AN ACT CONCERNING SHARED APPRECIATION AGREEMENTS AND CERTAIN START-UP COMPANIES ENGAGED IN THE ACTIVITY OF MONEY TRANSMISSION.

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

Section 1. Section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

As used in this section and sections 36a-486 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b, unless the context otherwise requires:

(1) "Advance fee" means any consideration paid or given, directly or indirectly, by a consumer to a person for a residential mortgage loan prior to the closing of such residential mortgage loan, including, but not limited to, loan fees, points, broker's fees or commissions, transaction fees or similar prepaid finance charges;

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

(3) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a mortgage lender, mortgage correspondent lender, mortgage broker or mortgage loan originator;
(4) "Control person" means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) in the case of a corporation, directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this subdivision, "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;

(5) "Depository institution" has the same meaning as provided in Section 3 of the Federal Deposit Insurance Act, 12 USC 1813, and includes any Connecticut credit union, federal credit union or out-of-state credit union;

(6) "Dwelling" means a "dwelling", as defined in Section 103 of the Consumer Credit Protection Act, 15 USC 1602, that is located in this state;

(7) "Employee" means an individual (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, a person, and (B) whose compensation is reported or required to be reported on a W-2 form issued by the controlling person. For purposes of the definition of "registered mortgage loan originator", "employee" has the foregoing meaning or such other meaning as the federal banking agencies may issue in connection with such agencies' implementation of such agencies' responsibilities under the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC 5101 et seq.;

(8) "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration and the Federal Deposit Insurance Corporation;
(9) "First mortgage loan" means a residential mortgage loan that is secured by a first mortgage;

(10) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild and includes stepparents, stepchildren, stepsiblings and adoptive relationships;

(11) "Independent contractor" means an individual retained on a basis where the individual is not an employee of any person in connection with the services such individual provides and whose compensation is reported or required to be reported on an Internal Revenue Service Form 1099 issued by the retaining person;

(12) "Individual" means a natural person;

(13) "Lead" means any information identifying a potential consumer of a residential mortgage loan;

(14) "Lead generator" means a person who, for or with the expectation of compensation or gain: (A) Sells, assigns or otherwise transfers one or more leads for a residential mortgage loan; (B) generates or augments one or more leads for another person; or (C) directs a consumer to another person for a residential mortgage loan by performing marketing services, including, but not limited to, online marketing, direct response advertising or telemarketing;

(15) "Loan processor or underwriter" means an individual who performs clerical or support duties. The term "clerical or support duties" includes, subsequent to the receipt of an application, (A) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan, and (B) communication with a consumer to obtain the information necessary for the processing or underwriting of a loan to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(16) "Main office" means the main address designated on the
(17) "Mortgage broker" (A) means a person who (i) for compensation or gain or with the expectation of compensation or gain (I) takes a residential mortgage loan application, or (II) offers or negotiates terms of a residential mortgage loan, and (ii) is not the prospective source of the funds for the residential mortgage loan, and (B) does not include (i) an individual who is licensed as a mortgage loan originator acting as a mortgage loan originator on behalf of such mortgage loan originator's sponsoring mortgage lender, mortgage correspondent lender, mortgage broker or exempt registrant, or (ii) an individual exempt from mortgage loan originator licensure under subdivision (2) of subsection (b) of section 36a-486 when acting within the scope of such exemption;

(18) "Mortgage correspondent lender" means a person engaged in the business of making residential mortgage loans in such person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement or similar agreement;

(19) "Mortgage lender" means a person engaged in the business of making residential mortgage loans in such person's own name utilizing such person's own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement;

(20) "Mortgage loan originator" means an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include (i) an individual engaged solely as a loan processor or underwriter; (ii) a person who only performs real estate brokerage activities and is licensed in accordance with chapter 392, unless the person is compensated by a mortgage lender, mortgage correspondent lender, mortgage broker or other mortgage loan originator or by any agent of such mortgage lender, mortgage
correspondent lender, mortgage broker or other mortgage loan
originator; (iii) a person solely involved in extensions of credit relating
to timeshare plans, as that term is defined in Paragraph 53D of 11 USC
101; or (iv) any individual who solely renegotiates terms for existing
mortgage loans on behalf of a mortgagee and who does not otherwise
act as a mortgage loan originator, unless the United States Department
of Housing and Urban Development, the Bureau of Consumer
Financial Protection or a court of competent jurisdiction determines
that the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC Section 5101
et seq., requires such individual to be licensed as a mortgage loan
originator under state laws implementing said S.A.F.E. Mortgage
Licensing Act;

(21) "Office" means a branch office or a main office;

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

(23) "Principal amount of the loan" means the gross amount the
borrower is obligated to repay including any prepaid finance charge
that is financed, and any other charge that is financed;

(24) "Real estate brokerage activity" means any activity that involves
offering or providing real estate brokerage services to the public,
including (A) acting as a real estate agent or real estate broker for a
buyer, seller, lessor or lessee of real property; (B) bringing together
parties interested in the sale, purchase, lease, rental or exchange of real
property; (C) negotiating, on behalf of any party, any portion of a
contract relating to the sale, purchase, lease, rental or exchange of real
property, other than in connection with providing financing with
respect to any such transaction; (D) engaging in any activity for which
a person engaged in the activity is required to be registered or licensed
as a real estate agent or real estate broker under any applicable law;
and (E) offering to engage in any activity, or act in any capacity,
described in this subdivision;

(25) "Registered mortgage loan originator" means any individual
who (A) meets the definition of mortgage loan originator and is an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration; and (B) is registered with and maintains a unique identifier through the system;

(26) "Residential mortgage loan" means any loan, including a shared appreciation agreement, primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(27) "Residential real estate" means any real property located in this state, upon which is constructed or intended to be constructed a dwelling;

(28) "Secondary mortgage loan" means a residential mortgage loan that is secured, in whole or in part, by a mortgage, provided such property is subject to one or more prior mortgages;

(29) "Shared appreciation agreement" means a nonrecourse obligation in which an advance sum of monetary value is extended to a consumer, as a lump sum or otherwise, in exchange for an equity interest in a dwelling, residential real estate or a future obligation to repay a sum upon the occurrence of an event including, but not limited to, the transfer of ownership, repayment maturity date, death of the consumer or as outlined and explicitly agreed to within said agreement.

[(29)] (30) "Simulated check" means a document that imitates or resembles a check but is not a negotiable instrument;

[(30)] (31) "Sponsored" means employed or retained as an independent contractor;

[(31)] (32) "Table funding agreement" means an agreement wherein a person agrees to fund mortgage loans to be made in another person's
name and to purchase such loans after they are made;

[(32)] (33) "Trigger lead" means a consumer report obtained pursuant to subparagraph (B) of subdivision (1) of subsection (c) of Section 604 of the Fair Credit Reporting Act, 15 USC 1681b, as amended from time to time, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit;

[(33)] (34) "Unique identifier" means a number or other identifier assigned by protocols established by the system; and

[(34)] (35) "Warehouse agreement" means an agreement to provide credit to a person to enable the person to have funds to make residential mortgage loans and hold such loans pending sale to other persons.

Sec. 2. Subsection (a) of section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(a) Each application for an initial or renewal license required under sections 36a-595 to 36a-612, inclusive, shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the commissioner. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of sections 36a-595 to 36a-612, inclusive. The applicant shall, at a minimum, furnish to the system information concerning the identity of the applicant, any control person of the applicant, the qualified individual and any branch manager responsible for the actions of the licensee, including, but not limited to, information related to such person's personal history and experience and any administrative, civil or criminal findings by any governmental jurisdiction. As part of an application, the commissioner may, (1) in accordance with section 29-17a, conduct a state or national criminal history records check of the applicant, any control person of the
applicant, the qualified individual and any branch manager, and, (2) in accordance with section 36a-24b, (A) require the submission of fingerprints of any such person to the Federal Bureau of Investigation or other state, national or international criminal databases, and (B) investigate the financial condition of any such person and require authorization from any such person for the system and the commissioner to obtain an independent credit report from a consumer reporting agency, as described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. An application for an initial license shall also include:

(i) A copy of the applicant's audited financial statements for the most recent fiscal year. If the applicant is a wholly-owned subsidiary of another corporation, the applicant shall include the most recent audited consolidated annual financial statements of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and the most recent audited consolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year. If the applicant is publicly traded, the applicant shall include a copy of the most recent 10-K report that such applicant filed with the Securities Exchange Commission or, if the applicant is a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report that was filed with the Securities and Exchange Commission. If the applicant or parent company of a wholly-owned subsidiary applicant is publicly traded on a foreign exchange, the applicant shall include a copy of documentation similar to the 10-K report that was filed with the applicable securities regulator.

Notwithstanding the provisions of this clause, if the applicant or parent company of a wholly-owned subsidiary applicant has operated for not more than one calendar year, the applicant shall only be required to include an initial statement of condition;

(ii) A list of the applicant's permissible investments, the book and market values of such investments, and the dollar amount of the applicant's aggregate outstanding money transmissions (I) as of the
date of the financial statement filed in accordance with clause (i) of this subparagraph; and (II) as of a date no earlier than thirty business days prior to the filing of the application;

(iii) (I) The surety bond required by subsection (a) of section 36a-602, if applicable;

(II) A list of the investments maintained in accordance with subsection (d) of section 36a-602, if applicable, and the book and market values of any such investments as of the date of the financial statement filed in accordance with clause (i) of this subparagraph; and as of a date no earlier than thirty business days prior to the filing of the application;

(iv) A statement describing the type of money transmission business that will be conducted by the applicant in this state and whether such money transmission will include the transmission of monetary value in the form of virtual currency;

(v) The name and address of any financial institution used by the applicant for its money transmission business in this state;

(vi) For each authorized delegate, a sample of the contract evidencing the proposed arrangement between the applicant and the authorized delegate; and

(vii) Any other information the commissioner may require.

Sec. 3. (Effective October 1, 2019) Not later than January 1, 2021, the Banking Commissioner shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly have cognizance of matters relating to banking. The report shall include, but not be limited to, (1) the number of licensees making or offering shared appreciation agreements, (2) the number of enforcement actions taken by the Department of Banking in connection with shared appreciation agreements, and (3) policy recommendations, if any, regarding shared appreciation agreements.
This act shall take effect as follows and shall amend the following sections:

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<tr>
<th>Section</th>
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<tr>
<td>Section 1</td>
<td>October 1, 2019</td>
<td>36a-485</td>
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<tr>
<td>Sec. 2</td>
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<td>36a-598(a)</td>
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<tr>
<td>Sec. 3</td>
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<td>New section</td>
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