



General Assembly

Amendment

January Session, 2015

LCO No. 7588



Offered by:

REP. LESSER, 100th Dist.

REP. SIMANSKI, 62nd Dist.

REP. STALLWORTH, 126th Dist.

To: Subst. House Bill No. 6801

File No. 178

Cal. No. 124

"AN ACT CONCERNING CROWDFUNDING, PROHIBITED ACTS OF MORTGAGE SERVICERS, SMALL BUSINESS LENDING, ALTERNATIVE FORMS OF IDENTIFICATION FOR OPENING BANK ACCOUNTS, REVERSE MORTGAGES AND DISCLOSURES FOR PREPAID CARDS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective July 1, 2015*) The Banking Commissioner shall,
4 within available appropriations, study legislation in other states
5 concerning statutory restrictions on crowdfunding to provide small
6 businesses and start-ups with more funding options. Such study shall
7 include, but not be limited to, an overview of such legislation and
8 recommendations for the implementation of such legislation in
9 Connecticut. On or before January 1, 2016, the commissioner shall
10 report, in accordance with the provisions of section 11-4a of the general
11 statutes, the results of such study to the joint standing committees of

12 the General Assembly having cognizance of matters relating to
13 banking and commerce.

14 Sec. 2. Section 36a-719h of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective October 1, 2015*):

16 No mortgage servicer shall:

17 (1) Directly or indirectly employ any scheme, device or artifice to
18 defraud or mislead mortgagors or mortgagees or to defraud any
19 person;

20 (2) Engage in any unfair or deceptive practice toward any person or
21 misrepresent or omit any material information in connection with the
22 servicing of the residential mortgage loan, including, but not limited
23 to, misrepresenting the amount, nature or terms of any fee or payment
24 due or claimed to be due on a residential mortgage loan, the terms and
25 conditions of the servicing agreement or the mortgagor's obligations
26 under the residential mortgage loan;

27 (3) Obtain property by fraud or misrepresentation;

28 (4) [Knowingly misapply or recklessly apply] Apply residential
29 mortgage loan payments recklessly or knowingly misapply such
30 payments to the outstanding balance of a residential mortgage loan;

31 (5) [Knowingly misapply or recklessly apply] Apply payments
32 recklessly or knowingly misapply such payments to escrow accounts;

33 (6) Place hazard, homeowner's or flood insurance on the mortgaged
34 property when the mortgage servicer knows or [has reason to know]
35 should have known that the mortgagor has an effective policy for such
36 insurance;

37 (7) Fail to comply with section 49-10a;

38 (8) Knowingly or recklessly provide inaccurate information to a
39 credit bureau [, thereby harming a mortgagor's creditworthiness] that

40 results in harm to a mortgagor's creditworthiness;

41 (9) Fail to report both the favorable and unfavorable payment
42 history of the mortgagor to a nationally recognized consumer credit
43 bureau at least annually if the mortgage servicer regularly reports
44 information to a credit bureau;

45 (10) Collect private mortgage insurance beyond the date for which
46 private mortgage insurance is required;

47 (11) Fail to issue a release of mortgage in accordance with section
48 49-8;

49 (12) Fail to provide written notice to a mortgagor upon taking action
50 to place hazard, homeowner's or flood insurance on the mortgaged
51 property, including a clear and conspicuous statement of the
52 procedures by which the mortgagor may demonstrate that he or she
53 has the required insurance coverage and by which the mortgage
54 servicer shall terminate the insurance coverage placed by it and refund
55 or cancel any insurance premiums and related fees paid by or charged
56 to the mortgagor;

57 (13) Place hazard, homeowner's or flood insurance on a mortgaged
58 property, or require a mortgagor to obtain or maintain such insurance,
59 in excess of the replacement cost of the improvements on the
60 mortgaged property as established by the property insurer;

61 (14) Fail to provide to the mortgagor a refund of unearned
62 premiums paid by a mortgagor or charged to the mortgagor for
63 hazard, homeowner's or flood insurance placed by a mortgagee or the
64 mortgage servicer if the mortgagor provides reasonable proof that the
65 mortgagor has obtained coverage such that the forced placement
66 insurance is no longer necessary and the property is insured. If the
67 mortgagor provides reasonable proof that no lapse in coverage
68 occurred such that the forced placement was not necessary, the
69 mortgage servicer shall promptly refund the entire premium;

70 (15) Require any amount of funds to be remitted by means more
71 costly to the mortgagor than a bank or certified check or attorney's
72 check from an attorney's account to be paid by the mortgagor;

73 (16) Refuse to communicate with an authorized representative of the
74 mortgagor who provides a written authorization signed by the
75 mortgagor, provided the mortgage servicer may adopt procedures
76 reasonably related to verifying that the representative is in fact
77 authorized to act on behalf of the mortgagor;

78 (17) Conduct any business covered by sections 36a-715 to 36a-719l,
79 inclusive, without holding a valid license as required under said
80 sections, or assist or aid and abet any person in the conduct of business
81 without a valid license as required under this title;

82 (18) Negligently make any false statement or knowingly and
83 wilfully make any omission of a material fact in connection with any
84 information or reports filed with a governmental agency or the system
85 or in connection with any investigation conducted by the Banking
86 Commissioner or another governmental agency; or

87 (19) Collect, charge, attempt to collect or charge or use or propose
88 any agreement purporting to collect or charge any fee prohibited by
89 sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b.

90 Sec. 3. (*Effective July 1, 2015*) The Department of Banking, in
91 consultation with the Department of Economic and Community
92 Development, shall, within available appropriations, conduct a study
93 of small business lending in the state. Such study shall include, but not
94 be limited to, the feasibility of: (1) Establishing a state-run business and
95 industrial development corporation; (2) creating mechanisms to
96 increase small business lending to promote and finance small
97 businesses; and (3) forming a partnership between Connecticut banks
98 and credit unions and any state agency, quasi-public agency or not-for-
99 profit organization incorporated in this state to increase access to credit
100 for small businesses in underserved communities or those with high

101 unemployment. The Banking Commissioner shall report, in
102 accordance with the provisions of section 11-4a of the general statutes,
103 the findings of such study to the joint standing committees of the
104 General Assembly having cognizance of matters relating to banking
105 and finance on or before January 1, 2016.

106 Sec. 4. (*Effective July 1, 2015*) The Department of Banking shall,
107 within available appropriations, conduct a study of the feasibility of (1)
108 allowing Connecticut banks and Connecticut credit unions to accept
109 alternative forms of identification for persons without a Social Security
110 number, such as an Individual Taxpayer Identification Number issued
111 by the Internal Revenue Service, state-issued forms of identification or
112 foreign documents, for purposes of providing such persons with the
113 ability to open accounts at such banks or credit unions, and (2)
114 allowing the Banking Commissioner to consider Connecticut banks or
115 credit unions offering accounts to those persons without a Social
116 Security number as a factor when assessing the record of performance
117 of such banks or credit unions pursuant to section 36a-32 of the general
118 statutes. The Banking Commissioner shall report, in accordance with
119 the provisions of section 11-4a of the general statutes, the findings of
120 such study to the joint standing committee of the General Assembly
121 having cognizance of matters relating to banking on or before January
122 1, 2016.

123 Sec. 5. (NEW) (*Effective from passage*) On or before January 1, 2016,
124 the Department of Banking shall develop a brochure written in plain
125 language and in an easily readable and understandable format,
126 containing examples of verification procedures at Connecticut banks
127 and Connecticut credit unions for customers seeking to open an
128 account without a Social Security number. Such brochure shall include,
129 but not be limited to: (1) A list of Connecticut banks and credit unions
130 accepting alternative forms of identification for persons without a
131 Social Security number, such as an Individual Taxpayer Identification
132 Number issued by the Internal Revenue Service, state-issued forms of
133 identification or foreign documents, provided such bank or credit

134 union agrees to be included in such list, and (2) such other summary
135 information on the verification procedures for each Connecticut bank
136 and Connecticut credit union as the department deems necessary. The
137 department may distribute such brochure to each Connecticut bank
138 and Connecticut credit union and shall post such brochure on the
139 department's Internet web site. The department shall, within available
140 appropriations, prepare appropriate multilingual versions of such
141 brochure for use by Spanish-speaking and other non-English-speaking
142 customers.

143 Sec. 6. (NEW) (*Effective July 1, 2016*) Any entity, including, but not
144 limited to, any Connecticut bank or Connecticut credit union, prior to
145 accepting a final and complete application for a reverse annuity
146 mortgage loan or assessing any fees for such mortgage, shall:

147 (1) (A) Inform the prospective applicant of the counseling
148 requirement in subdivision (2) of this subsection, and (B) provide the
149 prospective applicant with a list of at least three independent housing
150 counseling agencies approved by the United States Department of
151 Housing and Urban Development to engage in reverse annuity
152 mortgage loan counseling, as provided in 24 CFR 206.300. No such
153 counseling agency shall receive any compensation, either directly or
154 indirectly, from the lender or from any other person or entity involved
155 in originating or servicing the loan;

156 (2) Receive a signed certification from the prospective applicant or
157 the prospective applicant's authorized representative that the applicant
158 has received counseling from an independent housing counseling
159 agency, as described in subdivision (1) of this subsection;

160 (3) Provide the prospective applicant, prior to his or her counseling
161 session with the independent agency counselor, with a reverse annuity
162 mortgage loan worksheet containing issues that the prospective
163 applicant is advised to consider and discuss with the counselor; and

164 (4) Receive a certification from the prospective applicant or the

165 prospective applicant's authorized representative that either: (A) The
166 reverse annuity mortgage loan origination, or (B) the counseling
167 session required by subdivision (2) of this subsection was conducted in
168 person. Any counseling not conducted in person shall be conducted by
169 telephone. The certification shall be signed by the prospective
170 applicant and either the independent agency counselor or the reverse
171 annuity mortgage loan originator and shall include the date of the
172 meeting, and the name, address and telephone number of both the
173 prospective applicant and either the counselor or the loan originator.
174 The lender shall maintain the certification in an accurate, reproducible
175 and accessible format for the term of the reverse annuity mortgage
176 loan.

177 Sec. 7. Section 42-460a of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective October 1, 2015*):

179 (a) As used in this section:

180 (1) "General-use prepaid card" has the same meaning given to that
181 term in 12 CFR 1005.20(a)(3), as from time to time amended, but shall
182 not include a linked prepaid card or any card, code or other device
183 identified in 12 CFR 1005.20(b); and

184 (2) "Linked prepaid card" means a general-use prepaid card that
185 enables the purchaser of or individual who increases or reloads funds
186 onto the card, code or device (A) to receive back the remaining
187 unexpended balance and the accrued interest earned on the
188 unexpended balance on such card, code or device as of the date of
189 expiration of such card, code or device by way of a financial account
190 that is linked to the card, code or device; (B) to set the expiration date
191 on such card, code or device at not less than ninety days from the date
192 of purchase of or increasing or reloading of funds onto such card, code
193 or device, for the purpose of receiving back the unexpended balance
194 and accrued interest earned on the unexpended balance on such card,
195 code or device in an expedited manner; and (C) to transfer the
196 unexpended balance on such card, code or device to a bank offering a

197 higher yield on and full insurance from the Federal Deposit Insurance
198 Corporation for the transferred balance until the consumer or recipient
199 of such card, code or device utilizes the unexpended balance or until
200 the date of expiration on such card, code or device has passed,
201 provided such purchaser or individual has a financial account that is
202 linked to such card, code or device.

203 (b) A general-use prepaid card shall not include an expiration date
204 relative to the underlying funds that are redeemable through the use of
205 the applicable card, code or device. Notwithstanding the provisions of
206 this subsection, a general-use prepaid card may include an expiration
207 date with regard to such card, code or device, provided: (1) The
208 following disclosures are made, in writing, on such card, code or
209 device [~~: (A) That] and any packaging material related to such card,
210 code or device: (A) A statement, disclosed with equal prominence and
211 in close proximity to the expiration date, that such card, code or device
212 expires, but that the underlying funds do not expire and that the
213 consumer may contact the issuer for a replacement card, code or
214 device; (B) a toll-free telephone number and an Internet web site
215 address, if one is maintained, that a holder of a general-use prepaid
216 card may use to obtain a comprehensive list of all charges, fees and
217 expenses to be borne by the holder of such card; and [(B)] (C) a toll-free
218 telephone number and an Internet web site address, if one is
219 maintained, that a holder of a general-use prepaid card may use to
220 obtain a replacement card, code or device after such card, code or
221 device expires, provided the remaining balance is not otherwise
222 returned to the holder; (2) no fee or charge is imposed on such holder
223 for replacing the card, code or device or for providing such holder
224 with the remaining balance in some other manner, provided the card,
225 code or device has not been lost or stolen; and (3) the seller of the card,
226 code or device has established policies and procedures to provide
227 consumers a reasonable opportunity to purchase a card, code or device
228 that has not less than five years remaining until the card, code or
229 device expires.~~

230 (c) A linked prepaid card shall not include an expiration date
231 relative to the underlying funds that are redeemable through the use of
232 the applicable card, code or device. Notwithstanding the provisions of
233 this subsection, a linked prepaid card may include an expiration date
234 with regard to such card, code or device, including an expiration date
235 contemplated by subparagraph (B) of subdivision (2) of subsection (a)
236 of this section, provided: (1) The following disclosures are made, in
237 writing, on such card, code or device [:(A) That] and any packaging
238 material related to such card, code or device: (A) A statement,
239 disclosed with equal prominence and in close proximity to the
240 expiration date, that such card, code or device expires, but that the
241 underlying funds do not expire, provided the purchaser of or
242 individual who increases or reloads funds onto such card, code or
243 device has not set an expiration date in accordance with said
244 subparagraph (B), and that the consumer may contact the issuer for a
245 replacement card, code or device; (B) a toll-free telephone number and
246 an Internet web site address, if one is maintained, that a holder of a
247 linked prepaid card may use to obtain a comprehensive list of all
248 charges, fees and expenses to be borne by the holder of such card; and
249 [(B)] (C) a toll-free telephone number and an Internet web site address,
250 if one is maintained, that a holder of a general-use prepaid card may
251 use to obtain a replacement card, code or device after such card, code
252 or device expires, provided the purchaser of or individual who
253 increases or reloads funds onto such card, code or device has not set an
254 expiration date in accordance with said subparagraph (B); (2) no fee or
255 charge is imposed on such holder for replacing the card, code or device
256 or providing such holder with the remaining balance in some other
257 manner, provided the card, code or device has not been lost or stolen
258 or, if an expiration date has been set in accordance with said
259 subparagraph (B), expired; (3) no fee or charge is imposed on the
260 purchaser of or individual who increases or reloads funds onto the
261 card, code or device for replacing the card, code or device or providing
262 such purchaser or individual with the unexpended balance in some
263 other manner, provided the card, code or device has not been lost or
264 stolen; and (4) the seller of the card, code or device has established

265 policies and procedures to provide consumers a reasonable
266 opportunity to purchase a card, code or device that has not less than
267 five years remaining until the card, code or device expires, unless the
268 purchaser of or individual who increases or reloads funds onto such
269 card, code or device has a financial account that is linked to such card,
270 code or device and sets an expiration date on such card, code or device
271 at not less than ninety days from the date of purchase or increasing or
272 reloading at which time the unexpended balance and any accrued
273 interest on the unexpended balance on such card, code or device shall
274 be transferred to such financial account.

275 (d) For purposes of complying with the disclosure requirements of
276 subdivision (1) of subsections (b) and (c) of this section, [(1)] the issuer
277 of a general-use prepaid card or a linked prepaid card may provide
278 disclosures that are consistent with the applicable provisions of 12 CFR
279 1005.20(e), as from time to time amended, [, and (2) such issuer shall
280 make the disclosure required under subparagraph (A) of subdivision
281 (1) of subsections (b) and (c) of this section with equal prominence and
282 in close proximity to the expiration date on the applicable card, code or
283 device.]

284 Sec. 8. Section 3-65c of the general statutes is repealed and the
285 following is substituted in lieu thereof (*Effective October 1, 2015*):

286 A holder of property subject to this part, or of a gift certificate, as
287 defined in section 3-56a, or a general-use prepaid card, as defined in
288 section 42-460a, as amended by this act, or a linked prepaid card, as
289 defined in section 42-460a, as amended by this act, may not impose on
290 the property a dormancy charge or fee, abandoned property charge or
291 fee, unclaimed property charge or fee, escheat charge or fee, inactivity
292 charge or fee, or any similar charge, fee or penalty for inactivity with
293 respect to the property. Neither the property nor an agreement with
294 respect to the property may contain language suggesting that the
295 property may be subject to such a charge, fee or penalty for inactivity.
296 The provisions of this section shall not apply to property subject to
297 subdivision (1), (2), (3) or (5) of subsection (a) of section 3-57a,

298 provided a holder of any such property may not impose an escheat
299 charge or fee with respect to such property.

300 Sec. 9. Subsection (f) of section 42a-4-406 of the general statutes is
301 repealed and the following is substituted in lieu thereof (*Effective*
302 *October 1, 2015*):

303 (f) Without regard to care or lack of care of either the customer or
304 the bank, a customer who does not within one year after the statement
305 or items are made available to the customer pursuant to subsection (a)
306 discover and report the customer's unauthorized signature on or any
307 alteration on the item is precluded from asserting against the bank the
308 unauthorized signature or alteration. If there is a preclusion under this
309 subsection, the payor bank may not recover for breach of warranty
310 under section 42a-4-208 with respect to the unauthorized signature or
311 alteration to which the preclusion applies. Pursuant to subsection (a) of
312 section 42a-4-103, a bank and a customer may agree to reduce the time
313 frame for discovering and reporting an unauthorized signature or
314 alteration. Such agreement shall not in and of itself constitute a
315 disclaimer of the bank's responsibility for its lack of good faith or
316 failure to exercise ordinary care or limit the measure of damages for
317 the lack or failure.

318 Sec. 10. Subsection (a) of section 49-31p of the general statutes is
319 repealed and the following is substituted in lieu thereof (*Effective*
320 *October 1, 2015*):

321 (a) In the case of any foreclosure on a federally-related mortgage
322 loan or on any dwelling or residential real property that has a return
323 date on or after July 13, 2011, [but not later than December 31, 2017,]
324 any immediate successor in interest in such property pursuant to the
325 foreclosure shall assume such interest subject to (1) the provision, by
326 such successor in interest, of a notice to vacate to any bona fide tenant
327 not less than ninety days before the effective date of such notice; and
328 (2) the rights of any bona fide tenant, as of the date absolute title vests
329 in such successor in interest (A) under any bona fide lease entered into

330 before such date to occupy the premises until the end of the remaining
331 term of the lease, except that a successor in interest may terminate a
332 lease effective on the date of sale of the unit to a purchaser who will
333 occupy the unit as a primary residence, subject to the receipt by the
334 tenant of the ninety-day notice under subdivision (1) of this subsection;
335 or (B) without a lease or with a lease terminable at will under state law,
336 subject to the receipt by the tenant of the ninety-day notice under
337 subdivision (1) of this subsection, except that nothing under this
338 section shall affect the requirements for termination of any federally
339 subsidized or state-subsidized tenancy or of any state or local law that
340 provides longer time periods or other additional protections for
341 tenants.

342 Sec. 11. Section 49-31q of the general statutes is repealed and the
343 following is substituted in lieu thereof (*Effective October 1, 2015*):

344 (a) [On or before December 31, 2017, in] In the case of an owner who
345 is an immediate successor in interest pursuant to foreclosure during
346 the term of a lease, vacating the property prior to sale shall not
347 constitute other good cause for terminating the lease of a tenant who is
348 a recipient of assistance under 42 USC 1437f(o), the federal Housing
349 Choice Voucher Program, except that the owner may terminate the
350 tenancy effective on the date of transfer of the unit to the owner if the
351 owner (1) will occupy the unit as a primary residence, and (2) has
352 provided the tenant a notice to vacate at least ninety days before the
353 effective date of such notice.

354 (b) [On or before December 31, 2017, in] In the case of any
355 foreclosure on any federally-related mortgage loan, as that term is
356 defined in 12 USC 2602(1), the Real Estate Settlement Procedures Act
357 of 1974, or on any residential real property in which a recipient of
358 assistance under 42 USC 1437(o), the federal Housing Choice Voucher
359 Program, resides, the immediate successor in interest in such property
360 pursuant to the foreclosure shall assume such interest subject to the
361 lease between the prior owner and the tenant and to the housing
362 assistance payments contract between the prior owner and the public

363 housing agency for the occupied unit, except that this provision and
 364 the provisions related to foreclosure in subsection (a) of this section
 365 shall not affect any state or local law that provides longer time periods
 366 or other additional protections for tenants.

367 Sec. 12. Section 49-31u of the general statutes is repealed. (*Effective*
 368 *from passage*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	36a-719h
Sec. 3	<i>July 1, 2015</i>	New section
Sec. 4	<i>July 1, 2015</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>July 1, 2016</i>	New section
Sec. 7	<i>October 1, 2015</i>	42-460a
Sec. 8	<i>October 1, 2015</i>	3-65c
Sec. 9	<i>October 1, 2015</i>	42a-4-406(f)
Sec. 10	<i>October 1, 2015</i>	49-31p(a)
Sec. 11	<i>October 1, 2015</i>	49-31q
Sec. 12	<i>from passage</i>	Repealer section