



General Assembly

January Session, 2015

Raised Bill No. 924

LCO No. 3729



Referred to Committee on BANKING

Introduced by:
(BA)

***AN ACT CONCERNING MORTGAGE BONDS AND PERSONS
CLAIMING AN EXEMPTION FROM LICENSING AS A MORTGAGE
LENDER, MORTGAGE CORRESPONDENT LENDER OR MORTGAGE
BROKER.***

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

1 Section 1. Section 36a-492 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) Each licensed mortgage lender, mortgage correspondent
4 lender and mortgage broker shall file with the commissioner a single
5 surety bond, written by a surety authorized to write such bonds in this
6 state, covering its main office and file an addendum to such bond to
7 cover any branch office, in a penal sum determined in accordance with
8 subsection (d) of this section, provided the penal sum of the bond for
9 licensed mortgage lenders and mortgage correspondent lenders shall
10 be not less than one hundred thousand dollars and the penal sum of
11 the bond for mortgage brokers shall be not less than fifty thousand
12 dollars. The bond shall cover all mortgage loan originators sponsored
13 by such licensee.

14 (2) Each mortgage loan originator licensee shall be covered by a
15 surety bond with a penal sum in an amount that reflects the dollar
16 amount of loans originated by such mortgage loan originator in
17 accordance with subsection (d) of this section, provided such coverage
18 shall be provided through a single surety bond filed with the
19 commissioner by the person who sponsors such mortgage loan
20 originator.

21 (3) Effective October 1, 2011, (A) in the case of an exempt registrant
22 under subdivision (1), (2) or (3) of subsection (a) of section 36a-487: [,
23 (i) the] (i) The surety bond shall cover all mortgage loan originators
24 sponsored by such exempt registrant and comply with the
25 requirements set forth in this section, and (ii) the penal sum of such
26 bond shall be in an amount determined in accordance with subsection
27 (d) of this section, provided the penal sum of the bond shall be not less
28 than one hundred thousand dollars; (B) in the case of an exempt
29 registrant under subsection (b) of section 36a-487: [, (i) the] (i) The
30 surety bond shall cover all mortgage loan originators sponsored by
31 such exempt registrant and comply with the requirements set forth in
32 this section, and (ii) the penal sum of the bond shall be in an amount
33 determined in accordance with subsection (d) of this section, provided
34 the penal sum shall be not less than fifty thousand dollars; and (C) in
35 the case of an exempt registrant under subdivision (4) of subsection (a)
36 of section 36a-487, the surety bond shall cover all mortgage loan
37 originators sponsored by such exempt registrant and comply with the
38 requirements set forth in section 36a-671d.

39 (4) (A) The principal on a bond required by subdivisions (1) and (2)
40 of this subsection shall annually confirm, in connection with any
41 renewal request, that it maintains the required penal sum in an
42 amount required by subsection (d) of this section [. Not later than
43 September 1, 2011, and every September first thereafter, such] after
44 review of the preceding four quarter period ending June thirtieth. The
45 principal shall file such information as the commissioner may require
46 under subsection (d) of this section and shall file, [not later than

47 September first of the applicable year, or on such other date] as the
48 commissioner may require, pursuant to subdivision (d) of this section,
49 any bond rider or endorsement to the surety bond on file with the
50 commissioner to reflect any changes necessary to maintain the surety
51 bond coverage required by this section.

52 (B) Effective October 1, 2011, the principal on a bond required by
53 subdivision (3) of this [section] subsection shall annually confirm, in
54 connection with any renewal request, that it maintains the required
55 penal sum in an amount required by subsection (d) of this section [.
56 Not later than September 1, 2012, and every September first thereafter,
57 such] after review of the preceding four quarter period ending June
58 thirtieth. The principal shall file such information as the commissioner
59 may require under subsection (d) of this section and shall file, [not
60 later than September first of the applicable year, or on such other date]
61 as the commissioner may require pursuant to subdivision (d) of this
62 section, any bond rider or endorsement to the surety bond on file with
63 the commissioner to reflect any changes necessary to maintain the
64 surety bond coverage required by this section.

65 (5) The commissioner may adopt regulations in accordance with
66 chapter 54 with respect to the requirements for such surety bonds.

67 (b) The bond required by subsection (a) of this section shall be (1) in
68 a form approved by the Attorney General, and (2) conditioned upon
69 the mortgage lender, mortgage correspondent lender or mortgage
70 broker licensee and any mortgage loan originator licensee sponsored
71 by such mortgage lender, mortgage correspondent lender or mortgage
72 broker or, in the case of a mortgage loan originator licensee sponsored
73 after October 1, 2011, by an exempt registrant, upon such mortgage
74 loan originator licensee faithfully performing any and all written
75 agreements or commitments with or for the benefit of borrowers and
76 prospective borrowers, truly and faithfully accounting for all funds
77 received from a borrower or prospective borrower by the licensee in
78 the licensee's capacity as a mortgage lender, mortgage correspondent

79 lender, mortgage broker or mortgage loan originator, and conducting
80 such mortgage business consistent with the provisions of sections 36a-
81 485 to 36a-498f, inclusive, 36a-534a and 36a-534b. Any borrower or
82 prospective borrower who may be damaged by failure to perform any
83 written agreements or commitments, or by the wrongful conversion of
84 funds paid by a borrower or prospective borrower to a licensee, may
85 proceed on such bond against the principal or surety thereon, or both,
86 to recover damages. Commencing August 1, 2009, any borrower or
87 prospective borrower who may be damaged by a mortgage lender,
88 mortgage correspondent lender, mortgage broker or mortgage loan
89 originator licensee's failure to satisfy a judgment against the licensee
90 arising from the making or brokering of a nonprime home loan, as
91 defined in section 36a-760, may proceed on such bond against the
92 principal or surety thereon, or both, to recover the amount of the
93 judgment. The commissioner may proceed on such bond against the
94 principal or surety thereon, or both, to collect any civil penalty
95 imposed upon a licensee pursuant to subsection (a) of section 36a-50
96 and any unpaid costs of examination of a licensee as determined
97 pursuant to section 36a-65. The proceeds of the bond, even if
98 commingled with other assets of the principal, shall be deemed by
99 operation of law to be held in trust for the benefit of such claimants
100 against the principal in the event of bankruptcy of the principal and
101 shall be immune from attachment by creditors and judgment creditors.
102 The bond shall run concurrently with the period of the license for the
103 main office and the aggregate liability under the bond shall not exceed
104 the penal sum of the bond. The principal shall notify the commissioner
105 of the commencement of an action on the bond. When an action is
106 commenced on a principal's bond, the commissioner may require the
107 filing of a new bond and immediately on recovery on any action on the
108 bond, the principal shall file a new bond.

109 (c) The surety company shall have the right to cancel the bond at
110 any time by a written notice to the principal stating the date
111 cancellation shall take effect. Such notice shall be sent by certified mail

112 to the principal at least thirty days prior to the date of cancellation. A
113 surety bond shall not be cancelled unless the surety company notifies
114 the commissioner in writing not less than thirty days prior to the
115 effective date of cancellation. After receipt of such notification from the
116 surety company, the commissioner shall give written notice to the
117 principal of the date such bond cancellation shall take effect and such
118 notice shall be deemed notice to each mortgage loan originator licensee
119 sponsored by such principal. The commissioner shall automatically
120 suspend the licenses of a mortgage lender, mortgage correspondent
121 lender or mortgage broker on such date and inactivate the licenses of
122 the mortgage loan originators sponsored by such lender,
123 correspondent lender or broker. On and after October 1, 2011, in the
124 case of a cancellation of an exempt registrant's bond, the commissioner
125 shall inactivate the licenses of the mortgage loan originators sponsored
126 by such exempt registrant. No automatic suspension or inactivation
127 shall occur if, prior to the date that the bond cancellation shall take
128 effect, (1) the principal submits a letter of reinstatement of the bond
129 from the surety company or a new bond, (2) the mortgage lender,
130 mortgage correspondent lender or mortgage broker licensee has
131 ceased business and has surrendered all licenses in accordance with
132 subsection (a) of section 36a-490, or (3) in the case of a mortgage loan
133 originator licensee, the sponsorship with the mortgage lender,
134 mortgage correspondent lender or mortgage broker who was
135 automatically suspended pursuant to this section or, after October 1,
136 2011, with the exempt registrant who failed to provide the bond
137 required by this section, has been terminated and a new sponsor has
138 been requested and approved. After a mortgage lender, mortgage
139 correspondent lender or mortgage broker license has been
140 automatically suspended pursuant to this section, the commissioner
141 shall give such licensee notice of the automatic suspension, pending
142 proceedings for revocation or refusal to renew pursuant to section 36a-
143 494 and an opportunity for a hearing on such action in accordance
144 with section 36a-51 and require such licensee to take or refrain from
145 taking such action as in the opinion of the commissioner will effectuate

146 the purposes of this section. Effective October 1, 2011, the
147 commissioner may provide information to an exempt registrant
148 concerning actions taken by the commissioner pursuant to this
149 subsection against any mortgage loan originator licensee that was
150 sponsored and bonded by such exempt registrant.

151 (d) The penal sum of the bond required by subdivisions (1) to (3),
152 inclusive, of subsection (a) of this section shall be determined as
153 follows:

154 (1) An applicant for an initial mortgage lender license or mortgage
155 correspondent lender license shall file a bond in a penal sum of one
156 hundred thousand dollars in connection with its application for the
157 main office.

158 (2) An applicant for an initial mortgage broker license shall file a
159 bond in a penal sum of fifty thousand dollars in connection with its
160 application for the main office.

161 (3) Effective October 1, 2011, an exempt registrant under subsection
162 (d) of section 36a-487, as amended by this act, who is exempt from
163 [licensing] licensure under subdivision (1), (2) or (3) of subsection (a) of
164 section 36a-487 shall file a bond in a penal sum of one hundred
165 thousand dollars the first time such exempt registrant sponsors a
166 mortgage loan originator.

167 (4) Effective October 1, 2011, an exempt registrant under subsection
168 (d) of section 36a-487, as amended by this act, who is exempt from
169 licensure under subsection (b) of section 36a-487 shall file a bond in a
170 penal sum of fifty thousand dollars the first time such exempt
171 registrant sponsors a mortgage loan originator.

172 (5) Effective October 1, 2011, an exempt registrant under subsection
173 (d) of section 36a-487, as amended by this act, who is exempt from
174 licensure under subdivision (4) of subsection (a) of section 36a-487,
175 shall file a bond in a penal sum as set forth in section 36a-671d.

176 (6) (A) For mortgage lender and mortgage correspondent lender
177 licensees, and, after October 1, 2011, persons sponsoring and bonding
178 at least one mortgage loan originator as an exempt registrant under
179 subsection (d) of section 36a-487, as amended by this act, and who are
180 exempt from licensing under subdivision (1), (2) or (3) of subsection (a)
181 of section 36a-487 if: (i) [the] The aggregate dollar amount of all
182 residential mortgage loans originated by such licensee at all licensed
183 locations or by the exempt registrant during the preceding [twelve-
184 month period ending July thirty-first of the current year] four quarters
185 ending June thirtieth is less than thirty million dollars, the penal sum
186 of the bond shall be one hundred thousand dollars; (ii) the aggregate
187 dollar amount of all residential mortgage loans originated by such
188 licensee at all licensed locations or by the exempt registrant during the
189 preceding [twelve-month period ending July thirty-first of the current
190 year] four quarters ending June thirtieth is thirty million dollars or
191 more but less than one hundred million dollars, the penal sum of the
192 bond shall be two hundred thousand dollars; (iii) the aggregate dollar
193 amount of all residential mortgage loans originated by such licensee at
194 all licensed locations or by the exempt registrant during the preceding
195 [twelve-month period ending July thirty-first of the current year] four
196 quarters ending June thirtieth is one hundred million dollars or more
197 but less than two hundred fifty million dollars, the penal sum of the
198 bond shall be three hundred thousand dollars; and (iv) the aggregate
199 dollar amount of all residential mortgage loans originated by such
200 licensee at all licensed locations or by the exempt registrant during the
201 preceding [twelve-month period ending July thirty-first of the current
202 year] four quarters ending June thirtieth is two hundred fifty million
203 dollars or more, the penal sum of the bond shall be five hundred
204 thousand dollars.

205 (B) For mortgage broker licensees and, after October 1, 2011, persons
206 who are sponsoring and bonding at least one mortgage loan originator
207 as an exempt registrant under subsection (d) of section 36a-487, as
208 amended by this act, and who are exempt from licensing under

209 subsection (b) or (c) of section 36a-487; if (i) ~~the~~ The aggregate dollar
210 amount of all residential mortgage loans originated by such licensee at
211 all licensed locations or by the exempt registrant during the preceding
212 ~~[twelve-month period ending July thirty-first of the current year]~~ four
213 quarters ending June thirtieth is less than thirty million dollars, the
214 penal sum of the bond shall be fifty thousand dollars; (ii) the aggregate
215 dollar amount of all residential mortgage loans originated by such
216 licensee at all licensed locations or by the exempt registrant during the
217 preceding ~~[twelve-month period ending July thirty-first of the current~~
218 ~~year]~~ four quarters ending June thirtieth is thirty million dollars or
219 more but less than fifty million dollars, the penal sum of the bond shall
220 be one hundred thousand dollars; and (iii) the aggregate dollar
221 amount of all residential mortgage loans originated by such licensee at
222 all licensed locations or by the exempt registrant during the preceding
223 ~~[twelve-month period ending July thirty-first of the current year]~~ four
224 quarters ending June thirtieth is fifty million dollars or more, the penal
225 sum of the bond shall be one hundred fifty thousand dollars.

226 (7) For purposes of this subsection, the aggregate dollar amount of
227 all residential mortgage loans originated by such licensee or, after
228 October 1, 2011, such exempt registrant, includes the aggregate dollar
229 amount of all closed residential mortgage loans that the licensee or
230 exempt registrant originated, brokered or made, as applicable.

231 (8) Financial information necessary to verify the aggregate dollar
232 amount of residential mortgage loans originated shall be filed with the
233 commissioner, as the commissioner may require, and shall be reported
234 on the system at such time and in such form as the system may
235 require.

236 (9) The commissioner may require a change in the penal sum of the
237 bond if the commissioner determines at any time that the aggregate
238 dollar amount of all residential mortgage loans originated warrants a
239 change in the penal sum of the bond.

240 Sec. 2. Subsection (d) of section 36a-487 of the general statutes is
241 repealed and the following is substituted in lieu thereof (*Effective from*
242 *passage*):

243 (d) Any person [exempt] claiming exemption from licensure under
244 this section may register on the system as an exempt registrant for
245 purposes of sponsoring a mortgage loan originator or a loan processor
246 or underwriter pursuant to subdivision (1) of subsection (b) of section
247 36a-486. Such registration shall not affect the exempt status of such
248 person. Any approval of such registration, or any approval of any
249 renewal of such registration, shall not constitute a determination by
250 the commissioner that such entity is exempt, but rather shall evidence
251 the commissioner's approval to use the system for purposes of
252 sponsoring and bonding.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-492
Sec. 2	<i>from passage</i>	36a-487(d)

Statement of Purpose:

To align volume look-back periods with periods of time consistent with quarterly mortgage call reports and to clarify the Banking Commissioner's scope of approval of exempt registrations.

[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.]