

583 (c) In making any examination or investigation authorized by this  
584 section, the commissioner may control access to any documents and  
585 records of the mortgage servicer licensee or person under examination  
586 or investigation. The commissioner may take possession of the  
587 documents and records or place a person in exclusive charge of the  
588 documents and records in the place where they are usually kept.  
589 During the period of control, no person shall remove or attempt to  
590 remove any of the documents and records except pursuant to a court  
591 order or with the consent of the commissioner. Unless the  
592 commissioner has reasonable grounds to believe the documents or  
593 records of the mortgage servicer licensee or person have been, or are at  
594 risk of being, altered or destroyed for purposes of concealing a  
595 violation of sections 36a-715 to 36a-718, inclusive, of the general  
596 statutes, as amended by this act, and sections 5 to 16, inclusive, of this  
597 act the mortgage servicer licensee or owner of the documents and  
598 records shall have access to the documents or records as necessary to  
599 conduct its ordinary business affairs.

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

602 (1) Retain attorneys, accountants or other professionals and  
603 specialists as examiners, auditors or investigators to conduct or assist  
604 in the conduct of examinations or investigations;

605 (2) Enter into agreements or relationships with other government  
606 officials or regulatory associations in order to improve efficiencies and  
607 reduce regulatory burden by sharing resources, standardized or  
608 uniform methods or procedures, and documents, records, information  
609 or evidence obtained under this section;

610 (3) Use, hire, contract or employ public or privately available  
611 analytical systems, methods or software to examine or investigate the  
612 mortgage servicer licensee or person subject to sections 36a-715 to 36a-  
613 718, inclusive, of the general statutes, as amended by this act, and

614 sections 5 to 16, inclusive, of this act;

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

617 (5) Accept audit reports made by an independent certified public  
618 accountant for the mortgage servicer licensee or person subject to  
619 sections 36a-715 to 36a-718, inclusive, of the general statutes, as  
620 amended by this act, and sections 5 to 16, inclusive, of this act in the  
621 course of that part of the examination covering the same general  
622 subject matter as the audit and may incorporate the audit report in the  
623 report of examination, report of investigation or other writing of the  
624 commissioner.

625 (e) The authority of this section shall remain in effect, whether such  
626 mortgage servicer licensee or person subject to sections 36a-715 to 36a-  
627 718, inclusive, of the general statutes, as amended by this act, and  
628 sections 5 to 16, inclusive, of this act, acts or claims to act under any  
629 licensing or registration law of this state, or claims to act without such  
630 authority.

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

635 Sec. 15. (NEW) (*Effective November 1, 2014*) (a) The Banking  
636 Commissioner may suspend, revoke or refuse to renew any mortgage  
637 servicer license or take any other action, in accordance with the  
638 provisions of section 36a-51 of the general statutes, for any reason  
639 which would be sufficient grounds for the commissioner to deny an  
640 application for such license under section 5 of this act, or if the  
641 commissioner finds that the licensee, any control person of the  
642 licensee, the qualified individual or any branch manager with  
643 supervisory authority, or any trustee, employee or agent of such  
644 licensee has done any of the following: (1) Made any material

645 misstatement in the application; (2) committed any fraud or  
646 misrepresentation or misappropriated funds; (3) violated any of the  
647 provisions of title 36a of the general statutes or of any regulations  
648 adopted pursuant thereto, or any other law or regulation applicable to  
649 the conduct of its business; or (4) failed to perform any agreement with  
650 a mortgagee or a mortgagor.

651 (b) Whenever it appears to the commissioner that any person has  
652 violated, is violating or is about to violate any provision of section 49-  
653 8a or 49-10a of the general statutes, any of the provisions of title 36a of  
654 the general statutes or of any regulations adopted pursuant thereto, or  
655 any licensee has failed to perform any agreement with a mortgagee or  
656 mortgagor, committed any fraud, made any misrepresentation or  
657 misappropriated funds, the commissioner may take action against  
658 such person or licensee in accordance with sections 36a-50 and 36a-52  
659 of the general statutes.

660 Sec. 16. (NEW) (*Effective November 1, 2014*) The Banking  
661 Commissioner may adopt such regulations, in accordance with chapter  
662 54 of the general statutes, as the commissioner deems necessary to  
663 administer and enforce the provisions of sections 36a-715 to 36a-718,  
664 inclusive, of the general statutes, as amended by this act, and sections 5  
665 to 15, inclusive, of this act.

666 Sec. 17. Section 36a-1 of the 2014 supplement to the general statutes  
667 is repealed and the following is substituted in lieu thereof (*Effective*  
668 *November 1, 2014*):

669 This title shall be known as the "Banking Law of Connecticut" and  
670 shall be applicable to all Connecticut banks, Connecticut credit unions,  
671 mortgage lenders, mortgage correspondent lenders, mortgage brokers,  
672 mortgage loan originators, loan processors or underwriters, money  
673 transmitters, check cashers, trustees under mortgages or deeds of trust  
674 of real property securing certain investments, corporations exercising  
675 fiduciary powers, small loan lenders, sales finance companies,

676 mortgage [servicing companies] servicers, debt adjusters, debt  
677 negotiators, consumer collection agencies and to such other persons as  
678 subject themselves to the provisions of this title or who, by violating  
679 any of its provisions, become subject to the penalties provided in this  
680 title.

681 Sec. 18. Subdivision (6) of subsection (c) of section 36a-65 of the  
682 general statutes is repealed and the following is substituted in lieu  
683 thereof (*Effective November 1, 2014*):

684 (6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-  
685 600, 36a-628, 36a-656, 36a-671, section 5 of this act or 36a-801 shall pay  
686 to the commissioner the actual cost of any examination of the licensee,  
687 as such cost is determined by the commissioner. If the licensee fails to  
688 pay such cost not later than sixty days after receipt of demand from the  
689 commissioner, the commissioner may suspend the license until such  
690 costs are paid.

691 Sec. 19. Subdivision (4) of subsection (a) of section 36a-412 of the  
692 general statutes is repealed and the following is substituted in lieu  
693 thereof (*Effective January 1, 2015*):

694 (4) (A) The laws of this state, including laws regarding (i)  
695 community reinvestment pursuant to sections 36a-30 to 36a-33,  
696 inclusive; (ii) consumer protection pursuant to sections 36a-41 to 36a-  
697 45, inclusive, 36a-290 to 36a-304, inclusive, 36a-306, 36a-307, 36a-315 to  
698 36a-323, inclusive, 36a-645 to 36a-647, inclusive, 36a-690, 36a-695 to  
699 36a-700, inclusive, 36a-705 to 36a-707, inclusive, 36a-715 to 36a-718,  
700 inclusive, as amended by this act, sections 5 to 16, inclusive, of this act,  
701 36a-725, 36a-726, 36a-755 to 36a-759, inclusive, 36a-770 to 36a-788,  
702 inclusive, and 36a-800 to 36a-810, inclusive; (iii) fair lending pursuant  
703 to sections 36a-737, 36a-740 and 36a-741; and (iv) establishment of  
704 interstate branches pursuant to section 36a-145 shall apply to any  
705 branch in this state of an out-of-state bank, other than a federally-  
706 chartered out-of-state bank, to the same extent as such laws apply to a

707 branch in this state of an out-of-state national banking association.

708 (B) An out-of-state bank, other than a federally-chartered out-of-  
709 state bank, that establishes a branch in this state may conduct any  
710 activity at such branch that is permissible under the laws of the home  
711 state of such out-of-state bank, to the extent such activity is permissible  
712 either for a Connecticut bank or for a branch in this state of an out-of-  
713 state national banking association. If the commissioner determines that  
714 a branch in this state of an out-of-state bank, other than a federally-  
715 chartered out-of-state bank, is being operated in violation of any  
716 applicable law of this state or in an unsafe and unsound manner, the  
717 commissioner may take any enforcement action authorized under this  
718 title against such out-of-state bank to the same extent as if such branch  
719 were a Connecticut bank, provided the commissioner shall promptly  
720 give notice of such action to the home state banking regulator of such  
721 out-of-state bank and, to the extent practicable, shall consult and  
722 cooperate with such regulator in pursuing and resolving such action.  
723 For purposes of this subparagraph, "activity" includes acquiring or  
724 retaining any investment.

725 Sec. 20. Section 49-2a of the general statutes is repealed and the  
726 following is substituted in lieu thereof (*Effective November 1, 2014*):

727 (a) On and after July 1, 1993, each state bank and trust company,  
728 national banking association, state or [federally chartered] federally-  
729 chartered savings and loan association, savings bank, insurance  
730 company and other mortgagee or mortgage [servicing company]  
731 servicer holding funds of a mortgagor in escrow for the payment of  
732 taxes and insurance premiums with respect to mortgaged property  
733 located in this state shall pay interest on such funds, except as  
734 provided in section 49-2c, as amended by this act, at a rate of not less  
735 than the average rate paid, as of December 30, 1992, on savings  
736 deposits by insured commercial banks as published in the Federal  
737 Reserve Board Bulletin and rounded to the nearest one-tenth of one  
738 percentage point, except in no event shall the rate be less than one and

739 one-half per cent. On and after January 1, 1994, until September 30,  
740 2012, the rate for each calendar year shall be not less than the deposit  
741 index as defined in subsection (c) of this section for that year and  
742 rounded to the nearest one-tenth of one percentage point, except in no  
743 event shall the rate be less than one and one-half per cent. On and after  
744 October 1, 2012, the rate for each calendar year shall be not less than  
745 the deposit index as defined in subsection (c) of this section for that  
746 year and rounded to the nearest one-tenth of one percentage point.  
747 Interest payments shall be credited on the thirty-first day of December  
748 annually toward the payment of taxes or insurance premiums as the  
749 case may be, on such mortgaged property in the ensuing year. If the  
750 mortgage debt is paid prior to December thirty-first in any year, the  
751 interest to the date of payment shall be paid to the mortgagor. The  
752 provisions of this section shall apply only with respect to mortgages on  
753 owner-occupied residential property consisting of not more than four  
754 living units and housing cooperatives occupied solely by the  
755 shareholders thereof. Any mortgagee or mortgage [servicing company]  
756 servicer violating the provisions of this section shall be fined not more  
757 than one hundred dollars for each offense.

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

763 (c) The deposit index for each calendar year shall be equal to the  
764 average rate paid on savings deposits by insured commercial banks as  
765 last published in the Federal Reserve Board Bulletin in November of  
766 the prior year. The commissioner shall determine the deposit index for  
767 each calendar year and publish such deposit index in the Department  
768 of Banking news bulletin no later than December fifteenth of the prior  
769 year. For purposes of this section, "Federal Reserve Board Bulletin"  
770 means the monthly survey of selected deposits published as a special  
771 supplement to the Federal Reserve Statistical Release Publication H.6

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

775 Sec. 21. Section 49-2c of the general statutes is repealed and the  
776 following is substituted in lieu thereof (*Effective November 1, 2014*):

777 (a) In no event shall interest be required to be paid on escrow  
778 accounts where (1) there is a contract between the mortgagor and the  
779 mortgagee, entered into before October 1, 1975, which contains an  
780 express disclaimer of an obligation on the part of the mortgagee to pay  
781 interest on the accounts, (2) the payment of such interest would violate  
782 any federal law or regulation, (3) the accounts are maintained with a  
783 mortgage [servicing company] servicer, neither affiliated with nor  
784 owned in whole or in part by the mortgagee, under a written contract  
785 or any mortgage agreements underlying the contracts, entered into  
786 before October 1, 1975, which contract does not permit the mortgage  
787 [servicing company] servicer to earn or receive a return from the  
788 investment of the accounts, or (4) the accounts are maintained in  
789 connection with mortgage loans entered into (A) on and after October  
790 1, 1977, and before January 1, 1989, and which are serviced and held  
791 for sale for not more than one year by a mortgage [servicing company]  
792 servicer, neither affiliated with nor owned in whole or in part by the  
793 purchaser of the mortgage loan, and (B) on and after January 1, 1989,  
794 and which are serviced and held for sale for not more than six months  
795 by any such mortgage [servicing company] servicer, provided such  
796 mortgage [servicing company] servicer shall pay interest on an escrow  
797 account maintained in connection with such mortgage loan if the loan  
798 is sold within such specified periods and the mortgage [servicing  
799 company] servicer continues to service the loan.

800 (b) In no event shall interest be required to be paid at a rate in excess  
801 of two per cent per annum where (1) there is a contract between the  
802 mortgagor and the mortgagee entered into before October 1, 1977,  
803 which contains an express agreement to pay interest at the rate of two

804 per cent per annum, or (2) such accounts are maintained in connection  
 805 with mortgage loans entered into prior to October 1, 1977, and which  
 806 are serviced and held for sale for not more than one year by a  
 807 mortgage [servicing company] servicer, neither affiliated with nor  
 808 owned in whole or in part by the purchaser of the mortgage loan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	36a-715
Sec. 2	<i>October 1, 2014</i>	36a-716
Sec. 3	<i>October 1, 2014</i>	36a-717
Sec. 4	<i>January 1, 2015</i>	36a-718
Sec. 5	<i>November 1, 2014</i>	New section
Sec. 6	<i>November 1, 2014</i>	New section
Sec. 7	<i>November 1, 2014</i>	New section
Sec. 8	<i>November 1, 2014</i>	New section
Sec. 9	<i>November 1, 2014</i>	New section
Sec. 10	<i>January 1, 2015</i>	New section
Sec. 11	<i>January 1, 2015</i>	New section
Sec. 12	<i>January 1, 2015</i>	New section
Sec. 13	<i>January 1, 2015</i>	New section
Sec. 14	<i>November 1, 2014</i>	New section
Sec. 15	<i>November 1, 2014</i>	New section
Sec. 16	<i>November 1, 2014</i>	New section
Sec. 17	<i>November 1, 2014</i>	36a-1
Sec. 18	<i>November 1, 2014</i>	36a-65(c)(6)
Sec. 19	<i>January 1, 2015</i>	36a-412(a)(4)
Sec. 20	<i>November 1, 2014</i>	49-2a
Sec. 21	<i>November 1, 2014</i>	49-2c

**Statement of Purpose:**

To regulate mortgage servicers in Connecticut and make other conforming changes.

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