



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
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TESTIMONY SUBMITTED TO THE BANKING COMMITTEE
February 19, 2015

*Bruce H. Adams, Acting Commissioner
Department of Banking*

Chairman Leone, Chairman Lesser and members of the committee, thank you for the opportunity to offer written testimony on six bills on the agenda for the Banking Committee's February 19, 2015 public hearing.

S.B. 89 AN ACT REQUIRING THE BANKING COMMISSIONER TO CONDUCT A STUDY ON STREAMLINING THE PROCESS FOR TRANSFERRING PROPERTIES WITH UNDERWATER, DELINQUENT OR FORECLOSED MORGAGES

The issues raised in this proposed bill present important matters of public policy. The Department is eager to review the public testimony on this bill and would be happy to participate in a dialog on these matters. The Department looks forward to offering additional comments if this proposal is raised by the committee.

**S.B. 317 AN ACT CONCERNING ATTORNEYS' FEES PROVISIONS IN DEPOSITORY CONTRACTS
S.B. 320 AN ACT CONCERNING LIABILITY FOR ANY LOSS OF ASSETS HELD BY BANKS OR OTHER ENTITIES**

The Department opposes these bills. Each bill proposes to restrict the language a financial institution uses in its depository account contracts with its customers within the context of consumer protection statutes. Fundamentally, the Department believes these provisions should remain a contractual matter between bank and customer, rather than be specifically prohibited by statute.

Logistically, the Department regulates the Deposit Account Contract Act (Sections 36a-315 to 36a-323, inclusive, of the Connecticut General Statutes) that, in general, prescribes what information a financial institution must include in a contract, when and how the financial institution must provide the contract and information on charges to a customer, and when a financial institution can (or cannot) enforce the terms of the contract. The proposed language in each of these bills is included within consumer protection laws outside of the jurisdiction of this department.

In addition, the amendment of the consumer protection statute in S.B. 317 appears to contain a conflict that could imperil a depositor's right to recover an attorney's fee as a matter of law. The proposed

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language would prohibit a bank from including "a clause in its consumer contract allowing for such bank... to collect attorneys' fees from its customers if such bank... prevails in a claim brought by consumers based on the consumer contract." The existing language in the subsection, though, allows a consumer to collect an attorney's fee as a matter of law if the contract requires the consumer to pay an attorney's fee for the bank (or commercial party). The proposed language would seem to weaken the consumer's opportunity to collect an attorney's fee because it would place the discretion to award fees in the hands of the court.

**S.B. 887 AN ACT CONCERNING REQUIREMENTS FOR THE FILING OF A MECHANIC'S LIEN
H.B. 5117 AN ACT CONCERNING THE TIME PERIOD FOR THE FILING OF MECHANIC'S LIENS**

The Department supports these bills taken together. S.B. 887 is commonsense legislation that would reduce the strain on banks and protect homeowners from unscrupulous unlicensed contractors, while H.B. 5117 provides a reasonable accommodation of filing time for licensed contractors. Together, these bills provide balanced legislation that promotes good faith in the field of mechanic's liens.

H.B. 6403 AN ACT CONCERNING SECURITY FREEZES ON CHILDREN'S CREDIT REPORTS

The Department supports this bill in concept. The protection of children's credit information is vital and the Department has proposed complementary legislation (H.B. 6800 An Act Concerning Security Freezes on Consumer Credit Reports) that would prohibit credit rating agencies from charging a fee for security freezes requested for persons under the age of 18 (among others). However, the Department would caution that the proposal as drafted may have unintended consequences. The proposal allows a parent or guardian to place a security freeze on a child's credit report, but it is not clear whether the proposal would also allow a parent or guardian to lift or remove the freeze. The Department is concerned that a parent or guardian could misuse the ability to lift or remove a security freeze in order to gain access to the child's credit in contravention to the other parent's wishes or for malicious purposes, thereby exposing the child to financial risk without the child's knowledge. The Department recommends adding notification to the child as a requirement for the parent or guardian attempting to place, lift or remove a security freeze.

Very truly yours,



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