



# House of Representatives

General Assembly

**File No. 394**

February Session, 2016

Substitute House Bill No. 5572

*House of Representatives, April 4, 2016*

The Committee on Banking reported through REP. LESSER of the 100th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING SMALL LOAN LICENSEES.**

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

1 Section 1. Section 36a-555 of the 2016 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2016*):

4 [No person shall (1) engage in the business of making loans of  
5 money or credit; (2) make, offer, broker or assist a borrower in  
6 Connecticut to obtain such a loan; or (3) in whole or in part, arrange  
7 such loans through a third party or act as an agent for a third party,  
8 regardless of whether approval, acceptance or ratification by the third  
9 party is necessary to create a legal obligation for the third party,  
10 through any method, including, but not limited to, mail, telephone,  
11 Internet or any electronic means, in the amount or to the value of  
12 fifteen thousand dollars or less for loans made under section 36a-563 or  
13 section 36a-565, and charge, contract for or receive a greater rate of  
14 interest, charge or consideration than twelve per cent per annum  
15 therefor, unless licensed to do so by the commissioner pursuant to

16 sections 36a-555 to 36a-573, inclusive. The provisions of this section  
17 shall not apply to (A) a bank, (B) an out-of-state bank, (C) a  
18 Connecticut credit union, (D) a federal credit union, (E) an out-of-state  
19 credit union, (F) a savings and loan association wholly owned  
20 subsidiary service corporation, (G) a person to the extent that such  
21 person makes loans for agricultural, commercial, industrial or  
22 governmental use or extends credit through an open-end credit plan,  
23 as defined in 15 USC 1602, as amended from time to time, for the retail  
24 purchase of consumer goods or services, (H) a mortgage lender or  
25 mortgage correspondent lender licensed pursuant to section 36a-489  
26 when making residential mortgage loans, as defined in section 36a-485,  
27 or (I) a licensed pawnbroker.]

28 As used in this section and sections 36a-556 to 36a-573, inclusive, as  
29 amended by this act:

30 (1) "Advertise" or "advertising" means any announcement,  
31 statement, assertion or representation that is placed before the public  
32 in a newspaper, magazine or other publication, in the form of a notice,  
33 circular, pamphlet, letter or poster, over any radio or television station,  
34 by means of the Internet, by other electronic means of distributing  
35 information, by personal contact, or in any other way or medium;

36 (2) "APR" means the annual percentage rate for the loan calculated  
37 according to the provisions of the federal Truth-in-Lending Act, 15  
38 USC 1601 et seq., as amended from time to time, and the regulations  
39 promulgated thereunder;

40 (3) "Branch office" means a location other than the main office where  
41 the licensee, or any person on behalf of the licensee, will engage in  
42 activities that require a small loan license;

43 (4) "Connecticut borrower" means any borrower who resides in or  
44 maintains a domicile in this state and who (A) negotiates or agrees to  
45 the terms of the small loan in person, by mail, by telephone or via the  
46 Internet while physically present in this state, (B) enters into or  
47 executes a small loan agreement with the lender in person, by mail, by

48 telephone or via the Internet while physically present in this state, or  
49 (C) makes a payment on the loan in this state. For purposes of this  
50 subdivision, "payment on the loan" includes a debit on an account the  
51 borrower holds in a branch of a financial institution or the use of a  
52 negotiable instrument drawn on an account at a financial institution.  
53 For purposes of this subdivision, "financial institution" means any  
54 bank or credit union chartered or licensed under the laws of this state,  
55 any other state or the United States and having its main office or a  
56 branch office in this state;

57 (5) "Control person" means an individual that directly or indirectly  
58 exercises control over another person, and includes any person that (A)  
59 is a director, general partner or executive officer; (B) in the case of a  
60 corporation, directly or indirectly has the right to vote ten per cent or  
61 more of a class of any voting security or has the power to sell or direct  
62 the sale of ten per cent or more of any class of voting securities; (C) in  
63 the case of a limited liability company, is a managing member; or (D)  
64 in the case of a partnership, has the right to receive upon dissolution,  
65 or has contributed, ten per cent or more of the capital. For purposes of  
66 this subdivision, "control" means the power, directly or indirectly, to  
67 direct the management or policies of a company, whether through  
68 ownership of securities, by contract or otherwise;

69 (6) "Generating leads" means (A) initiating consumer interest or  
70 inquiry into a small loan by online marketing, direct response  
71 advertising, telemarketing or other similar consumer contact; (B)  
72 engaging in the business of selling leads for small loans; (C) generating  
73 or augmenting leads for other persons for or with the expectation of  
74 compensation or gain; or (D) referring consumers to other persons for  
75 a small loan for or with the expectation of compensation or gain;

76 (7) "Lead" means any information identifying a potential consumer  
77 of a small loan;

78 (8) "Main office" means the main address designated on the system  
79 where the licensee, or any person on behalf of the licensee, will engage  
80 in activities that require a small loan license;

81 (9) "Open-end small loan" means a small loan where the loan  
82 agreement provides that the lender may permit the borrower to obtain  
83 advances of money from time to time or provides that the lender may  
84 advance money on behalf of the borrower from time to time as  
85 directed by the borrower;

86 (10) "Person" means a natural person, corporation, company, limited  
87 liability company, partnership or association;

88 (11) "Small loan" means any loan of money or extension of credit, or  
89 the purchase of, or an advance of money on, a borrower's future  
90 income where the following conditions are present: (A) The amount or  
91 value is fifteen thousand dollars or less; and (B) the APR is greater  
92 than twelve per cent. For purposes of this subdivision, "future income"  
93 means any future potential source of money, and expressly includes,  
94 but is not limited to, a future pay or salary, pension or tax refund. For  
95 purposes of this section and sections 36a-556 to 36a-573, inclusive, as  
96 amended by this act, "small loan" shall not include: (i) A retail  
97 installment contract made in accordance with section 36a-772; or (ii) a  
98 loan or extension of credit for agricultural, commercial, industrial or  
99 governmental use;

100 (12) "Trigger lead" means a consumer report obtained pursuant to  
101 Section 604(C)(1)(B) of the Fair Credit Reporting Act, 15 USC 1681b,  
102 where the issuance of the report is triggered by an inquiry made with a  
103 consumer reporting agency in response to an application for credit.  
104 "Trigger lead" does not include a consumer report obtained by a small  
105 loan lender that holds or services existing indebtedness of the  
106 applicant who is the subject of the report; and

107 (13) "Unique identifier" means a number or other identifier assigned  
108 by protocols established by the system.

109 Sec. 2. Section 36a-556 of the general statutes is repealed and the  
110 following is substituted in lieu thereof (*Effective July 1, 2016*):

111 [Upon the filing of the required application and license fee, the

112 commissioner shall investigate the facts and, if the commissioner finds  
113 that (1) the experience, character and general fitness of the applicant,  
114 and of the members thereof if the applicant is a partnership, limited  
115 liability company or association, and of the officers and directors  
116 thereof if the applicant is a corporation, are satisfactory, (2) a license to  
117 such applicant will be for the convenience and advantage of the  
118 community in which the applicant's business is to be conducted, and  
119 (3) the applicant has the capital investment required by this section, the  
120 commissioner shall issue a license to the applicant to make loans in  
121 accordance with sections 36a-555 to 36a-573, inclusive. If the  
122 commissioner fails to make such findings or finds that the applicant  
123 made a material misstatement in the application, the commissioner  
124 shall not issue a license and shall notify the applicant of the denial and  
125 the reasons for such denial. The commissioner may deny an  
126 application if the commissioner finds that the applicant or any  
127 member, officer, or director of the applicant has been convicted of any  
128 misdemeanor involving any aspect of the small loan lender business,  
129 or any felony. Any denial of an application by the commissioner shall,  
130 when applicable, be subject to the provisions of section 46a-80.  
131 Withdrawal of an application for a license shall become effective upon  
132 receipt by the commissioner of a notice of intent to withdraw such  
133 application. The commissioner may deny a license up to the date one  
134 year after the date the withdrawal became effective. The capital  
135 investment shall be not less than twenty-five thousand dollars for each  
136 licensed location in a city or town with a population of ten thousand or  
137 more inhabitants and ten thousand dollars for each licensed location in  
138 a city or town with a smaller population. Population shall be  
139 determined according to the last United States census at the time a  
140 license is granted.]

141 (a) Without having first obtained a small loan license from the  
142 commissioner pursuant to section 36a-565, as amended by this act, no  
143 person shall, by any method, including, but not limited to, mail,  
144 telephone, Internet or other electronic means, unless exempt pursuant  
145 to section 36a-557, as amended by this act:

- 146     (1) Make a small loan to a Connecticut borrower;
- 147     (2) Offer to solicit or broker, directly or indirectly arrange, place or  
148 find a small loan for a prospective Connecticut borrower;
- 149     (3) Engage in any other activity to assist a prospective Connecticut  
150 borrower in obtaining a small loan, including, but not limited to,  
151 generating leads or making referrals for small loans;
- 152     (4) Receive payments of principal and interest in connection with a  
153 small loan made to a Connecticut borrower;
- 154     (5) Purchase, acquire or receive assignment of a small loan made to  
155 a Connecticut borrower; and
- 156     (6) Advertise or cause to be advertised in this state a small loan or  
157 any of the services described in subdivisions (1) to (5), inclusive, of this  
158 subsection.
- 159     (b) No person shall accept any lead, referral or application for a  
160 small loan to a prospective Connecticut borrower from a person who is  
161 not (1) licensed pursuant to section 36a-565, as amended by this act, or  
162 (2) exempt from licensure pursuant to section 36a-557, as amended by  
163 this act.
- 164     (c) No person shall sell, transfer, pledge, assign or otherwise dispose  
165 of any small loan made to a Connecticut borrower to any person who  
166 is not licensed pursuant to section 36a-565, as amended by this act, or  
167 exempt from licensure pursuant to section 36a-557, as amended by this  
168 act.

169     Sec. 3. Section 36a-557 of the general statutes is repealed and the  
170 following is substituted in lieu thereof (*Effective July 1, 2016*):

171     [(a) An application for such license shall be in writing, under oath  
172 and in the form prescribed by the commissioner, and shall include (1)  
173 the history of criminal convictions of the applicant; the members, if the  
174 applicant is a partnership, limited liability company or association; or

175 the officers and directors, if the applicant is a corporation, and (2)  
176 sufficient information pertaining to the history of criminal convictions,  
177 in a form acceptable to the commissioner, on such applicant, members,  
178 officers and directors as the commissioner deems necessary to make  
179 the findings under section 36a-556. The commissioner, in accordance  
180 with section 29-17a, may conduct a state and national criminal history  
181 records check of the applicant and of each member, officer and director  
182 of the applicant. The commissioner may deem an application for a  
183 license as a small loan lender abandoned if the applicant fails to  
184 respond to any request for information required under sections 36a-  
185 555 to 36a-573, inclusive, or any regulations adopted pursuant to said  
186 sections 36a-555 to 36a-573, inclusive. The commissioner shall notify  
187 the applicant, in writing, that if such information is not submitted not  
188 later than sixty days after such request, the application shall be  
189 deemed abandoned. An application filing fee paid prior to the date an  
190 application is deemed abandoned pursuant to this subsection shall not  
191 be refunded. Abandonment of an application pursuant to this  
192 subsection shall not preclude the applicant from submitting a new  
193 application for a license under sections 36a-555 to 36a-573, inclusive.

194 (b) Withdrawal of an application for a license filed under subsection  
195 (a) of this section shall become effective upon receipt by the  
196 commissioner of a notice of intent to withdraw such application. The  
197 commissioner may deny a license up to the date one year after the date  
198 the withdrawal became effective.]

199 The following are exempt from the requirement for licensure set  
200 forth in section 36a-556, as amended by this act: (1) A bank; (2) an out-  
201 of-state bank; (3) a Connecticut credit union; (4) a federal credit union;  
202 (5) an out-of-state credit union; (6) a savings and loan association  
203 wholly owned subsidiary service corporation; (7) a licensed  
204 pawnbroker; and (8) a person engaged as a third party in collecting or  
205 receiving moneys due from a Connecticut borrower on a small loan for  
206 payment to others, if such person is licensed as a consumer collection  
207 agency in accordance with section 36a-801.

208 Sec. 4. Section 36a-558 of the general statutes is repealed and the  
209 following is substituted in lieu thereof (*Effective July 1, 2016*):

210 [(a) Each applicant for a small loan lender license, at the time of  
211 making such application, shall pay to the commissioner a license fee of  
212 eight hundred dollars, provided if such application is filed not earlier  
213 than one year before the date such license will expire, the applicant  
214 shall pay to the commissioner a license fee of four hundred dollars.  
215 Each such license shall expire at the close of business on September  
216 thirtieth of the odd-numbered year following its issuance, unless such  
217 license is renewed, provided any license that is renewed effective July  
218 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or  
219 before September first of the year in which the license expires, or in the  
220 case of a license that expires on June 30, 2003, on or before June 1, 2003,  
221 file a renewal application and pay to the commissioner a license fee of  
222 eight hundred dollars to renew the license, provided if such  
223 application is for renewal of a license that expires on June 30, 2003, the  
224 applicant shall pay the commissioner a license fee of nine hundred  
225 dollars. Any renewal application filed with the commissioner after  
226 September first, or in the case of a license that expires on June 30, 2003,  
227 after June 1, 2003, shall be accompanied by a one-hundred-dollar late  
228 fee and any such filing shall be deemed to be timely and sufficient for  
229 purposes of subsection (b) of section 4-182. Whenever an application  
230 for a license, other than a renewal application, is filed under this  
231 section by any person who was a licensee and whose license expired  
232 less than sixty days prior to the date such application was filed, such  
233 application shall be accompanied by a one-hundred-dollar processing  
234 fee in addition to the application fee. Each applicant shall pay the  
235 expenses of any examination or investigation made under sections 36a-  
236 555 to 36a-573, inclusive.

237 (b) If the commissioner determines that a check filed with the  
238 commissioner to pay a fee under subsection (a) of this section has been  
239 dishonored, the commissioner shall automatically suspend the license  
240 or a renewal license that has been issued but is not yet effective. The  
241 commissioner shall give the licensee notice of the automatic

242 suspension pending proceedings for revocation or refusal to renew  
243 and an opportunity for a hearing on such actions in accordance with  
244 section 36a-51.

245 (c) No abatement of the license fee shall be made if the license is  
246 surrendered, revoked or suspended prior to the expiration of the  
247 period for which it was issued. All fees required by this section shall be  
248 nonrefundable.]

249 (a) No person licensed or required to be licensed under section 36a-  
250 556, as amended by this act, shall engage in any of the activities  
251 described in subdivision (1), (2), (3) or (6) of subsection (a) of section  
252 36a-556, as amended by this act, for any small loan that contains any  
253 condition or provision inconsistent with the requirements in  
254 subsections (d) to (g), inclusive, of this section.

255 (b) No person licensed or required to be licensed under section 36a-  
256 556, as amended by this act, and no person exempt from licensure  
257 under section 36a-557, as amended by this act, shall engage in any of  
258 the activities described in subdivision (4), (5) or (6) of subsection (a) of  
259 section 36a-556, as amended by this act, for any small loan made by a  
260 person who was licensed or who was required to be licensed under  
261 section 36a-556, as amended by this act, that contains any condition or  
262 provision inconsistent with the requirements in subsections (d) to (g),  
263 inclusive, of this section.

264 (c) (1) Except as the result of a bona fide error or as set forth in  
265 subdivision (2) of this subsection, any small loan described in  
266 subsection (a) or (b) of this section that contains any condition or  
267 provision inconsistent with the requirements in subsections (d) to (g),  
268 inclusive, of this section shall not be enforced in this state. Such small  
269 loan shall be void and no person shall have the right to collect or  
270 receive any principal, interest, charge or other consideration thereon.  
271 Any person attempting to collect or receive principal, interest, charge  
272 or other consideration on such small loan shall be subject to the  
273 provisions of section 36a-570, as amended by this act.

274 (2) Subdivision (1) of this subsection shall not apply when: (A) The  
275 inconsistent condition or provision is the result of a bona fide error; or  
276 (B) the small loan was lawfully made in compliance with a validly  
277 enacted licensed loan law of another state to a borrower who was not,  
278 at the time of the making of such loan, a Connecticut borrower but  
279 who has since become a Connecticut borrower.

280 (3) For the purposes of this subsection, the term "bona fide error"  
281 includes, but is not limited to, clerical, calculation and computer  
282 malfunction, programming and printing errors, but does not include  
283 an error of legal judgment with respect to a person's obligations under  
284 sections 36a-555 to 36a-573, inclusive, as amended by this act, or under  
285 regulations implemented pursuant to section 36a-573, as amended by  
286 this act.

287 (d) Small loans that are the subject of the activities set forth in  
288 subsections (a) and (b) of section 36a-556, as amended by this act, shall  
289 not contain:

290 (1) For a small loan that is under five thousand dollars, an annual  
291 percentage rate that exceeds the maximum annual percentage rate for  
292 interest that is permitted with respect to the consumer credit extended  
293 under the Military Lending Act, 10 USC 987 et seq., as amended from  
294 time to time, or for a small loan that is between five thousand and  
295 fifteen thousand dollars, an annual percentage rate that exceeds  
296 twenty-five per cent;

297 (2) A provision that increases the interest rate due to default;

298 (3) A payment schedule with regular periodic payments that when  
299 aggregated do not fully amortize the outstanding principal balance;

300 (4) A payment schedule with regular periodic payments that cause  
301 the principal balance to increase;

302 (5) A payment schedule that consolidates more than two periodic  
303 payments and pays them in advance from the proceeds, unless such  
304 payments are required to be escrowed by a governmental agency;

305 (6) A prepayment penalty;

306 (7) An adjustable rate provision;

307 (8) A waiver of participation in a class action or a provision  
308 requiring a borrower, whether acting individually or on behalf of  
309 others similarly situated, to assert any claim or defense in a nonjudicial  
310 forum that: (A) Utilizes principles that are inconsistent with the law as  
311 set forth in the general statutes or common law; (B) limits any claim or  
312 defense the borrower may have; or (C) is less convenient, more time  
313 consuming and more costly for the resolution of a dispute than a  
314 judicial forum established in this state where the borrower may  
315 otherwise properly bring a claim or defense;

316 (9) A call provision that permits the lender, in its sole discretion, to  
317 accelerate the indebtedness, except when repayment of the loan is  
318 accelerated by a bona fide default pursuant to a due-on-sale clause  
319 provision or another provision of the loan agreement unrelated to the  
320 payment schedule, including, but not limited to, bankruptcy or  
321 receivership;

322 (10) A security interest, except as provided in subsection (e) of this  
323 section; or

324 (11) Fees or charges of any kind, except as expressly permitted by  
325 subsection (e) of this section.

326 (e) Small loans as described in subsections (a) and (b) of this section  
327 may contain provisions:

328 (1) For late fees, if: (A) Such fees are assessed after an installment  
329 remains unpaid for ten or more consecutive days, including Sundays  
330 and holidays; (B) such fees do not exceed the lesser of five per cent of  
331 the outstanding installment payment, excluding any previously  
332 assessed late fees, or a total of ten dollars per month, whichever is less;  
333 and (C) no interest is charged on such fees;

334 (2) Allowing charges for a dishonored check or any other form of

335 returned payment, provided the total fee for such returned payment  
336 shall not exceed twenty dollars;

337 (3) Allowing for collection of deferral charges, but only upon the  
338 specific written authorization of the borrower and in a total amount  
339 not to exceed the interest due during the applicable billing cycle;

340 (4) Allowing for the accrual of interest after the maturity date or the  
341 deferred maturity date, provided such interest shall not exceed twelve  
342 per cent per annum computed on a daily basis on the respective  
343 unpaid balances;

344 (5) Providing for reasonable attorney's fees subject to the conditions  
345 and restrictions set forth in section 42-150aa;

346 (6) Including credit life insurance or credit accident and health  
347 insurance subject to the conditions and restrictions set forth in section  
348 36a-559, as amended by this act;

349 (7) Taking a security interest in a motor vehicle in connection with a  
350 closed-end small loan made solely for the purchase of such motor  
351 vehicle, provided the APR of such loan shall not exceed the rates  
352 indicated for the respective classifications of motor vehicles as follows:  
353 (A) New motor vehicles, fifteen per cent; (B) used motor vehicles of a  
354 model designated by the manufacturer by a year not more than two  
355 years prior to the year in which the sale is made, seventeen per cent;  
356 and (C) used motor vehicles of a model designated by the  
357 manufacturer by a year more than two years prior to the year in which  
358 the sale is made, nineteen per cent.

359 (f) Open-end small loans as described in subsections (a) and (b) of  
360 this section shall, in addition to the requirements set forth in  
361 subsections (d) and (e) of this section:

362 (1) Not have an APR that exceeds nineteen and eight-tenths per  
363 cent;

364 (2) Not provide for an advance of money exceeding at any one time

365 an unpaid principal of fifteen thousand dollars;

366 (3) Provide for payments and credits to be made to the same  
367 borrower's account from which advances, interests, charges and costs  
368 on such loan are debited;

369 (4) Provide for interest to be computed on any unpaid principal  
370 balance of the account in each billing cycle by one of the following  
371 methods: (A) By converting the APR to a daily rate and multiplying  
372 such daily rate by the daily unpaid principal balance of the account, in  
373 which case the daily rate is determined by dividing the APR by three  
374 hundred sixty-five; or (B) by converting the APR to a monthly rate and  
375 multiplying the monthly rate by the average daily unpaid principal  
376 balance of the account in the billing cycle, in which case (i) the monthly  
377 rate is determined by dividing the APR by twelve, and (ii) the average  
378 daily unpaid principal balance is the sum of the amount unpaid each  
379 day during the cycle divided by the number of days in the cycle. In  
380 either of such computations, the billing cycle shall be monthly and the  
381 unpaid principal balance on any day shall be determined by adding to  
382 any balance unpaid as of the beginning of such day all advances and  
383 other permissible amounts charged to the borrower and deducting all  
384 payments and other credits made or received that day;

385 (5) Not compound interest or charges by adding any unpaid interest  
386 or charges authorized by sections 36a-555 to 36a-573, inclusive, as  
387 amended by this act, to the unpaid principal balance of the borrower's  
388 account; or

389 (6) Not include any other fees or charges of any kind, except as  
390 expressly permitted by subsection (g) of this section.

391 (g) Open-end small loans as described in subsections (a) and (b) of  
392 this section, in addition to the requirements set forth in subsections (d)  
393 to (f), inclusive, of this section, may:

394 (1) Provide for an annual fee for the privileges made available to the  
395 borrower under the open-end loan agreement, provided such annual

396 fee shall not exceed fifty dollars; and

397 (2) Include credit life insurance or credit accident and health  
398 insurance, subject to the conditions and restrictions set forth in section  
399 36a-559, as amended by this act.

400 (h) No person licensed or required to be licensed under sections 36a-  
401 555 to 36a-573, inclusive, as amended by this act, who is engaged in  
402 generating leads shall:

403 (1) Initiate any outbound telephone call using an automatic  
404 telephone dialing system or an artificial or prerecorded voice without  
405 the prior express written consent of the recipient;

406 (2) Fail to transmit or cause to transmit the lead generator's name  
407 and telephone number to any caller identification service in use by a  
408 consumer;

409 (3) Initiate an outbound telephone call to a consumer's residence  
410 between nine o'clock p.m. and eight o'clock a.m. local time at the  
411 consumer's location;

412 (4) Fail to clearly and conspicuously identify the lead generator and  
413 the purpose of the contact in its written and oral communications with  
414 a consumer;

415 (5) Fail to provide the ability to opt out of any unsolicited  
416 advertisement communicated to a consumer via an electronic mail  
417 address;

418 (6) Initiate an unsolicited advertisement via electronic mail to a  
419 consumer more than ten business days after the receipt of a request  
420 from such consumer to opt out of such unsolicited advertisements;

421 (7) Use a subject heading or electronic mail address in a commercial  
422 electronic mail message that would likely mislead a recipient, acting  
423 reasonably under the circumstances, about a material fact regarding  
424 the sender, contents or subject matter of the message;

425 (8) Sell, lease, exchange or otherwise transfer or release the  
426 electronic mail address or telephone number of a consumer who has  
427 requested to be opted out of future solicitations;

428 (9) Collect, buy, lease, exchange or otherwise transfer or receive an  
429 individual's Social Security number or bank account number;

430 (10) Use information from a trigger lead to solicit consumers who  
431 have opted out of firm offers of credit under the federal Fair Credit  
432 Reporting Act;

433 (11) Initiate a telephone call to a consumer who has placed his or her  
434 contact information on a federal or state Do Not Call list, unless the  
435 consumer has provided express written consent;

436 (12) Represent to the public, through advertising or other means of  
437 communicating or providing information, including, but not limited  
438 to, the use of business cards or stationery, brochures, signs or other  
439 promotional items, that such lead generator can or will perform any  
440 other activity requiring licensure under title 36a, unless such lead  
441 generator is duly licensed to perform such other activity or exempt  
442 from such licensure requirements;

443 (13) Refer applicants to, or receive a fee from, any person who is  
444 required to be licensed under title 36a, but was not so licensed as of the  
445 time of the performance of such lead generator's services;

446 (14) Assist or aid and abet any person in the conduct of business  
447 requiring licensure under title 36a when such person does not hold the  
448 license required;

449 (15) Directly or indirectly employ any scheme, device or artifice to  
450 defraud or mislead any person;

451 (16) Make, in any manner, any false, misleading or deceptive  
452 statement or representation in connection with a small loan or engage  
453 in bait and switch advertising; or

454 (17) Negligently make any false statement or knowingly and  
455 wilfully make any omission of material fact in connection with any  
456 information or report filed with a governmental agency or the system  
457 or in connection with any investigation conducted by the  
458 commissioner or another governmental agency.

459 Sec. 5. Section 36a-559 of the general statutes is repealed and the  
460 following is substituted in lieu thereof (*Effective July 1, 2016*):

461 [No license shall be assignable nor shall any license be transferable  
462 to cover a place of business not located in either the same or an  
463 adjacent city or town. Any change in a licensee's place of business  
464 either within the same or to an adjacent city or town shall be in  
465 accordance with section 36a-562. The license shall be kept  
466 conspicuously posted in the place of business of the licensee. Every  
467 license shall remain in force and effect until the same has been  
468 surrendered, revoked or suspended, or has expired in accordance with  
469 the provisions of sections 36a-555 to 36a-573, inclusive. Any license  
470 which is revoked or suspended shall be immediately surrendered to  
471 the commissioner. If any change occurs in the personnel of the  
472 partners, principals, directors, officers or managers of any licensee, the  
473 licensee shall forthwith notify the commissioner, and the commissioner  
474 may require a statement under oath giving such information as the  
475 commissioner may reasonably require with respect to such change.]

476 (a) Subject to the conditions provided in this section, insurance may  
477 be sold to a Connecticut borrower at the request of the borrower (1) for  
478 insuring the life of persons obligated on a small loan pursuant to  
479 sections 38a-645 to 38a-658, inclusive, and (2) providing accident and  
480 health insurance covering one person on a small loan pursuant to  
481 sections 38a-645 to 38a-658, inclusive. In the case of credit life  
482 insurance sold under subdivision (1) of this subsection, the amount of  
483 the insurance shall be sufficient to pay the total balance of the loan due  
484 on the date of the insured's death. Credit accident and health insurance  
485 sold under subdivision (2) of this subsection shall not provide  
486 indemnity against the risk of a borrower becoming disabled for a

487 period of less than fourteen days, except that it may provide for  
488 retroactive coverage if the disability continues for the period stated in  
489 the policy. Irrespective of the number of obligors, only one obligor  
490 may be insured, except that life insurance may cover both a borrower  
491 and such borrower's spouse where both are obligors on a small loan. A  
492 licensee shall not require the purchase of insurance as a condition  
493 precedent to the making of a small loan. A licensee shall, both verbally  
494 and in writing, inform the borrower prior to entering into any small  
495 loan contract of his or her right not to purchase credit insurance. In  
496 order to be excluded from the APR calculation, the charge for  
497 insurance shall be reasonable, the licensee may not receive any direct  
498 or indirect compensation relating to the sale of the insurance and the  
499 charge for the insurance may not be paid to an affiliate of the licensee.

500 (b) If a borrower obtains credit accident and health insurance, the  
501 borrower shall have the right to cancel such credit accident and health  
502 insurance at any time by giving written notice of cancellation to the  
503 licensee. Notification of this right shall be made in the borrower's  
504 insurance election. All persons obligated on the loan shall agree, in  
505 writing, to the cancellation and return all certificates of insurance.  
506 Upon cancellation, the licensee shall, at the licensee's option, either  
507 refund the insurance charges to the borrower or apply them to the  
508 unpaid balance of the loan.

509 (c) For the purposes of this section, in the case of an open-end small  
510 loan, the additional charge for credit life insurance or credit accident  
511 and health insurance shall be calculated in each billing cycle by  
512 applying the current monthly premium rate for such insurance, as  
513 such rate may be determined by the Insurance Commissioner, to the  
514 unpaid balances in the account, using any of the methods for the  
515 calculation of loan charges specified in subdivision (4) of subsection (f)  
516 of section 36a-558, as amended by this act. No credit life insurance or  
517 credit accident and health insurance written in connection with an  
518 open-end small loan shall be cancelled by the licensee because of  
519 delinquency of the borrower in the making of the required minimum  
520 payments on the loan unless (1) one or more of such payments is past

521 due for a period of ninety days or more, and (2) the licensee advances  
522 to the insurer the amounts required to keep the insurance in force  
523 during such period, which amounts may be debited from the  
524 borrower's account. Any cancellation shall be effective at the end of the  
525 billing cycle in which the notice is received and the licensee shall  
526 discontinue any further charges for credit accident and health  
527 insurance.

528 Sec. 6. Section 36a-560 of the general statutes is repealed and the  
529 following is substituted in lieu thereof (*Effective July 1, 2016*):

530 [No licensee shall make any loan provided for by sections 36a-555 to  
531 36a-573, inclusive, under any other name or at any other place of  
532 business than that named in the license. Not more than one place of  
533 business shall be maintained under the same license, but the  
534 commissioner may issue more than one license to the same licensee  
535 upon compliance with the provisions of sections 36a-555 to 36a-573,  
536 inclusive, as to each new license. Not later than fifteen days after a  
537 licensee ceases to engage in this state in the business of a small loan  
538 lender for any reason, including a business decision to terminate  
539 operations in this state, license revocation, bankruptcy or voluntary  
540 dissolution, such licensee shall surrender to the commissioner in  
541 person or by registered or certified mail its license for each location in  
542 which such licensee has ceased to engage in such business.]

543 No licensee shall:

544 (1) Cause a borrower, including, but not limited to, a comaker or  
545 guarantor, to owe at any time more than fifteen thousand dollars for  
546 principal;

547 (2) Induce or permit a borrower to split or divide any small loan or  
548 loans, or induce or permit a borrower to become obligated, directly or  
549 indirectly, under more than one contract of loan at the same time,  
550 primarily for the purpose of obtaining rates or charges that would  
551 otherwise be prohibited by any applicable provision of sections 36a-  
552 555 to 36a-573, inclusive, as amended by this act;

553 (3) Take any (A) confession of judgment, (B) power of attorney, (C)  
554 note or promise to pay that does not state the actual amount of the  
555 loan, the time period for which the loan is made of the charges for such  
556 loan, or (D) instrument related to the loan in which blanks are left to be  
557 filled after the loan is made;

558 (4) Offer the borrower any other product or service in connection  
559 with a small loan unless (A) permitted by sections 36a-555 to 36a-573,  
560 inclusive, as amended by this act, (B) authorized under another license,  
561 or by applicable exemption from any requirement for such licensure,  
562 to offer such product or services, or (C) if no separate license or  
563 exemption therefrom is required to offer such product or services,  
564 authorized in advance, in writing, by the commissioner upon being  
565 satisfied that such other product or service is of such a character that  
566 the granting of such authority would not permit or easily facilitate  
567 evasion of the provisions of sections 36a-555 to 36a-573, inclusive, as  
568 amended by this act, or of any regulations promulgated thereunder; or

569 (5) Renew or refinance a small loan unless the renewal or  
570 refinancing of the loan will result in a distinct advantage to the  
571 borrower, provided restoration to a contractually up-to-date condition  
572 shall not, in itself, constitute a distinct advantage to the borrower.

573 Sec. 7. Section 36a-561 of the general statutes is repealed and the  
574 following is substituted in lieu thereof (*Effective July 1, 2016*):

575 [No licensee shall conduct the business of making loans under the  
576 provisions of sections 36a-555 to 36a-573, inclusive, in association or  
577 conjunction with any other type of business or within any office or  
578 room where any other type of business is solicited or engaged in,  
579 except as may be authorized in writing by the commissioner upon  
580 being satisfied that such other business is of such a character that the  
581 granting of such authority would not permit or easily facilitate  
582 evasions of the provisions of sections 36a-555 to 36a-573, inclusive, or  
583 of any regulations adopted under section 36a-570.]

584 No person shall, directly or indirectly, assist or aid and abet any

585 person in conduct prohibited by sections 36a-555 to 36a-573, inclusive,  
586 as amended by this act.

587 Sec. 8. Section 36a-562 of the general statutes is repealed and the  
588 following is substituted in lieu thereof (*Effective July 1, 2016*):

589 [Prior to changing a licensee's place of business either within the  
590 same city or town or to an adjacent city or town, the licensee shall  
591 apply to the commissioner, who shall investigate the facts and, if the  
592 commissioner finds (1) that allowing the licensee to engage in business  
593 in the proposed location is not detrimental to the convenience and  
594 advantage of the community, and (2) that the proposed location is  
595 reasonably accessible to borrowers under existing loan contracts, the  
596 commissioner shall approve the change. If the commissioner does not  
597 so find, the commissioner shall deny the application.]

598 In each case where a license is required by section 36a-556, as  
599 amended by this act, the licensee shall have a main office license and  
600 may have a branch office license. All offices shall be located in the  
601 United States. Each main office shall have a qualified individual, who  
602 shall be responsible for supervising all aspects of the licensee's small  
603 loan business. Each branch shall have a branch manager, who shall be  
604 responsible for supervising all aspects of the branch's small loan  
605 business.

606 Sec. 9. Section 36a-563 of the 2016 supplement to the general statutes  
607 is repealed and the following is substituted in lieu thereof (*Effective July*  
608 *1, 2016*):

609 [(a) Every licensee under sections 36a-555 to 36a-573, inclusive, may  
610 loan any sum of money not exceeding fifteen thousand dollars,  
611 excluding charges, and may charge, contract for and receive thereon  
612 charges at a rate not to exceed the following: (1) On any loan which  
613 does not exceed one thousand eight hundred dollars, excluding  
614 charges, or on any unsecured loan or on any loan secured only by  
615 credit life insurance, seventeen dollars per one hundred dollars on that  
616 part of the cash advance, not exceeding six hundred dollars, and

617 eleven dollars per one hundred dollars on any remainder when the  
618 loan is made payable over a period of one year, and proportionately at  
619 those rates over a longer or shorter term of loan; (2) on a loan which  
620 exceeds one thousand eight hundred dollars, excluding charges, and  
621 which is secured by property other than credit life insurance, eleven  
622 dollars per one hundred dollars on the entire cash advance when the  
623 loan is made payable over a period of one year, and proportionately at  
624 that rate over a longer or shorter term of loan. Such charges shall be  
625 computed at the time the loan is made on the full amount of the cash  
626 advance for the full term of the loan contract, notwithstanding any  
627 agreement to repay the loan in installments. Such charges shall be  
628 added to the cash advance and the resulting sum may become the face  
629 amount of the note. All payments made on account of any loan, except  
630 those applied to default and deferment charges, shall be deemed to be  
631 applied to the unpaid installments in the order in which they are due.

632 (b) For the purpose of computations, whether at the maximum rate  
633 or less, a month shall be that period of time from any date in one  
634 month to the corresponding date in the next month, but if there is no  
635 such corresponding date, then to the last day of the next month, and a  
636 day shall be considered one-thirtieth of a month when such  
637 computation is made for a fraction of a month. For loans originally  
638 scheduled to be repaid over a period of forty-eight months and fifteen  
639 days or less, the portion of the charges applicable to any particular  
640 monthly installment period, as originally scheduled or following a  
641 deferment, shall bear the same ratio to the total charges, excluding any  
642 adjustment made under subsection (c) of this section, as the balance  
643 scheduled to be outstanding during that monthly period bears to the  
644 sum of all the monthly balances scheduled originally by the contract of  
645 loan. For loans originally scheduled to be repaid over a period in  
646 excess of forty-eight months and fifteen days, the portion of the  
647 charges applicable to any particular monthly installment period, as  
648 originally scheduled or following a deferment, shall be the charges  
649 which would be incurred for that monthly installment period if the  
650 annual percentage rate disclosed to the borrower pursuant to sections  
651 36a-675 to 36a-686, inclusive, were charged, by the actuarial method,

652 on the disclosed amount financed and all payments were made  
653 according to schedule.

654 (c) Notwithstanding the requirement in subsection (a) of this  
655 section, a borrower and licensee may agree that the first installment  
656 due date may be not more than fifteen days more than one month, and  
657 the charge for each day in excess of one month shall be one-thirtieth of  
658 the portion of the charges applicable to a first installment period of one  
659 month. The charges for the extra days shall be added to the first  
660 installment, but shall be excluded in computing deferment charges and  
661 refunds. When a loan contract provides for extra days in a first  
662 installment period, for the purposes of sections 36a-555 to 36a-573,  
663 inclusive, such extra days shall be treated as the first days in the first  
664 installment period and the due dates of the remaining installments  
665 shall be calculated from the due date of such first installment.

666 (d) If any installment remains unpaid for ten or more consecutive  
667 days, including Sundays and holidays, after it is due, the licensee may  
668 charge and collect a default charge not exceeding the lesser of seven  
669 dollars and fifty cents or five cents per dollar, or fraction thereof, of  
670 such scheduled installment, except a minimum default charge of three  
671 dollars may be charged and collected. Default charges may be  
672 collected when due or at any time thereafter, but may not be  
673 accumulated until the last payment date.

674 (e) If, as of an installment due date, the payment date of all wholly  
675 unpaid installments is deferred one or more full months and the  
676 maturity of the contract is extended for a corresponding period, the  
677 licensee may charge and collect a deferment charge not exceeding the  
678 charge applicable to the first of the installments deferred, multiplied  
679 by the number of months in the deferment period. The deferment  
680 period is that period during which no payment is made or required by  
681 reason of such deferment, except that no deferment made pursuant to  
682 this subsection shall extend the maturity of any contract made under  
683 sections 36a-555 to 36a-573, inclusive, for more than (1) three months,  
684 for loans originally repayable in twenty-four months or less, (2) five

685 months, for loans originally repayable in more than twenty-four  
686 months but not more than forty-eight months, and (3) eight months,  
687 for loans originally repayable in more than forty-eight months. The  
688 deferment charge may be collected at the time of deferment or at any  
689 time thereafter. The portion of the charges contracted for under  
690 subsection (a) of this section applicable to each deferred balance and  
691 installment period following the deferment period shall remain the  
692 same as that applicable to such balance and period under the original  
693 contract of loan. No installment on which a default charge has been  
694 collected, or on account of which any partial payment has been made,  
695 shall be deferred or included in the computation of the deferment  
696 charge unless such default charge or partial payment is refunded to the  
697 borrower or credited to the deferment charge. Any payment received  
698 at the time of deferment may be applied first to the deferment charge  
699 and the remainder, if any, applied to the unpaid balance of the  
700 contract, but if such payment is sufficient to pay, in addition to the  
701 appropriate deferment charge, any installment which is in default and  
702 the applicable default charge, it shall be first so applied and any such  
703 installment shall not be deferred or subject to the deferment charge. If  
704 a loan is prepaid in full during the deferment period, the borrower  
705 shall receive, in addition to the refund required under subsection (f) of  
706 this section, a refund of that portion of the deferment charge applicable  
707 to any unexpired full month or months of such deferment period.

708 (f) If the contract of loan is prepaid in full by cash, a new loan or  
709 otherwise, before the final installment date, the portion of the charges  
710 applicable to the full installment periods, as scheduled originally in the  
711 loan contract or as rescheduled by reason of any deferment made  
712 pursuant to sections 36a-555 to 36a-573, inclusive, following the date of  
713 prepayment shall be refunded or credited to the borrower. Where  
714 prepayment occurs on other than a monthly installment due date, it  
715 shall be deemed to have occurred on the preceding or succeeding  
716 installment due date nearest to the date of prepayment. Where  
717 prepayment occurs on a date midpoint between the preceding and  
718 succeeding monthly installment due dates, it shall be deemed to have  
719 occurred on the preceding monthly due date. In all cases where

720 prepayment occurs before the first monthly installment due date, it  
721 shall be deemed to have occurred on the first monthly installment due  
722 date. If judgment is obtained before the final installment date, the  
723 judgment shall reflect the refund which would be required for  
724 prepayment in full as of the date judgment is obtained. No refund of  
725 less than one dollar or for partial prepayments need be made.

726 (g) If part or all of the consideration for a loan contract is the unpaid  
727 balance, excluding default charges, of a prior loan with the same  
728 licensee, the cash advance under such new loan contract may include  
729 the balance of the prior contract which remains after giving the  
730 required refund.

731 (h) In addition to the charges provided for by sections 36a-555 to  
732 36a-573, inclusive, and service charges that are imposed for a check  
733 that is dishonored as provided in subsection (i) of section 52-565a, no  
734 further or other charge or amount for any examination, service,  
735 brokerage, commission or other thing, or otherwise, shall be directly or  
736 indirectly charged, contracted for or received. If interest or any other  
737 charges in excess of those permitted by said sections are charged,  
738 contracted for or received, except as the result of a bona fide error, the  
739 contract of loan shall be void and the licensee shall have no right to  
740 collect or receive any principal, interest or charges. No person shall  
741 owe any licensee, as such, at any time more than fifteen thousand  
742 dollars for principal as a borrower, comaker or guarantor for loans  
743 made under said sections. No licensee shall induce or permit any  
744 borrower or borrowers to split or divide any loan or loans made under  
745 said sections, or permit any borrower to become obligated, directly or  
746 indirectly, under more than one contract of loan under said sections at  
747 the same time primarily for the purpose of obtaining a higher rate of  
748 charge than would otherwise be permitted by said sections. No  
749 contract made under said sections, except as deferred in accordance  
750 with subsection (e) of this section, shall provide for a greater rate of  
751 interest than twelve per cent per annum on the balance remaining  
752 unpaid twenty-four months and fifteen days after the date of making  
753 such contract if the original cash advance was one thousand dollars or

754 less or thirty-six months and fifteen days if the original cash advance  
755 was in excess of one thousand dollars but not in excess of one  
756 thousand eight hundred dollars. No contract made under said sections  
757 with an original cash advance in excess of one thousand eight hundred  
758 dollars, except as deferred in accordance with subsection (e) of this  
759 section, shall provide for a greater rate of interest than twelve per cent  
760 per annum on the balance remaining unpaid on the scheduled  
761 maturity date of said contract. No part of the principal balance  
762 remaining unpaid by a borrower twenty-four months and fifteen days  
763 after making such contract where the original cash advance was one  
764 thousand dollars or less or thirty-six months and fifteen days where  
765 the original cash advance was in excess of one thousand dollars but  
766 not in excess of one thousand eight hundred dollars, shall directly or  
767 indirectly be renewed or refinanced by the lender who made such  
768 loan. If the maturity date of a loan made under said sections has been  
769 extended by deferred payments, the maximum renewal period that  
770 such loan may be extended shall be the number of months such loan is  
771 deferred. When a contract is renewed or refinanced prior to twenty-  
772 four months and fifteen days where the original cash advance was one  
773 thousand dollars or less or thirty-six months and fifteen days where  
774 the original cash advance exceeded one thousand dollars but did not  
775 exceed one thousand eight hundred dollars, from the date of making  
776 such contract, such renewal or refinancing shall, for the purposes of  
777 this section, be deemed a separate loan transaction.

778 (i) Notwithstanding the provisions of subsection (a) of this section,  
779 on any loan secured by real property a licensee may include in the  
780 amount of the loan the following closing costs, provided such costs are  
781 bona fide, reasonable in amount and not assessed for the purpose of  
782 circumventing or otherwise limiting any applicable provision of  
783 sections 36a-555 to 36a-573, inclusive: (1) Fees or premiums for title  
784 examination, abstract of title, title insurance, surveys, or similar  
785 purposes; (2) appraisals, if made by a person who is not an employee  
786 or affiliated with the licensee, and (3) fees and taxes paid to public  
787 officials for the recording and release of any document related to the  
788 real estate security. A licensee may collect costs incurred in the event

789 of foreclosure which shall not include any attorney's fee.

790 (j) No agreement with respect to a loan under sections 36a-555 to  
791 36a-573, inclusive, may provide for charges resulting from default by  
792 the borrower, other than those authorized by said sections.]

793 (a) An application for a small loan license shall be made and  
794 processed on the system pursuant to section 36a-24b, in the form  
795 prescribed by the commissioner on the system. Each such form shall  
796 contain content as set forth by instruction or procedure of the  
797 commissioner and may be changed or updated as necessary by the  
798 commissioner in order to carry out the purpose of sections 36a-555 to  
799 36a-573, inclusive, as amended by this act. The applicant shall, at a  
800 minimum, furnish to the system, in a form prescribed by the system,  
801 information concerning the identity of the applicant and any control  
802 person of the applicant, the qualified individual and any branch  
803 manager, including personal history and experience in a form  
804 prescribed by the system and information related to any  
805 administrative, civil or criminal findings by any governmental  
806 jurisdiction. The commissioner, in accordance with section 29-17a, may  
807 conduct a state and national criminal history records check of the  
808 applicant and its control persons, qualified individual and branch  
809 manager, and, in accordance with section 36a-24b, may require the  
810 submission of fingerprints to the Federal Bureau of Investigation or  
811 other state, national or international criminal databases and may  
812 require control persons, qualified individuals and branch managers to  
813 furnish authorization for the system and the commissioner to obtain an  
814 independent credit report from a consumer reporting agency described  
815 in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as  
816 amended from time to time. Applicants may also be required to  
817 upload on the system an audited financial statement prepared by a  
818 certified public accountant in accordance with generally accepted  
819 accounting principles dated not later than ninety days after the end of  
820 the applicant's fiscal year. Such financial statement shall include a  
821 balance sheet, income statement, statement of cash flows and all  
822 relevant notes thereto. If the applicant is a start-up company, only an

823 initial statement of condition shall be required.

824 (b) The commissioner may deem an application for a small loan  
825 license abandoned if the applicant fails to respond to any request for  
826 information required under sections 36a-555 to 36a-573, inclusive, as  
827 amended by this act, or any regulation adopted pursuant to section  
828 36a-573, as amended by this act. The commissioner shall notify the  
829 applicant on the system that if such information is not submitted on or  
830 before sixty days after the date of such request, the application shall be  
831 deemed abandoned. An application filing fee paid prior to the date an  
832 application is deemed abandoned pursuant to this subsection shall not  
833 be refunded. Abandonment of an application pursuant to this  
834 subsection shall not preclude the applicant from submitting a new  
835 application for a license under sections 36a-555 to 36a-573, inclusive, as  
836 amended by this act.

837 Sec. 10. Section 36a-564 of the general statutes is repealed and the  
838 following is substituted in lieu thereof (*Effective July 1, 2016*):

839 [As used in section 36a-563 and section 36a-568, "cash advance"  
840 means the cash or its equivalent received by the borrower or paid out  
841 on the borrower's behalf or at the borrower's direction or request.]

842 (a) Each applicant for a small loan license shall pay to the system  
843 any required fees or charges and a license fee of four hundred dollars.  
844 Each such license shall expire at the close of business on December  
845 thirty-first of the year in which the license was approved, unless such  
846 license is renewed, and provided any such license that is approved on  
847 or after November first shall expire at the close of business on  
848 December thirty-first of the year following the year in which it is  
849 approved. An application for renewal of a license shall be filed  
850 between November first and December thirty-first of the year in which  
851 the license expires. Each applicant for renewal of a small loan license  
852 shall pay to the system any required fees or charges and a renewal fee  
853 of four hundred dollars.

854 (b) In accordance with section 36a-27b, the commissioner shall

855 automatically suspend any license if such person receives a deficiency  
856 on the system indicating that a required payment was Returned-ACH  
857 or returned pursuant to any other term as may be utilized by the  
858 system to indicate that payment was not accepted. After the license has  
859 been automatically suspended pursuant to this subsection, the  
860 commissioner shall give such licensee notice of the automatic  
861 suspension pending proceedings for revocation or refusal to renew  
862 pursuant to section 36a-570, as amended by this act, and an  
863 opportunity for a hearing on such action in accordance with section  
864 36a-51, and require such licensee to take or refrain from taking such  
865 action that, in the opinion of the commissioner, will effectuate the  
866 purposes of this section.

867 (c) No abatement of the license fee shall be made if the license is  
868 surrendered, revoked or suspended prior to the expiration of the  
869 period for which the license was issued. All fees required by this  
870 section shall be nonrefundable.

871 Sec. 11. Section 36a-565 of the general statutes is repealed and the  
872 following is substituted in lieu thereof (*Effective July 1, 2016*):

873 [(a) "Open-end loan" means a loan made by a licensee under  
874 sections 36a-555 to 36a-573, inclusive, pursuant to an agreement  
875 between the licensee and the borrower whereby: (1) The licensee may  
876 permit the borrower to obtain advances of money from the licensee  
877 from time to time or the licensee may advance money on behalf of the  
878 borrower from time to time as directed by the borrower, not exceeding  
879 at any one time an unpaid principal balance of fifteen thousand  
880 dollars; (2) the amount of each advance and permitted interest, charges  
881 and costs are debited to the borrower's account and payments and  
882 other credits are credited to the same account; (3) the interest is  
883 computed on the unpaid principal balance or balances of the account  
884 from time to time; (4) the borrower has the privilege of paying the  
885 account in full at any time or, if the account is not in default, in  
886 monthly installments of fixed or determinable amounts as provided in  
887 the agreement; and (5) the agreement expressly states that it covers

888 open-end loans pursuant to said sections.

889 (b) "Billing cycle" means the time interval between periodic billing  
890 dates. A billing cycle shall be considered monthly if the closing date of  
891 the cycle is the same date each month or does not vary by more than  
892 four days from such date.

893 (c) A licensee may make open-end loans and may charge, contract  
894 for and receive thereon interest at an annual percentage rate not to  
895 exceed nineteen and eight-tenths per cent for any open-end loan  
896 agreement entered into on and after July 1, 1991. A licensee may also  
897 receive, pursuant to any such agreement entered into on and after July  
898 1, 1991, one or more of the following charges if the agreement so  
899 provides: (1) An annual fee not to exceed fifty dollars for the privileges  
900 made available to the borrower under the open-end loan agreement;  
901 (2) a default charge subject to the conditions and restrictions set forth  
902 in subsection (d) of section 36a-563; (3) service charges that are  
903 imposed for a check that is dishonored as provided in subsection (i) of  
904 section 52-565a; and (4) reasonable attorneys' fees subject to the  
905 conditions and restrictions set forth in section 42-150aa. In addition to  
906 the charges provided for by this section, no further or other charge or  
907 amount for any examination, service, brokerage, commission or other  
908 thing, or otherwise, shall be directly or indirectly charged, contracted  
909 for or received. If interest or any charges in excess of those permitted  
910 by this section are charged, contracted for or received, except as the  
911 result of a bona fide error, the contract of loan shall be void and the  
912 licensee shall have no right to collect or receive any principal, interest  
913 or charges. No person shall owe any licensee, as such, at any time  
914 more than fifteen thousand dollars for principal as a borrower,  
915 comaker or guarantor for loans made under this section. As used in  
916 this section, the term "bona fide error" includes, but shall not be limited  
917 to, clerical, calculation, computer malfunction and programming and  
918 printing errors, but does not include an error of legal judgment with  
919 respect to a person's obligations under sections 36a-555 to 36a-573,  
920 inclusive.

921 (d) A licensee shall not compound interest or charges by adding any  
922 unpaid interest or charges authorized by this section to the unpaid  
923 principal balance of the borrower's account.

924 (e) Interest authorized by this section shall be computed in each  
925 billing cycle by any of the following methods: (1) By converting the  
926 annual percentage rate to a daily rate and multiplying such daily rate  
927 by the daily unpaid principal balance of the account, in which case the  
928 daily rate is determined by dividing the annual percentage rate by  
929 three hundred and sixty-five; or (2) by converting the annual  
930 percentage rate to a monthly rate and multiplying the monthly rate by  
931 the average daily unpaid principal balance of the account in the billing  
932 cycle, in which case the monthly rate is determined by dividing the  
933 annual percentage rate by twelve and the average daily unpaid  
934 principal balance is the sum of the amount unpaid each day during the  
935 cycle divided by the number of days in the cycle.

936 (f) For all of the methods of computation specified in subsection (e)  
937 of this section, the billing cycle shall be monthly and the unpaid  
938 principal balance on any day shall be determined by adding to any  
939 balance unpaid as of the beginning of that day all advances and other  
940 permissible amounts charged to the borrower and deducting all  
941 payments and other credits made or received that day.

942 (g) Credit life insurance and credit accident and health insurance  
943 may be sold to the borrower on open-end loans subject to the  
944 conditions and restrictions set forth in section 36a-566. In the case of  
945 credit life insurance, the amount of the insurance shall be sufficient to  
946 pay the total balance of the loan due on the date of the insured's death.  
947 The additional charge for credit life insurance and credit accident and  
948 health insurance shall be calculated in each billing cycle by applying  
949 the current monthly premium rate for such insurance, as such rate may  
950 be determined by the Insurance Commissioner, to the unpaid balances  
951 in the account, using any of the methods specified in subsection (e) of  
952 this section for the calculation of loan charges. No credit life insurance  
953 or credit accident and health insurance written in connection with an

954 open-end loan shall be cancelled by the licensee because of  
955 delinquency of the borrower in the making of the required minimum  
956 payments on the loan unless one or more of such payments is past due  
957 for a period of ninety days or more; and the licensee shall advance to  
958 the insurer the amounts required to keep the insurance in force during  
959 such period, which amounts may be debited to the borrower's account.  
960 The borrower shall have the right to cancel credit accident and health  
961 insurance at any time by giving written notice of cancellation to the  
962 licensee. Such cancellation shall be effective at the end of the billing  
963 cycle in which the notice is received and the licensee shall discontinue  
964 any further charges for credit accident and health insurance.

965 (h) No licensee shall take any confession of judgment or any power  
966 of attorney. No licensee shall take a mortgage, lien, security interest in  
967 or assignment or pledge of household goods or assignment of wages  
968 as security for any open-end loan made pursuant to this section. No  
969 licensee shall take a security interest in chattels, tangible or intangible  
970 personal property, motor vehicles or real property to secure an open-  
971 end loan made pursuant to this section.

972 (i) A copy of the open-end loan agreement shall be delivered by the  
973 licensee to the borrower at the time the open-end account is opened.

974 (j) Sections 36a-563, 36a-567 and 36a-568 shall not apply to open-end  
975 loans made in accordance with the provisions of this section.]

976 (a) Upon the filing of the required application and license fee under  
977 sections 36a-563 and 36a-564, as amended by this act, the  
978 commissioner shall investigate the facts and no license shall be granted  
979 unless the commissioner finds that: (1) The experience, character and  
980 general fitness of the applicant and its control persons, qualified  
981 individual and any branch manager are satisfactory; (2) the activities to  
982 be conducted by the applicant will be for the convenience and  
983 advantage of the consumers it seeks to serve; (3) the applicant has  
984 available the funds required by subsection (d) of this section; and (4)  
985 the applicant and its control persons and any qualified individual and  
986 branch manager have not made a material misstatement in the

987 application. If the commissioner fails to make such findings, the  
988 commissioner shall not issue a license and shall notify the applicant of  
989 the denial and the reasons for such denial.

990 (b) Notwithstanding the provisions of subsection (a) of this section,  
991 the commissioner may deny an application if the applicant or its  
992 control persons or qualified individual or branch manager have  
993 demonstrated a lack of financial responsibility. For purposes of this  
994 subsection, a person has shown that he or she is not financially  
995 responsible when such person has shown a disregard in the  
996 management of such person's own financial condition. A  
997 determination that a person has not shown financial responsibility  
998 may include, but is not limited to: (1) Current outstanding judgments,  
999 except judgments solely as a result of medical expenses; (2) current  
1000 outstanding tax liens or other government liens and filings; (3)  
1001 foreclosures during the three years preceding the date of application  
1002 for an initial license or renewal of a license; or (4) a pattern of seriously  
1003 delinquent accounts within the past three years.

1004 (c) Notwithstanding the provision of subsection (a) of this section,  
1005 and subject to the provisions of section 46a-80, the commissioner may  
1006 deny an application based on the history of criminal convictions of the  
1007 applicant or of its control persons or qualified individual or branch  
1008 manager.

1009 (d) Applicants shall have a minimum of fifty thousand dollars  
1010 continuously available for each licensed location. The requirement of  
1011 this subsection may be met by cash on hand, cash in bank or lines of  
1012 credit.

1013 (e) The minimum standards for renewal of a small loan license shall  
1014 include the following: (1) The applicant continues to meet the  
1015 minimum standards under subsection (a) of this section; (2) the  
1016 applicant has paid all required fees for renewal of the license; and (3)  
1017 the applicant has paid any outstanding examination fees or other  
1018 moneys due to the commissioner.

1019 (f) (1) Withdrawal of an application for a license shall become  
1020 effective upon the commissioner's acceptance on the system of a  
1021 withdrawal request. The commissioner may deny a license up to the  
1022 date one year after the date the withdrawal became effective.  
1023 Surrender of a license shall be governed by subsection (c) of section  
1024 36a-51. Not later than fifteen days after a licensee ceases to engage in  
1025 this state in the business of a small loan lender for any reason,  
1026 including a business decision to terminate operations in this state,  
1027 license revocation, bankruptcy or voluntary dissolution, such licensee  
1028 shall request surrender of the license on the system for each location in  
1029 which such licensee has ceased to engage in such business.

1030 (2) If the license expires due to the licensee's failure to renew, the  
1031 commissioner may institute a revocation or suspension proceeding or  
1032 issue an order suspending or revoking such license pursuant to section  
1033 36a-570, as amended by this act, not later than one year after the date  
1034 of such expiration.

1035 (g) Every license shall remain in force and effect until the license has  
1036 been surrendered, revoked or suspended, or has expired in accordance  
1037 with the provisions of sections 36a-555 to 36a-573, inclusive, as  
1038 amended by this act.

1039 Sec. 12. Section 36a-566 of the general statutes is repealed and the  
1040 following is substituted in lieu thereof (*Effective July 1, 2016*):

1041 [(a) Subject to the conditions provided in this section, insurance may  
1042 be sold to the borrower at his request (1) for insuring the life of persons  
1043 obligated on a loan pursuant to sections 38a-645 to 38a-658, inclusive,  
1044 and (2) providing accident and health insurance covering one person  
1045 on a loan pursuant to sections 38a-645 to 38a-658, inclusive. Credit  
1046 accident and health insurance shall not provide indemnity against the  
1047 risk of a borrower becoming disabled for a period of less than fourteen  
1048 days, except that it may provide for retroactive coverage if the  
1049 disability continues for the period stated in the policy. Irrespective of  
1050 the number of obligors only one obligor may be insured, except that  
1051 life insurance may cover both a borrower and such borrower's spouse

1052 where both are obligors on a loan. A licensee shall not require the  
1053 purchasing of insurance as a condition precedent to the making of a  
1054 loan. A licensee shall, both verbally and in writing, inform the  
1055 borrower prior to his entering into any loan contract of his right not to  
1056 purchase credit insurance. Any gain or benefit to the licensee directly  
1057 or indirectly from such insurance or the sale or provision thereof shall  
1058 not be deemed to be additional or further charges, interest or  
1059 consideration in connection with a loan made under sections 36a-555  
1060 to 36a-573, inclusive, nor a charge in excess of that permitted by said  
1061 sections.

1062 (b) If a borrower obtains credit accident and health insurance, the  
1063 borrower shall have the right for a period of fifteen days after the loan  
1064 is made to cancel the entire insurance coverage. Notification of this  
1065 right shall be made in the borrower's insurance election. All persons  
1066 obligated on the loan must agree in writing to the cancellation and  
1067 return all certificates. Upon cancellation, the licensee shall, at his  
1068 option, either refund the insurance charges to the borrower or apply  
1069 them to the unpaid balance of the loan.]

1070 (a) No license issued under section 36a-556, as amended by this act,  
1071 shall be assignable or transferable. Any proposed change in the control  
1072 persons shall be the subject of an advance change notice filed on the  
1073 system at least sixty days prior to the effective date of such change and  
1074 any change to the control persons shall not occur without the  
1075 commissioner's approval.

1076 (b) No licensee may use any name other than its legal name or a  
1077 fictitious name approved by the commissioner, provided such licensee  
1078 may not use its legal name if the commissioner disapproves of such  
1079 name. No licensee shall engage in any activity requiring a small loan  
1080 license under any other name or at any other place of business than  
1081 that named in the license. Any proposed change in a licensee's name or  
1082 to the licensee's place of business shall be the subject of an advance  
1083 change notice filed on the system at least thirty days prior to the  
1084 effective date of such change and any change to the licensee's name or

1085 place of business shall not be made without the commissioner's  
1086 approval of such change.

1087 Sec. 13. Section 36a-567 of the general statutes is repealed and the  
1088 following is substituted in lieu thereof (*Effective July 1, 2016*):

1089 [Every licensee shall (1) permit payment of the loan in whole or in  
1090 part prior to its maturity, and (2) upon repayment of the loan in full,  
1091 mark indelibly each paper signed by the borrower with the word  
1092 "paid" or "cancelled", and cancel and return any note or, in lieu thereof,  
1093 transmit or deliver to the borrower a duplicate of the original  
1094 document clearly identifying the loan, showing such loan has been  
1095 paid in full and the note cancelled.]

1096 (a) A licensee shall file any change in the information most recently  
1097 submitted in connection with the license with the system or, if the  
1098 information cannot be filed on the system, directly notify the  
1099 commissioner, in writing, of such change in the information not later  
1100 than fifteen days after the licensee has reason to know of such change.

1101 (b) A licensee shall file with the system or, if the information cannot  
1102 be filed on the system, directly notify the commissioner, in writing, of  
1103 the occurrence of any of the following developments not later than  
1104 fifteen days after the licensee had reason to know of the occurrence: (1)  
1105 Filing for bankruptcy or the consummation of a corporate  
1106 restructuring of the licensee; (2) filing of a criminal indictment against  
1107 the licensee in any way related to the activities of the licensee or  
1108 receiving notification of the filing of any criminal felony indictment or  
1109 felony conviction of any of the licensee's control persons or qualified  
1110 individual or branch manager; (3) receiving notification of the  
1111 institution of a license denial, cease and desist, suspension or  
1112 revocation procedures, or other formal or informal action by any  
1113 governmental agency against the licensee and the reasons therefor; (4)  
1114 receiving notification of the initiation of any action by the Attorney  
1115 General or the attorney general of any other state and the reasons  
1116 therefor; (5) receiving notification of a material adverse action with  
1117 respect to any existing line of credit or warehouse credit agreement; (6)

1118 receiving notification of any of the licensee's control persons or  
1119 qualified individual or branch manager filing or having filed for  
1120 bankruptcy; or (7) a decrease in the available funds required by section  
1121 36a-565, as amended by this act.

1122 Sec. 14. Section 36a-568 of the general statutes is repealed and the  
1123 following is substituted in lieu thereof (*Effective July 1, 2016*):

1124 [No licensee shall take any confession of judgment or any power of  
1125 attorney, nor shall he take any note or promise to pay that does not  
1126 state the actual amount of the loan, the time for which it is made and  
1127 the charges, or any instrument in which blanks are left to be filled after  
1128 the loan is made. No licensee shall take a mortgage, lien, security  
1129 interest in or assignment or pledge of household goods or an  
1130 assignment of wages as security for any loan made under sections 36a-  
1131 555 to 36a-573, inclusive. A licensee may take a security interest in  
1132 chattels or personal property other than household goods, except a  
1133 security interest in an automobile may not be taken as security for any  
1134 loan where the cash advance is one thousand eight hundred dollars or  
1135 less. A licensee may take a security interest in real estate on loans  
1136 made under said sections where the cash advance is in excess of one  
1137 thousand eight hundred dollars, but may not take such a security  
1138 interest in real estate where the cash advance is one thousand eight  
1139 hundred dollars or less. A contract for a loan under said sections shall  
1140 not originally schedule any repayment of the cash advance over a  
1141 period in excess of twenty-four months and fifteen days if the amount  
1142 of the original cash advance was one thousand dollars or less or thirty-  
1143 six months and fifteen days if the amount of the original cash advance  
1144 was more than one thousand dollars but not in excess of one thousand  
1145 eight hundred dollars or seventy-two months and fifteen days if the  
1146 amount of the original cash advance was in excess of one thousand  
1147 eight hundred dollars, and shall be repayable in installments of cash  
1148 advance and charges combined which are substantially equal in  
1149 amount or so arranged that no installment is substantially greater in  
1150 amount than any preceding installment and which are payable at  
1151 approximately equal intervals not exceeding one month, except that

1152 the first installment may be payable not more than one month and  
1153 fifteen days after the date of such contract. The requirements of section  
1154 36a-785 shall apply to any repossession under sections 36a-555 to 36a-  
1155 573, inclusive, of property other than real estate.]

1156 (a) The unique identifier of any small loan licensee shall be clearly  
1157 shown on the licensee's application forms for a small loan and all of  
1158 the licensee's solicitations or advertisements, including business cards  
1159 or Internet web sites, and any other documents as established by rule,  
1160 regulation or order of the commissioner.

1161 (b) The advertising of a licensee: (1) Shall not include any statement  
1162 that it is endorsed in any way by this state, except it may include a  
1163 statement that it is licensed in this state; (2) shall not include any  
1164 statement or claim which is deceptive, false or misleading; (3) shall be  
1165 retained for one year from the date of its use; and (4) shall otherwise  
1166 conform to the requirements of sections 36a-555 to 36a-573, inclusive,  
1167 as amended by this act, and any regulations issued thereunder.

1168 Sec. 15. Section 36a-569 of the general statutes is repealed and the  
1169 following is substituted in lieu thereof (*Effective July 1, 2016*):

1170 [Each licensee shall keep books and records at the place of business  
1171 specified in the license in such form and in such manner as the  
1172 commissioner prescribes and shall preserve all books, accounts and  
1173 records, including cards used in the card system, if any, for at least two  
1174 years after making the final entry recorded therein. Each such licensee  
1175 shall, annually, on or before January thirtieth, furnish a sworn  
1176 statement of the condition of the business of such licensee as of  
1177 December thirty-first, together with such other information and  
1178 statements as the commissioner may, from time to time, require. Each  
1179 licensee which fails to furnish any such sworn statement or required  
1180 information in connection with this section, shall pay to the state ten  
1181 dollars for each day that such failure continues, unless excused by the  
1182 commissioner for cause. The commissioner may, upon the failure of  
1183 any such licensee to furnish such sworn statement or other  
1184 information, after a hearing thereon, cancel the license of such

1185 licensee.]

1186 (a) Each small loan licensee shall keep adequate books and records  
1187 at the place of business specified in the license in such form and in  
1188 such manner as the commissioner prescribes and shall preserve all  
1189 books, accounts and records for the following time periods: (1) If the  
1190 licensee brokered the small loan, at least two years after the date it was  
1191 brokered; (2) if the licensee made the small loan, at least two years  
1192 after the date the licensee (A) no longer owns the small loan, or (B) has  
1193 made the final entry on the small loan; or (3) if the licensee did not  
1194 make the small loan but is servicing the small loan, at least two years  
1195 after the date the licensee (A) no longer owns the rights to service the  
1196 small loan, or (B) has made the final entry on the small loan.

1197 (b) Each licensee shall make such books and records available at  
1198 such office or send such books and records to the commissioner by  
1199 registered or certified mail, return receipt requested, or by any express  
1200 delivery carrier that provides a dated delivery receipt, not later than  
1201 five business days after requested to do so by the commissioner. Upon  
1202 request, the commissioner may grant a licensee additional time to  
1203 make such books and records available or send them to the  
1204 commissioner.

1205 (c) Licensees shall be required to complete any reports of condition  
1206 required by the system. Any such reports of condition shall be  
1207 accurately and timely filed on the system in accordance with the due  
1208 dates and formats required by the system.

1209 (d) Until such time as information is able to be captured by a  
1210 system-based report, each licensee shall furnish annually, on or before  
1211 January thirtieth, a sworn statement of the condition of the business of  
1212 such licensee as of the preceding December thirty-first, together with  
1213 such other information and statements as the commissioner may, from  
1214 time to time, require. Any licensee that fails to furnish any such report  
1215 of condition pursuant to subsection (c) of this section or such sworn  
1216 statement or any other information required by this subsection shall be  
1217 in violation of this section.

1218 Sec. 16. Section 36a-570 of the general statutes is repealed and the  
1219 following is substituted in lieu thereof (*Effective July 1, 2016*):

1220 [The commissioner may adopt such regulations, in accordance with  
1221 chapter 54, and make such findings as may be necessary for the  
1222 conduct of the small loan business and its association with other  
1223 businesses, the conduct of the associated businesses and the  
1224 enforcement of the provisions of sections 36a-555 to 36a-573, inclusive.]

1225 (a) The commissioner may suspend, revoke or refuse to renew any  
1226 license issued under sections 36a-555 to 36a-573, inclusive, as amended  
1227 by this act, or take any other action, in accordance with the provisions  
1228 of section 36a-51, for any reason that would be sufficient grounds for  
1229 the commissioner to deny an application for such license under  
1230 sections 36a-555 to 36a-573, inclusive, as amended by this act, or if the  
1231 commissioner finds that the licensee or any control person of the  
1232 licensee, qualified individual or branch manager with supervisory  
1233 authority, trustee, employee or agent of such licensee has done any of  
1234 the following: (1) Made any material misstatement in the application;  
1235 (2) committed any fraud, misappropriated funds or misrepresented,  
1236 concealed, suppressed, intentionally omitted or otherwise intentionally  
1237 failed to disclose any of the material particulars of any small loan  
1238 transaction to anyone entitled to such information, including, but not  
1239 limited to, any disclosures required by part III of chapter 669 or  
1240 regulations adopted pursuant thereto; (3) violated any of the  
1241 provisions of this title, any regulations adopted pursuant thereto or  
1242 any other law or regulation applicable to the conduct of its business; or  
1243 (4) failed to perform any agreement with a licensee or a borrower.

1244 (b) Whenever it appears to the commissioner that (1) any person has  
1245 violated, is violating or is about to violate any of the provisions of  
1246 sections 36a-555 to 36a-573, inclusive, as amended by this act, or any  
1247 regulation adopted pursuant thereto, (2) any person is, was or would  
1248 be a cause of the violation of any such provision or regulation due to  
1249 an act or omission such person knew or should have known would  
1250 contribute to such violation, or (3) any licensee has failed to perform

1251 any agreement with a borrower, committed any fraud,  
1252 misappropriated funds or misrepresented, concealed, suppressed,  
1253 intentionally omitted or otherwise intentionally failed to disclose any  
1254 of the material particulars of any small loan transaction to anyone  
1255 entitled to such information, including disclosures required by part III  
1256 of chapter 669 or regulations adopted pursuant thereto, the  
1257 commissioner may take action against such person or licensee in  
1258 accordance with sections 36a-50 and 36a-52.

1259 (c) (1) The commissioner may order a licensee to remove any  
1260 individual conducting business under sections 36a-555 to 36a-573,  
1261 inclusive, as amended by this act, from office and from employment or  
1262 retention as an independent contractor in the small loan business in  
1263 this state whenever the commissioner finds as the result of an  
1264 investigation that such individual: (A) Has violated any of said  
1265 sections or any regulations adopted pursuant thereto or any order  
1266 issued thereunder, or (B) for any reason that would be sufficient  
1267 grounds for the commissioner to deny a license under section 36a-565,  
1268 as amended by this act, by sending a notice to such individual by  
1269 registered or certified mail, return receipt requested or by any express  
1270 delivery carrier that provides a dated delivery receipt. The notice shall  
1271 be deemed received by such individual on the earlier of the date of  
1272 actual receipt or seven days after mailing or sending. Any such notice  
1273 shall include: (i) A statement of the time, place and nature of the  
1274 hearing; (ii) a statement of the legal authority and jurisdiction under  
1275 which the hearing is to be held; (iii) a reference to the particular  
1276 sections of the general statutes, regulations or orders alleged to have  
1277 been violated; (iv) a short and plain statement of the matters asserted;  
1278 and (v) a statement indicating that such individual may file a written  
1279 request for a hearing on the matters asserted not later than fourteen  
1280 days after receipt of the notice. If the commissioner finds that the  
1281 protection of borrowers requires immediate action, the commissioner  
1282 may suspend any such individual from office and require such  
1283 individual to take or refrain from taking such action as, in the opinion  
1284 of the commissioner, will effectuate the purposes of this subsection, by  
1285 incorporating a finding to that effect in such notice. The suspension or

1286 prohibition shall become effective upon receipt of such notice and,  
1287 unless stayed by a court, shall remain in effect until the entry of a  
1288 permanent order or the dismissal of the matters asserted.

1289 (2) If a hearing is requested within the time specified in the notice,  
1290 the commissioner shall hold a hearing upon the matters asserted in the  
1291 notice unless such individual fails to appear at the hearing. After the  
1292 hearing, if the commissioner finds that any of the grounds set forth in  
1293 subparagraph (A) or (B) of subdivision (1) of this subsection exist with  
1294 respect to such individual, the commissioner may order a licensee to  
1295 remove such individual from office and from any employment in the  
1296 small loan business in this state. If such individual fails to appear at the  
1297 hearing, the commissioner may order the removal of such individual  
1298 from office and from employment in the small loan business in this  
1299 state.

1300 (d) The commissioner may issue a temporary order to cease  
1301 business under a license if the commissioner determines that such  
1302 license was issued erroneously. The commissioner shall give the  
1303 licensee an opportunity for a hearing on such action in accordance  
1304 with section 36a-52. Such temporary order shall become effective upon  
1305 receipt by the licensee and, unless set aside or modified by a court,  
1306 shall remain in effect until the effective date of a permanent order or  
1307 dismissal of the matters asserted in the notice.

1308 Sec. 17. Section 36a-572 of the general statutes is repealed and the  
1309 following is substituted in lieu thereof (*Effective July 1, 2016*):

1310 [The commissioner may suspend, revoke or refuse to renew any  
1311 license issued under the provisions of section 36a-556 or take any other  
1312 action, in accordance with section 36a-51, if the commissioner finds  
1313 that the licensee has violated any provision of sections 36a-555 to 36a-  
1314 573, inclusive, or any regulation or order lawfully made pursuant to  
1315 and within the authority of said sections, or if the commissioner finds  
1316 that any fact or condition exists which, if it had existed at the time of  
1317 the original application for the license, clearly would have warranted a  
1318 denial of such license.]

1319 (a) In addition to any authority provided under this title, the  
1320 commissioner shall have the authority to conduct investigations and  
1321 examinations as follows:

1322 (1) For purposes of initial small loan licensing, license renewal,  
1323 license suspension, license conditioning, license revocation or  
1324 termination or general or specific inquiry or investigation to determine  
1325 compliance with sections 36a-555 to 36a-573, inclusive, as amended by  
1326 this act, the commissioner may access, receive and use any books,  
1327 accounts, records, files, documents, information or evidence,  
1328 including, but not limited to: (A) Criminal, civil and administrative  
1329 history information; (B) personal history and experience information,  
1330 including independent credit reports obtained from a consumer  
1331 reporting agency described in Section 603(p) of the federal Fair Credit  
1332 Reporting Act, 15 USC 1681a; and (C) any other documents,  
1333 information or evidence the commissioner deems relevant to the  
1334 inquiry or investigation regardless of the location, possession, control  
1335 or custody of such documents, information or evidence.

1336 (2) For the purposes of investigating violations or complaints arising  
1337 under sections 36a-555 to 36a-573, inclusive, as amended by this act, or  
1338 for the purposes of examination, the commissioner may review,  
1339 investigate or examine any licensee, individual or person subject to  
1340 said sections as often as necessary in order to carry out the purposes of  
1341 said sections. The commissioner may direct, subpoena or order the  
1342 attendance of and examine under oath all persons whose testimony  
1343 may be required about the loans or the business or subject matter of  
1344 any such examination or investigation, and may direct, subpoena or  
1345 order such person to produce books, accounts, records, files and any  
1346 other documents the commissioner deems relevant to the inquiry.

1347 (b) Each licensee or person subject to sections 36a-555 to 36a-573,  
1348 inclusive, as amended by this act, shall make or compile reports or  
1349 prepare other information as directed by the commissioner in order to  
1350 carry out the purposes of this section, including accounting  
1351 compilations, information lists and data concerning loan transactions

1352 in a format prescribed by the commissioner or such other information  
1353 the commissioner deems necessary to carry out the purposes of this  
1354 section.

1355 (c) In making any examination or investigation authorized by this  
1356 section, the commissioner may control access to any documents and  
1357 records of the licensee or person under examination or investigation.  
1358 The commissioner may take possession of the documents and records  
1359 or place a person in exclusive charge of the documents and records in  
1360 the location where they are usually kept. During the period of control,  
1361 no individual or person shall remove or attempt to remove any of the  
1362 documents and records except pursuant to a court order or with the  
1363 consent of the commissioner. Unless the commissioner has reasonable  
1364 grounds to believe the documents or records of the licensee have been,  
1365 or are at risk of being, altered or destroyed for purposes of concealing  
1366 a violation of sections 36a-555 to 36a-573, inclusive, as amended by this  
1367 act, the licensee or owner of the documents and records shall have  
1368 access to the documents or records as necessary to conduct its ordinary  
1369 business affairs.

1370 (d) In order to carry out the purposes of this section, the  
1371 commissioner may:

1372 (1) Retain attorneys, accountants or other professionals and  
1373 specialists as examiners, auditors or investigators to conduct or assist  
1374 in the conduct of examinations or investigations;

1375 (2) Enter into agreements or relationships with other government  
1376 officials or regulatory associations in order to improve efficiencies and  
1377 reduce regulatory burden by sharing (A) resources, (B) standardized  
1378 or uniform methods or procedures, and (C) documents, records,  
1379 information or evidence obtained under this section;

1380 (3) Use, hire, contract or employ public or privately available  
1381 analytical systems, methods or software to examine or investigate the  
1382 licensee, individual or person subject to sections 36a-555 to 36a-573,  
1383 inclusive, as amended by this act;

1384 (4) Accept and rely on examination or investigation reports made by  
1385 other government officials, within or without this state; and

1386 (5) Accept audit reports made by an independent certified public  
1387 accountant for the licensee, individual or person subject to sections  
1388 36a-555 to 36a-573, inclusive, as amended by this act, in the course of  
1389 the part of the examination covering the same general subject matter as  
1390 the audit and may incorporate the audit report in the report of the  
1391 examination, report of investigation or other writing of the  
1392 commissioner.

1393 (e) The authority of this section shall remain in effect, whether such  
1394 licensee, individual or person subject to sections 36a-555 to 36a-573,  
1395 inclusive, as amended by this act, acts or claims to act under any  
1396 licensing or registration law of this state or claims to act without such  
1397 authority.

1398 (f) No licensee or person subject to investigation or examination  
1399 under this section may knowingly withhold, abstract, remove,  
1400 mutilate, destroy or secrete any books, records, computer records or  
1401 other information.

1402 Sec. 18. Section 36a-573 of the 2016 supplement to the general  
1403 statutes is repealed and the following is substituted in lieu thereof  
1404 (*Effective July 1, 2016*):

1405 [(a) No person, except as authorized by the provisions of sections  
1406 36a-555 to 36a-573, inclusive, shall, directly or indirectly, charge,  
1407 contract for or receive any interest, charge or consideration greater  
1408 than twelve per cent per annum upon the loan, use or forbearance of  
1409 money or credit of the amount or value of (1) five thousand dollars or  
1410 less for any such transaction entered into before October 1, 1997, and  
1411 (2) fifteen thousand dollars or less for any such transaction entered  
1412 into on and after October 1, 1997. The provisions of this section shall  
1413 apply to any person who, as security for any such loan, use or  
1414 forbearance of money or credit, makes a pretended purchase of  
1415 property from any person and permits the owner or pledgor to retain

1416 the possession thereof, or who, by any device or pretense of charging  
1417 for the person's services or otherwise, seeks to obtain a greater  
1418 compensation than twelve per cent per annum. No loan for which a  
1419 greater rate of interest or charge than is allowed by the provisions of  
1420 sections 36a-555 to 36a-573, inclusive, has been contracted for or  
1421 received, wherever made, shall be enforced in this state, and any  
1422 person in any way participating therein in this state shall be subject to  
1423 the provisions of said sections, provided, a loan lawfully made after  
1424 June 5, 1986, in compliance with a validly enacted licensed loan law of  
1425 another state to a borrower who was not, at the time of the making of  
1426 such loan, a resident of Connecticut but who has become a resident of  
1427 Connecticut, may be acquired by a licensee and its interest provision  
1428 shall be enforced in accordance with its terms.

1429 (b) The provisions of subsection (a) of this section shall apply to any  
1430 loan made or renewed in this state if the loan is made to a borrower  
1431 who resides in or maintains a domicile in this state and such borrower  
1432 (1) negotiates or agrees to the terms of the loan in person, by mail, by  
1433 telephone or via the Internet while physically present in this state; (2)  
1434 enters into or executes a loan agreement with the lender in person, by  
1435 mail, by telephone or via the Internet while physically present in this  
1436 state; or (3) makes a payment of the loan in this state. As used in this  
1437 subsection, "payment of the loan" includes a debit on an account the  
1438 borrower holds in a branch of a financial institution or the use of a  
1439 negotiable instrument drawn on an account at a financial institution,  
1440 and "financial institution" means any bank or credit union chartered or  
1441 licensed under the laws of this state, any other state or the United  
1442 States and having its main office or a branch office in this state.

1443 (c) For transactions subject to the provisions of subsection (a) of this  
1444 section, if any interest, consideration or charges in excess of those  
1445 permitted are charged, contracted for or received, the contract of loan,  
1446 use or forbearance of money or credit shall be void and no person shall  
1447 have the right to collect or receive any principal, interest, charge or  
1448 other consideration.

1449 (d) No person shall, directly or indirectly, assist or aid and abet any  
1450 person in conduct prohibited by sections 36a-555 to 36a-573, inclusive.

1451 (e) Whenever it appears to the commissioner that any person has  
1452 violated the provisions of this section or offered a loan that violates the  
1453 provisions of this section, the commissioner may investigate, take  
1454 administrative action or assess civil penalties and restitution in  
1455 accordance with the provisions of sections 36a-50 and 36a-52.]

1456 The commissioner may adopt such regulations, in accordance with  
1457 chapter 54, as the commissioner deems necessary to administer and  
1458 enforce the provisions of this section and sections 36a-555 to 36a-572,  
1459 inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	36a-555
Sec. 2	July 1, 2016	36a-556
Sec. 3	July 1, 2016	36a-557
Sec. 4	July 1, 2016	36a-558
Sec. 5	July 1, 2016	36a-559
Sec. 6	July 1, 2016	36a-560
Sec. 7	July 1, 2016	36a-561
Sec. 8	July 1, 2016	36a-562
Sec. 9	July 1, 2016	36a-563
Sec. 10	July 1, 2016	36a-564
Sec. 11	July 1, 2016	36a-565
Sec. 12	July 1, 2016	36a-566
Sec. 13	July 1, 2016	36a-567
Sec. 14	July 1, 2016	36a-568
Sec. 15	July 1, 2016	36a-569
Sec. 16	July 1, 2016	36a-570
Sec. 17	July 1, 2016	36a-572
Sec. 18	July 1, 2016	36a-573

**Statement of Legislative Commissioners:**

In Section 1(8), "where the licensee, or any person on behalf of the licensee, will engage in activities that require a small loan license" was added to the definition of "Main office" for accuracy; in Section 4(a)

and (b), "by" was changed to "under" for consistency with standard drafting conventions; in Section 4(e)(2), "so long as" was changed to "provided" and "does" was changed to "shall" for consistency with standard drafting conventions and other provisions of the section; in Section 4(g)(1), "does not" was changed to "shall not" for consistency with standard drafting conventions; in Section 9(b), "within" was changed to "on or before" for consistency with standard drafting conventions; in Section 14(b)(1), "the state of Connecticut" was replaced with "this state" and "Connecticut" was replaced with "this state" for consistency with standard drafting conventions; in Section 15(a)(2)(3), "such" was replaced with "the" for consistency with other provisions of the Subsec.; and in Section 15(b), "books and" was added before "records" for consistency with other provisions of the section.

**BA**        *Joint Favorable Subst.*

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

***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes clarifying and modernizing changes to the small loan lender statutes that do not result in a fiscal impact to the state or municipalities.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 5572**

**AN ACT CONCERNING SMALL LOAN LICENSEES.**

**SUMMARY:**

This bill revises the small loan statutes and in doing so, it:

1. expands the scope of activities, beyond the making of a loan, that require licensure, such as offering, soliciting, servicing, purchasing, assigning, or advertising small loans;
2. establishes a comprehensive list of permitted and prohibited licensee practices and loan provisions;
3. defines “small loan” as any monetary loan or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the amount or value is \$15,000 or less and the Annual Percentage Rate (APR) is greater than 12%;
4. converts the existing interest rate structure to an APR that is capped at the maximum 36% allowed under the federal Military Lending Act;
5. requires small loan licensure to be done through the Nationwide Mortgage Licensing System and Registry (NMLS or “the system”)(see BACKGROUND);
6. changes the license application fee structure and the length of time a license remains valid; and
7. with some exceptions, voids any small loan made in connection with unlicensed activity, noncompliance with statutory restrictions, or prohibited licensee conduct.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2016

## **§ 1 — DEFINITIONS**

The bill defines the following terms for use throughout the small loan statutes:

"Advertise" or "advertising" means any announcement, statement, assertion or representation placed before the public in a newspaper, magazine or other publication, in the form of a notice, circular, pamphlet, letter, or poster, over any radio or television station, by means of the Internet, by other electronic means of distributing information, by personal contact, or in any other way or medium.

"APR" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act and its implementing regulations.

"Branch office" means a location other than the main office where the licensee, or any person on behalf of the licensee, engages in activities that require a small loan license.

"Connecticut borrower" means any borrower who resides in or maintains a domicile in this state and who:

1. negotiates or agrees to the terms of the small loan in person, by mail, by telephone, or via the Internet while physically present in this state;
2. enters into or executes a small loan agreement with the lender in person, by mail, by telephone, or via the Internet while physically present in this state; or
3. makes a payment on the loan in this state, including a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution (i.e., any bank or credit union

chartered or licensed under the laws of this state, any other state, or the United States and having its main office or a branch office in Connecticut).

"Control person" means an individual that directly or indirectly exercises control over another person, and includes any person that:

1. is a director, general partner or executive officer;
2. in the case of a corporation, directly or indirectly has the right to vote 10% or more of a class of any voting security or has the power to sell or direct the sale of 10% or more of any class of voting securities;
3. in the case of a limited liability company, is a managing member; or
4. in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital.

"Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise.

"Generating leads" means:

1. initiating consumer interest or inquiry into a small loan by online marketing, direct response advertising, telemarketing or other similar consumer contact;
2. engaging in the business of selling leads for small loans;
3. generating or augmenting leads for other persons for or with the expectation of compensation or gain; or
4. referring consumers to other persons for a small loan for or with the expectation of compensation or gain.

"Lead" means any information identifying a potential small loan consumer.

"Main office" means the main address designated on the system where the licensee, or any person on behalf of the licensee, engages in activities requiring a small loan license.

"Open-end small loan" means a small loan where the loan agreement provides that the lender may permit the borrower to obtain advances of money from time to time or provides that the lender may advance money on behalf of the borrower from time to time as directed by the borrower.

"Person" means a natural person, corporation, company, limited liability company, partnership or association.

"Small loan" means any loan of money or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the following conditions are present:

1. the amount or value is \$15,000 or less; and
2. the APR is greater than 12%.

Small loan does not include a retail installment contract or a loan or extension of credit for agricultural, commercial, industrial, or government use.

"Future income" means any future potential source of money, and expressly includes a future pay or salary, pension, or tax refund.

"Trigger lead" means a consumer report obtained pursuant to the Fair Credit Reporting Act (15 USC 1681b) where the issuance of the report is triggered by an inquiry made to a consumer reporting agency in response to an application for credit. Trigger lead does not include a consumer report obtained by a small loan lender that holds or services existing indebtedness of the applicant who is the subject of the report.

"Unique identifier" means a number or other identifier assigned by protocols established by the system.

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**§ 2 — LICENSURE REQUIRED**

As under existing law, the bill requires anyone engaged in making small loans to a Connecticut borrower to first obtain a license from the Banking Department. Under the bill, licensure is also required for anyone who, with respect to a prospective Connecticut borrower:

1. offers to solicit or broker, directly or indirectly arrange, place, or find a small loan;
2. engages in any other activity to assist the borrower in obtaining a small loan, including, but not limited to, generating leads or making referrals for small loans;
3. receives payments of principal and interest in connection with the loan;
4. purchases, acquires, or receives assignment of such a loan; or
5. advertises a small loan or related services in Connecticut.

The bill prohibits anyone from accepting, from a person who is not licensed or exempt from licensure, any lead, referral, or application for a small loan to a prospective Connecticut borrower.

It also prohibits anyone from selling, transferring, pledging, assigning, or otherwise disposing of, to a person who is not licensed or exempt from licensure, any small loan made to a Connecticut borrower.

### **§ 3 — EXEMPTIONS FROM LICENSURE**

The bill exempts from small loan licensure anyone licensed as a consumer collection agency engaged as a third party in collecting or receiving money due from a Connecticut borrower on a small loan for payment to others.

It maintains the existing law's exemption for banks; out-of-state banks; Connecticut credit unions; federal credit unions; out-of-state credit unions; savings and loan associations; wholly owned subsidiary service corporations; and licensed pawnbrokers. It no longer expressly

exempts licensed mortgage lenders or mortgage correspondent lenders when they make residential mortgage loans.

#### **§ 4 — SMALL LOAN PROVISIONS**

##### ***Small Loan Activities By Licensees and Exempt Entities***

Under the bill, a small loan licensee or anyone who is required to have a small loan license may not make, offer, engage in, or advertise small loans with conditions or provisions inconsistent with the bill's requirements. Also, banks, credit unions, or other exempt entities may not receive, purchase, or advertise any small loan with provisions inconsistent with the bill's requirements. Any such small loan is unenforceable in Connecticut except for a bona fide error (e.g., clerical, calculation, programming, or printing errors) or if the loan was valid under another state's law and the borrower was not a Connecticut resident at the time.

##### ***Small Loan-Related Activities: Making; Offering; Soliciting; Placing; Assisting a Borrower; Receiving Payments; Purchasing; Advertising; or Accepting Leads, Referrals, or Applications***

Small loans that are the subject of the activities listed above must not contain:

1. for a small loan that is under \$5,000, an APR that exceeds the 36% maximum APR permitted with respect to the consumer credit extended under the federal Military Lending Act, or for a small loan that is between \$5,000 and \$15,000, an APR that exceeds 25%;
2. a provision that increases the interest rate due to default;
3. a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance;
4. a payment schedule with regular periodic payments that cause the principal balance to increase;
5. a payment schedule that consolidates more than two periodic

- payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;
6. a prepayment penalty;
  7. an adjustable rate provision;
  8. a waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (a) utilizes principles that are inconsistent with the general statutes or common law; (b) limits any claim or defense the borrower may have; or (c) is less convenient, more time consuming and more costly for the resolution of a dispute than a state judicial forum where the borrower may otherwise properly bring a claim or defense;
  9. a call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause provision or another provision of the loan agreement unrelated to the payment schedule, including, but not limited to, bankruptcy or receivership;
  10. a security interest, except as described below; or
  11. fees or charges of any kind, except as expressly permitted below.

***Small Loans That Are the Subject of Licensees' and Exempt Entities' Activities (Described Above)***

Small loans that are the subject of licensees' and exempt entities' activities may contain provisions:

1. for late fees, if: (a) the fees are assessed after an installment remains unpaid for at least ten consecutive days, including Sundays and holidays; (b) the fees do not exceed the lesser of

- 5% of the outstanding installment payment, excluding any previously assessed late fees, or a total of \$10 per month; and (c) no interest is charged on the fees;
2. allowing charges for a dishonored check or any other form of returned payment, provided the total fee for such returned payment cannot exceed \$20;
  3. allowing for collection of deferral charges, but only with the specific written authorization of the borrower and in a total amount not exceeding the interest due during the applicable billing cycle;
  4. allowing interest accrual after the maturity date or the deferred maturity date, provided the interest must not exceed 12% per annum computed on a daily basis on the respective unpaid balances;
  5. providing for reasonable attorney's fees;
  6. including credit life insurance or credit accident and health insurance subject to certain conditions and restrictions; or
  7. taking a security interest in a motor vehicle in connection with a closed-end small loan made solely for the purchase of such motor vehicle, provided the APR of the loan must not exceed the rates indicated for the respective classifications of motor vehicles as follows: (a) new motor vehicles, 15%; (b) used motor vehicles of a model designated by the manufacturer by a year not more than two years prior to the year in which the sale is made, 17%; and (c) used motor vehicles of a model designated by the manufacturer by a year more than two years prior to the year in which the sale is made, 19%.

***Open-end Small Loans – Additional Requirements***

Open-end small loans, in addition to all the requirements listed above, must:

1. not have an APR that exceeds 19.8%;
2. not provide for an advance of money exceeding at any one time an unpaid principal of \$15,000;
3. provide for payments and credits to be made to the same borrower's account from which advances, interest, charges, and costs on such loan are debited;
4. provide for interest to be computed on any unpaid principal balance of the account in each billing cycle by one of the following methods: (a) converting the APR to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the APR by three hundred sixty-five; or (b) converting the APR to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle;
5. not compound interest or charges by adding any unpaid interest or charges to the unpaid principal balance of the borrower's account; or
6. not include any other fees or charges of any kind, except as expressly permitted below.

In addition to the requirements listed above, open-end small loans, may:

1. provide for an annual fee for the privileges made available to the borrower under the open-end loan agreement, provided the annual fee does not exceed \$50; and
2. include credit life insurance or credit accident and health insurance, subject to certain conditions and restrictions.

***Prohibited Actions for Lead Generators***

Under the bill, a person who provides information identifying a

potential customer (i.e., lead generator) must not:

1. initiate any outbound telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the prior express written consent of the recipient;
2. fail to transmit the lead generator's name and telephone number to any caller identification service in use by a consumer;
3. initiate an outbound telephone call to a consumer's residence between 9:00 p.m. and 8:00 a.m. local time at the consumer's location;
4. fail to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;
5. fail to provide the ability to opt out of any unsolicited advertisement communicated to a consumer via an email address;
6. initiate an unsolicited advertisement via email to a consumer more than 10 business days after the receipt of a request from such consumer to opt out of such unsolicited advertisements;
7. use a subject heading or email address in a commercial email message that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the sender, contents, or subject matter of the message;
8. sell, lease, exchange or otherwise transfer or release the email address or telephone number of a consumer who has requested to opt out of future solicitations;
9. collect, buy, lease, exchange or otherwise transfer or receive an individual's Social Security or bank account number;
10. use information from a trigger lead to solicit consumers who have opted out of firm offers of credit under the federal Fair

Credit Reporting Act;

11. initiate a telephone call to a consumer who has placed his or her contact information on a federal or state Do Not Call list, unless the consumer has provided express written consent;
12. represent to the public, through advertising or other means of communicating or providing information, including, but not limited to, the use of business cards or stationery, brochures, signs or other promotional items, that such lead generator can or will perform any other activity requiring licensure, unless such lead generator is duly licensed to perform such other activity or exempt from such licensure requirements;
13. refer applicants to, or receive a fee from, any person who must be licensed but was not licensed as of the time the lead generator's services were provided;
14. assist or aid and abet any person in the conduct of business requiring licensure when such person does not hold the license required;
15. directly or indirectly employ any scheme, device, or artifice to defraud or mislead any person;
16. make any false, misleading or deceptive statement or representation in connection with a small loan or engage in bait and switch advertising; or
17. negligently make any false statement or knowingly and willfully omit a material fact concerning any information or report filed with a governmental agency or the system or in connection with any investigation conducted by the commissioner or another governmental agency.

## **§ 5 — CREDIT INSURANCE**

As under existing law, insurance may be sold to a Connecticut borrower at his or her request for (1) insuring the life of the persons

obligated on a small loan and (2) providing accident and health insurance covering one person on a small loan. The bill allows the borrower to cancel such insurance at any time by giving written notice. Under current law, the borrower has a 15-day cancellation period after the loan has been made.

### ***Open-end Small Loan***

Under the bill, in the case of an open-end small loan, the additional charge for credit life insurance or credit accident and health insurance must be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as determined by the Insurance Commissioner, to the unpaid balances in the account, using any of the methods for the calculation of loan charges described above. The licensee is prohibited from cancelling the credit life insurance or credit accident and health insurance written in connection with an open-end small loan because of the borrower's delinquency in making the required minimum payments on the loan, unless:

1. one or more of such payments is past due for a period of 90 days or more, and
2. the licensee advances to the insurer the amounts required to keep the insurance in force during such period, which may be debited from the borrower's account.

Any cancellation shall be effective at the end of the billing cycle in which notice is received and the licensee must discontinue any further charges for the insurance.

### **§§ 6 & 7 — LICENSEES' PROHIBITED PRACTICES**

Under the bill, a small loan licensee is prohibited from:

1. causing a borrower, including a comaker or guarantor, to owe at any time more than \$15,000 for principal;
2. inducing or permitting a borrower to split or divide any small loan or loans, or induce or permit a borrower to become

- obligated, directly or indirectly, under more than one loan contract at the same time, primarily for the purpose of obtaining rates or charges that would otherwise be prohibited by the small loan laws;
3. taking any (a) confession of judgment, (b) power of attorney, (c) note or promise to pay that does not state the actual amount of the loan, the time period for which the loan is made, and the charges for such loan, or (d) instrument related to the loan in which blanks are left to be filled in after the loan is made;
  4. offering the borrower any other product or service in connection with a small loan unless (a) permitted by law, (b) authorized under another license, or by applicable exemption from any requirement for such licensure, to offer such product or services, or (c) if no separate license or exemption is required to offer such product or services, the loan is authorized in advance, in writing, by the commissioner after he is satisfied that the other product or service is of such a character that the granting of such authority would not permit or easily result in evasion of the small loan statutes or any implementing regulations; or
  5. renewing or refinancing a small loan unless the renewal or refinancing of the loan will result in a distinct advantage to the borrower, provided restoration to a contractually up-to-date condition does not, in itself, constitute a distinct advantage to the borrower.

The bill explicitly prohibits anyone from, directly or indirectly, assisting or aiding and abetting any person in conduct prohibited by the small loan statutes.

## **§ 8 — MAIN AND BRANCH OFFICES**

Under the bill, a small loan licensee, in each case where a license is required, must have a main office license and may have a branch office license. All offices must be located in the United States. Each main

office must have a qualified individual, who is responsible for supervising all aspects of the licensee's small loan business. Each branch must have a branch manager responsible for supervising all aspects of the branch's small loan business.

## **§ 9 — LICENSE APPLICATION PROCESS**

### ***Processed Through The System***

Under the bill, an application for a small loan license must be made and processed on “the system” (the Nationwide Mortgage Licensing System and Registry) in a form the commissioner prescribes. The form must contain information based on the commissioner’s instruction or procedure and may be changed or updated as he deems necessary.

### ***Criminal History Records Check***

The applicant must furnish information concerning his or her identity, any control person, the qualified individual, and any branch manager. This information must include personal history and experience related to any administrative, civil, or criminal findings by any government jurisdiction. The commissioner may conduct a state and national criminal history records check of the applicant and its control persons, qualified individual, and branch manager. He may require the applicant to submit fingerprints to the FBI or other state, national, or international criminal databases and may require control persons, qualified individuals, and branch managers to furnish authorization for the system and the commissioner to obtain an independent credit report from a consumer reporting agency.

### ***Audited Financial Statements***

Applicants also may be required to provide the system with an audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated not later than ninety days after the end of the applicant's fiscal year. Such financial statement must include a balance sheet, income statement, statement of cash flows and all relevant notes. If the applicant is a start-up company, only an initial statement of condition is required.

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***Application Deemed Abandoned***

The commissioner may determine an application for a small loan license abandoned if the applicant fails to respond to any request for information required by the bill or any adopted regulations. The commissioner must notify the applicant on the system that if such information is not submitted on or before 60 days after the date of such request, the application is deemed abandoned.

An application filing fee paid before the date an application is deemed abandoned is not refunded. Abandonment of an application does not preclude the applicant from submitting a new license application.

**§ 10 — LICENSE FEES**

Under the bill, each applicant for a small loan license must pay, through the system, a \$400 license fee and any other required fees or charges. Each license expires at the close of business on December 31 of the year in which the license was approved unless it is renewed, in which case it expires at the close of business on December 31 of the following year. Under current law, an initial application fee is \$800 for a biennial license which expires on September 30 of the odd year following its issuance. Under current law, the application fee is \$400 if filed less than a year before it would expire.

Under the bill, a renewal application must be filed between November 1 and December 31 of the year in which the license expires and the renewal fee is \$400 plus any other required fees or charges. Under current law, the renewal fee is \$800. There is a \$100 late fee under current law.

Under the bill, the commissioner must automatically suspend a license if the system indicates that a required payment was returned. The commissioner must give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew, and an opportunity for a hearing, and require the licensee to take or refrain from taking action as the commissioner deems necessary.

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Application and renewal fees are nonrefundable.

## **§ 11 — INVESTIGATION AND APPROVAL OR DENIAL**

### ***Investigation of Applicant***

Upon the license applicant filing the required application and fee, the commissioner must investigate the following facts. The commissioner may not issue a license unless he finds that the:

1. experience, character and general fitness of the applicant and its control persons, qualified individual and any branch manager are satisfactory;
2. the applicant's activities are for the convenience and advantage of the consumers it seeks to serve;
3. applicant has the required minimum \$50,000 in available funds; and
4. applicant and its control persons and any qualified individual and branch manager have not made a material misstatement in the application.

If the commissioner fails to make such findings, the commissioner cannot issue a license and must notify the applicant of the denial and the reasons for the denial.

### ***Application Denial***

The commissioner may deny an application if the applicant, its control persons, qualified individual, or branch manager have demonstrated a lack of financial responsibility. Under the bill, a person shows that he or she is not financially responsible when he or she shows a disregard in the management of his or her own financial condition. A determination that a person has not shown financial responsibility may include:

1. current outstanding judgments, except judgments solely as a result of medical expenses;

2. current outstanding tax liens or other government liens and filings;
3. foreclosures during the three years preceding the date of application; or
4. a pattern of seriously delinquent accounts within the previous three years.

The commissioner also may deny an application based on the history of criminal convictions of the applicant, its control persons, qualified individual, or branch manager.

#### ***Minimum Available Funds Required***

An applicant must have a minimum of \$50,000 continuously available for each licensed location. This may include cash or lines of credit.

#### ***Renewal Standards***

To renew a small loan license, an applicant must meet the minimum standards for an initial license, and pay all required fees for renewal of the license and any outstanding examination fees or other moneys the commissioner requires.

#### ***Withdrawal and Surrender of License***

A license application withdrawal is effective when the commissioner accepts the request on the system.

Within 15 days after a licensee ceases as a small loan lender in the state, including a business decision to terminate operations in this state, license revocation, bankruptcy, or voluntary dissolution, such licensee must surrender of the license on the system for each location in which the licensee has ceased to engage.

#### ***Failure to Renew***

If a license expires due to the licensee's failure to renew, the commissioner may institute a revocation or suspension proceeding or

issue an order suspending or revoking such license within one year after the expiration date.

A small loan license remains effective until it is surrendered, revoked, suspended, or expires.

## **§ 12 — COMMISSIONER'S APPROVAL FOR CHANGES**

Under the bill, small loan licenses are not assignable or transferable. Any proposed change in the control persons requires advance notice, filed on the system at least 60 days before the effective date of the change. Any change to the control persons requires the commissioner's approval.

No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, but may not use its legal name if the commissioner disapproves such name. A licensee is prohibited from any activity requiring a small loan license under any other name or at any other place of business than that named in the license. Any proposed change in a licensee's name or to the licensee's place of business requires an advance change notice filed on the system at least 30 days before the effective date of the change. Any change to the licensee's name or place of business requires the commissioner's approval.

## **§ 13 — UPDATING INFORMATION IN THE SYSTEM**

Under the bill, a licensee must file with the system any change in the license information most recently submitted or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the change in the information not later than 15 days after the licensee has reason to know of it.

A licensee must file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the occurrence of any of the following developments not later than 15 days after the licensee had reason to know of it:

1. filing for bankruptcy or the consummation of a corporate

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- restructuring of the licensee;
2. filing of a criminal indictment against the licensee in any way related to the activities of the licensee or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's control persons or qualified individual or branch manager;
  3. receiving notification of license denial, cease and desist order, suspension or revocation procedures, or other formal or informal action by any governmental agency against the licensee and the reasons therefor;
  4. receiving notification of the initiation of any action by the U.S. attorney general or any state attorney general and the reasons therefor;
  5. receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement;
  6. receiving notification of any of the licensee's control persons or qualified individual or branch manager filing or having filed for bankruptcy; or
  7. a decrease in the available funds required by the bill (i.e., \$50,000).

## **§ 14 — ADVERTISING**

### ***Unique Identifier***

Under the bill, the unique identifier of any small loan licensee must be clearly shown on the licensee's small loan application forms and all of the licensee's solicitations or advertisements, including business cards or Internet web sites, and any other documents as determined by the commissioner.

### ***Licensee Advertising***

Under the bill, a licensee's advertising:

1. must not include any statement that it is endorsed in any way by this state, but may include a statement that it is licensed here;
2. must not include any statement or claim which is deceptive, false, or misleading;
3. must be retained for one year from the date of its use; and
4. must otherwise conform to the requirements of the small loan statutes and related regulations.

### **§ 15 — RECORD KEEPING AND RETENTION**

The bill changes the record keeping and record retention requirements for small loan licensees.

#### ***Retention Period***

Under the bill, each small loan licensee must keep adequate books and records at the place of business specified in the license in such form and in such manner as the commissioner prescribes and must preserve all books, accounts, and records for the following time periods:

1. if the licensee brokered the small loan, at least two years after the date it was brokered;
2. if the licensee made the small loan, at least two years after the date the licensee (a) no longer owns the small loan, or (b) has made the final entry on the small loan; or
3. if the licensee did not make the small loan but is servicing the small loan, at least two years after the date the licensee (a) no longer owns the rights to service the small loan, or (b) has made the final entry on the small loan.

#### ***Commissioner's Inspection of Books and Records***

Small loan licensees must make their books and records available at the office specified in the license or send the books and records to the commissioner by registered or certified mail, return receipt requested,

or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested to do so by the commissioner. Upon request, the commissioner may grant a licensee additional time to make such books and records available or send them to the commissioner.

### ***Reporting Through The System (NMLS)***

Licensees must complete any reports of their condition required by the system. Any such reports of condition shall be accurately and timely filed on the system according to the due dates and formats required by the system.

Until the information is able to be captured by a system-based report, each licensee must furnish annually, on or before January 30, a sworn statement of the condition of the business as of the preceding December 31, together with such other information and statements as the commissioner may require.

## **§ 16 — LICENSE SUSPENSION AND REVOCATION**

### ***Conditions Necessary for Revocation or Suspension of License***

As under existing law, the commissioner may suspend, revoke, or refuse to renew any small loan license or take any other action for any reason that would be sufficient grounds for the commissioner to deny an application for such license. Under the bill, the commissioner may also do so if he finds that the licensee or any control person of the licensee, qualified individual, or branch manager with supervisory authority, trustee, employee, or agent of such licensee has done any of the following:

1. made any material misstatement in the application;
2. committed fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information, including, but not limited to, any disclosures required by regulations;

3. violated any of the provisions of the bill, any regulations adopted accordingly or any other law or regulation applicable to the conduct of its business; or
4. failed to perform any agreement with a licensee or a borrower.

The commissioner may take action whenever (1) it appears that a violation has occurred, (2) the violation is due to an act or omission such person knew or should have known would contribute to such violation, or (3) any licensee has failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information.

### ***Removal of Violator***

The commissioner may order a licensee to remove any individual from office and from employment or retention as an independent contractor in the small loan business in this state whenever the commissioner finds after investigating that such individual: (1) has violated any regulations adopted pursuant to the small loan statutes, or (2) for any reason that would be sufficient grounds for the commissioner to deny a license. The commissioner must do so by sending a notice to such individual by registered or certified mail, return receipt requested or by any express delivery carrier that provides a dated delivery receipt. The notice is deemed received by such individual on the earlier of the date of actual receipt or seven days after mailing or sending.

### ***Notice***

The notice must include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of the general statutes, regulations, or orders alleged to have been violated;
4. a short and plain statement of the matters asserted; and
5. a statement indicating that such individual may file a written request for a hearing on the matters asserted not later than 14 days after receipt of the notice.

***Hearing***

If a hearing is requested within the time specified in the notice, the commissioner must hold a hearing upon the matters asserted in the notice unless such individual fails to appear at the hearing. After the hearing, if the commissioner finds that any of the necessary grounds exist with respect to such individual, the commissioner may order a licensee to remove the individual from office and from any employment in the small loan business in this state. The commissioner may do the same if the individual fails to appear at the hearing.

If the commissioner finds that the protection of borrowers requires immediate action, the commissioner may suspend any such individual from office and require such individual to take or refrain from taking such action as, in the opinion of the commissioner, will effectuate the purposes of this bill, by incorporating a finding to that effect in such notice. The suspension or prohibition becomes effective upon receipt of the notice and, unless stayed by a court, remains in effect until the entry of a permanent order or the dismissal of the matters.

***Temporary Order to Cease Business***

The commissioner may issue a temporary order to cease business under a license if the commissioner determines that the license was issued erroneously. The commissioner must give the licensee an opportunity for a hearing. The temporary order becomes effective when the licensee receives it and, unless set aside or modified by a court, remains in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

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**§§ 17 & 18 — COMMISSIONER’S OVERSIGHT**

As under existing law, the bill gives the commissioner broad oversight of small loan licensees and the authority to adopt regulations he deems necessary to administer and enforce the small loan statutes. In order to carry out his duties under the small loan laws, the commissioner, among other things, may (1) accept and rely on examination or investigation reports made by other state officials, (2) accept audit reports from an independent certified public accountant, and (3) use, hire, contract, or employ public or privately available analytical systems.

**BACKGROUND*****Nationwide Mortgage Licensing System and Registry (“the system”)***

The “system” is the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration in the finance services industry. It (1) may be referred to as NMLS, NMLSR, or any other name or acronym as may be assigned and (2) is owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity (CGS § 36a-2).

**COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/15/2016)