



Senate

General Assembly

File No. 148

February Session, 2022

Substitute Senate Bill No. 268

Senate, March 28, 2022

The Committee on Banking reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING VARIOUS REVISIONS TO THE BANKING STATUTES.

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

1 Section 1. Subdivision (2) of section 36a-535 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2022*):

4 (2) "Sales finance company" means any person engaging in this state
5 in the business, in whole or in part, of (A) acquiring retail installment
6 contracts or installment loan contracts from the holders thereof, by
7 purchase, discount or pledge, or by loan or advance to the holder of
8 either on the security thereof, or otherwise, or (B) receiving payments of
9 principal and interest from a retail buyer under a retail installment
10 contract or installment loan contract, [whether such person owns such
11 contract or has conveyed, assigned or otherwise transferred any interest
12 in such contract to another person.] "Sales finance company" does not
13 include a bank, out-of-state bank, Connecticut credit union, federal
14 credit union, or out-of-state credit union, if so engaged;

15 Sec. 2. Section 36a-596 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2022*):

17 As used in sections 36a-595 to 36a-612, inclusive:

18 (1) "Advertise" or "advertising" has the same meaning as provided in
19 section 36a-485.

20 (2) "Authorized delegate" means a person designated by a person
21 licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide
22 money transmission services on behalf of such licensed person.

23 (3) "Control" means (A) the power to vote, directly or indirectly, at
24 least twenty-five per cent of the outstanding voting shares or voting
25 interests of a licensee or person in control of a licensee; (B) the power to
26 elect or appoint a majority of key individuals or executive officers,
27 managers, directors, trustees or other persons exercising managerial
28 authority of a person in control of a licensee; or (C) the power to exercise,
29 directly or indirectly, a controlling influence over the management or
30 policies of a licensee or person in control of a licensee. For purposes of
31 this subdivision: (i) A person is presumed to exercise a controlling
32 influence when the person holds the power to vote, directly or
33 indirectly, at least ten per cent of the outstanding voting shares or voting
34 interests of a licensee or person in control of a licensee, (ii) a person
35 presumed to exercise a controlling influence can rebut such
36 presumption if the person is a passive investor, and (iii) for purposes of
37 determining the percentage of control, a person's interest shall be
38 aggregated with the interest of any other immediate family member,
39 including the person's spouse, parent, child, sibling, mother-in-law,
40 father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law
41 and any other person who shares the person's home.

42 [(3)] (4) "Control person" [has the same meaning as provided in
43 section 36a-485.] means any individual in control of a licensee or
44 applicant, any individual that seeks to acquire control of a licensee or a
45 key individual.

46 [(4)] (5) "Electronic payment instrument" means a card or other
47 tangible object for the transmission of money or monetary value or
48 payment of money which contains a microprocessor chip, magnetic
49 stripe, or other means for the storage of information, that is prefunded
50 and for which the value is decremented upon each use, but does not
51 include a card or other tangible object that is redeemable by the issuer
52 in the issuer's goods or services.

53 [(5)] (6) "Holder" means a person, other than a purchaser, who is
54 either in possession of a payment instrument and is the named payee
55 thereon or in possession of a payment instrument issued or endorsed to
56 such person or bearer or in blank. "Holder" does not include any person
57 who is in possession of a lost, stolen or forged payment instrument.

58 (7) "Key individual" means any individual ultimately responsible for
59 establishing or directing policies and procedures of the licensee,
60 including, but not limited to, an executive officer, manager, director or
61 trustee.

62 [(6)] (8) "Licensee" means any person licensed or required to be
63 licensed pursuant to sections 36a-595 to 36a-612, inclusive.

64 [(7)] (9) "Main office" has the same meaning as provided in section
65 36a-485.

66 [(8)] (10) "Monetary value" means a medium of exchange, whether or
67 not redeemable in money.

68 [(9)] (11) "Money transmission" means engaging in the business of
69 issuing or selling payment instruments or stored value, receiving money
70 or monetary value for current or future transmission or the business of
71 transmitting money or monetary value within the United States or to
72 locations outside the United States by any and all means including, but
73 not limited to, payment instrument, wire, facsimile or electronic
74 transfer.

75 [(10)] (12) "Outstanding" means (A) in the case of a payment
76 instrument or stored value, that: (i) It is sold or issued in the United

77 States; (ii) a report of it has been received by a licensee from its
78 authorized delegates; and (iii) it has not yet been paid by the issuer, and
79 (B) for all other money transmissions, the value reported to the licensee
80 for which the licensee or any authorized delegate has received money
81 or its equivalent value from the customer for transmission, but has not
82 yet completed the money transmission by delivering the money or
83 monetary value to the person designated by the customer.

84 (13) "Passive investor" means a person that: (A) Does not have the
85 power to elect a majority of key individuals or executive officers,
86 managers, directors, trustees or other persons exercising managerial
87 authority of a person in control of a licensee; (B) is not employed by and
88 does not have any managerial duties of the licensee or person in control
89 of a licensee; (C) does not have the power to exercise, directly or
90 indirectly, a controlling influence over the management or policies of a
91 licensee or person in control of a licensee; and (D) attests to
92 subparagraphs (A), (B) and (C) of this subdivision in the form and
93 manner prescribed by the commissioner.

94 ~~[(11)]~~ (14) "Payment instrument" means a check, draft, money order,
95 travelers check or electronic payment instrument that evidences either
96 an obligation for the transmission of money or monetary value or
97 payment of money, or the purchase or the deposit of funds for the
98 purchase of such check, draft, money order, travelers check or electronic
99 payment instrument.

100 ~~[(12)]~~ (15) "Permissible investment" means: (A) Cash in United States
101 currency; (B) time deposits, as defined in section 36a-2, or other debt
102 instruments of a bank; (C) bills of exchange or bankers acceptances
103 which are eligible for purchase by member banks of the Federal Reserve
104 System; (D) commercial paper of prime quality; (E) interest-bearing
105 bills, notes, bonds, debentures or other obligations issued or guaranteed
106 by: (i) The United States or any of its agencies or instrumentalities, or (ii)
107 any state, or any agency, instrumentality, political subdivision, school
108 district or legally constituted authority of any state if such investment is
109 of prime quality; (F) interest-bearing bills or notes, or bonds, debentures

110 or preferred stocks, traded on any national securities exchange or on a
111 national over-the-counter market, if such debt or equity investments are
112 of prime quality; (G) receivables due from authorized delegates
113 consisting of the proceeds of the sale of payment instruments which are
114 not past due or doubtful of collection; (H) gold; and (I) any other
115 investments approved by the commissioner. Notwithstanding the
116 provisions of this subdivision, if the commissioner at any time finds that
117 an investment of a licensee is unsatisfactory for investment purposes,
118 the investment shall not qualify as a permissible investment.

119 [(13)] (16) "Prime quality" of an investment means that it is within the
120 top four rating categories in any rating service recognized by the
121 commissioner unless the commissioner determines for any licensee that
122 only those investments in the top three rating categories qualify as
123 "prime quality".

124 [(14)] (17) "Purchaser" means a person who buys or has bought a
125 payment instrument or who has given money or monetary value for
126 current or future transmission.

127 [(15)] (18) "Stored value" means monetary value that is evidenced by
128 an electronic record. For the purposes of this subdivision, "electronic
129 record" means information that is stored in an electronic medium and is
130 retrievable in perceivable form.

131 [(16)] (19) "Travelers check" means a payment instrument for the
132 payment of money that contains a provision for a specimen signature of
133 the purchaser to be completed at the time of a purchase of the
134 instrument and a provision for a countersignature of the purchaser to
135 be completed at the time of negotiation.

136 [(17)] (20) "Unique identifier" has the same meaning as provided in
137 section 36a-485.

138 [(18)] (21) "Virtual currency" means any type of digital unit that is
139 used as a medium of exchange or a form of digitally stored value or that
140 is incorporated into payment system technology. Virtual currency shall

141 be construed to include digital units of exchange that (A) have a
142 centralized repository or administrator; (B) are decentralized and have
143 no centralized repository or administrator; or (C) may be created or
144 obtained by computing or manufacturing effort. Virtual currency shall
145 not be construed to include digital units that are used (i) solely within
146 online gaming platforms with no market or application outside such
147 gaming platforms, or (ii) exclusively as part of a consumer affinity or
148 rewards program, and can be applied solely as payment for purchases
149 with the issuer or other designated merchants, but cannot be converted
150 into or redeemed for fiat currency.

151 Sec. 3. Subdivision (1) of subsection (d) of section 36a-598 of the 2022
152 supplement to the general statutes is repealed and the following is
153 substituted in lieu thereof (*Effective October 1, 2022*):

154 (d) (1) A money transmission license shall not be transferable or
155 assignable, but a licensee may be acquired in accordance with the
156 requirements of this subsection. Any change in any control person of the
157 licensee, except a change of a [director, general partner or executive
158 officer] key individual that is not the result of an acquisition or a change
159 of control of the licensee, shall be the subject of an advance change notice
160 filed on the system at least thirty days prior to the effective date of such
161 change and no such change shall occur without the commissioner's
162 approval. For purposes of this section, "change of control" means any
163 change causing the majority ownership, voting rights or control of a
164 licensee to be held by a different control person or group of control
165 persons.

166 Sec. 4. (NEW) (*Effective October 1, 2022*) (a) For purposes of this
167 section:

168 (1) "Covered institution" means a mortgage servicer that services, or
169 subservices for others, at least two thousand mortgage loans primarily
170 for personal, family or household use secured by residential property in
171 the United States, excluding whole loans owned and loans being interim
172 serviced prior to sale, as reported on the mortgage call report on the
173 system or any other document required by the commissioner. "Covered

174 institution" does not include: (A) Any person exempt from mortgage
175 servicer licensing requirements pursuant to subdivision (1), (2) or (3) of
176 subsection (b) of section 36a-718 of the general statutes, (B) any
177 mortgage servicer that has the status of a tax-exempt organization under
178 Section 501(c)(3) of Internal Revenue Code of 1986, or any subsequent
179 corresponding internal revenue code of the United States, as amended
180 from time to time, or (C) any agency exempt from mortgage servicer
181 requirements pursuant to section 36a-719~~l~~ of the general statutes;

182 (2) "Interim serviced prior to sale" means the activity of collecting a
183 limited number of contractual mortgage payments immediately after
184 origination on loans held for sale but no longer than a period of ninety
185 days prior to the loans being sold into the secondary market; and

186 (3) "Whole loans" means loans where a mortgage and the underlying
187 credit risk is owned and held on the balance sheet of the entity with all
188 ownership rights.

189 (b) A covered institution shall maintain capital and liquidity as
190 described in this subsection, except for any mortgage servicer that
191 solely: (1) Owns reverse mortgage loans, (2) performs subservicing for
192 others with no responsibility to advance moneys not yet received in
193 connection with such subservicing activities, or (3) conducts reverse
194 mortgage servicing.

195 (c) A covered institution shall maintain the Federal Housing Finance
196 Agency's Eligibility Requirements for Enterprise Single-Family
197 Seller/Servicers for minimum capital ratio, net worth and liquidity, as
198 amended from time to time, whether or not the mortgage servicer is
199 approved for government sponsored enterprise servicing.

200 (d) A covered institution shall maintain written policies and
201 procedures implementing the capital and servicing liquidity
202 requirements of this subsection, including a sustainable written
203 methodology for satisfying the requirements of this subsection.

204 (e) A covered institution shall maintain sufficient allowable assets for

205 liquidity in addition to the amounts required for servicing liquidity, to
206 cover normal business operations. A covered institution shall have in
207 place sound cash management and business operating plans that are
208 commensurate with the complexity of the institution to ensure normal
209 business operations. A covered institution shall develop, establish and
210 implement plans, policies and procedures for maintaining operating
211 liquidity sufficient for the ongoing needs of the institution, that shall
212 include sustainable, written methodologies for maintaining sufficient
213 operating liquidity. For purposes of this subsection, "allowable assets
214 for liquidity" means assets that may be used to satisfy the liquidity
215 requirements established under this subsection, including unrestricted
216 cash and cash equivalents and unencumbered investment grade assets
217 held for sale or trade, including, but not limited to, mortgage-backed
218 securities of Fannie Mae, Freddie Mac or Ginnie Mae and obligations of
219 the United States Department of Treasury.

220 (f) For the purposes of complying with the capital and liquidity
221 requirements described in subsections (c) to (e), inclusive, of this section,
222 the reverse mortgage portfolio administered by a covered institution
223 shall be excluded from calculations and all financial data shall be
224 determined in accordance with generally accepted accounting
225 principles.

226 (g) A covered institution shall establish and maintain a board of
227 directors responsible for oversight of the covered institution. For
228 covered institutions that are not approved to service loans by a
229 government sponsored enterprise or Ginnie Mae, or where a federal
230 agency has granted approval for a board alternative, an institution may
231 establish a similar body constituted to exercise oversight and fulfill the
232 board of directors' responsibilities described under this subsection. The
233 board of directors shall: (1) Establish a written corporate governance
234 framework, including appropriate internal controls designed to monitor
235 corporate governance and assess compliance with the corporate
236 governance framework, (2) monitor and ensure institutional compliance
237 with the rules established under sections 36a-715 to 36a-719l, inclusive,
238 of the general statutes and accurately and timely complete and submit

239 regulatory reports, including filing the mortgage call report, and (3)
240 establish internal audit requirements that are appropriate for the size,
241 complexity and risk profile of the servicer, with appropriate
242 independence to provide a reliable evaluation of the servicer's internal
243 control structure, risk management and governance.

244 (h) A covered institution shall annually procure an external audit,
245 including audited financial statements and audit reports conducted by
246 an independent public accountant. The audit shall include: (1) Annual
247 financial statements, including a balance sheet, income statement, cash
248 flows, notes and supplemental schedules prepared in accordance with
249 generally accepted accounting principles, (2) assessment of the internal
250 control structure, (3) computation of tangible net worth, (4) validation
251 of mortgage servicing rights valuation and reserve methodology, if
252 applicable, (5) verification of adequate fidelity and errors and omissions
253 insurance, and (6) testing of controls related to risk management
254 activities, including compliance and stress testing, as applicable.

255 (i) A covered institution shall establish a risk management program
256 under the oversight of the board of directors that identifies, measures,
257 monitors and controls risk commensurate with the complexity of the
258 servicer. The risk management program shall have appropriate
259 processes and models in place to measure, monitor and mitigate
260 financial risks and changes to the risk profile of the servicer and assets
261 being serviced. The risk management program shall be scaled to the
262 complexity of the organization and be sufficient to manage the risk of
263 the institution. Such risks shall include, but are not limited to:

264 (1) Credit risk, which means the potential that a borrower or
265 counterparty will fail to perform on an obligation;

266 (2) Liquidity risk, which means the potential that the servicer will be
267 unable to meet its obligations as they come due because of an inability
268 to liquidate assets or obtain adequate funding or that it cannot easily
269 unwind or offset specific exposures;

270 (3) Operational risk, which means the risk resulting from inadequate

271 or failed internal processes, people and systems or from external events;

272 (4) Market risk, which means the risk to the servicer's condition
273 resulting from adverse movements in market rates or prices;

274 (5) Compliance risk, which means the risk of regulatory sanctions,
275 fines, penalties or losses resulting from failure to comply with laws,
276 rules, regulations or other supervisory requirements applicable to the
277 servicer;

278 (6) Legal risk, which means the potential that actions against the
279 servicer that result in unenforceable contracts, lawsuits, legal sanctions
280 or adverse judgments can disrupt or otherwise negatively affect the
281 operations or condition of the servicer; and

282 (7) Reputation risk, which means the risk to earnings and capital
283 arising from negative publicity regarding the servicer's business
284 practices.

285 (j) A covered institution shall annually conduct a risk management
286 assessment. The risk management assessment shall include a written
287 report to the board of directors. The report shall include evidence of risk
288 management activities, any adverse findings relating to the institution's
289 risk management program and proposed corrective actions needed to
290 remedy any findings noted.

291 (k) Whenever the commissioner finds, as the result of an
292 investigation, inquiry or examination, that any risk of a covered
293 institution is of significant concern, the commissioner may order or
294 direct the institution to satisfy additional conditions necessary to ensure
295 that the institution continues to operate in a safe and sound manner and
296 continues to service loans in compliance with state and federal law and
297 regulations.

298 Sec. 5. Section 36a-488 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective from passage*):

300 (a) (1) The commissioner shall not issue a mortgage lender license, a

301 mortgage correspondent lender license or a mortgage broker license to
302 any person unless such person meets the following tangible net worth
303 and experience requirements, as applicable: (A) The minimum tangible
304 net worth requirement for a mortgage lender shall be two hundred fifty
305 thousand dollars and the minimum tangible net worth requirement for
306 a mortgage correspondent lender and a mortgage broker shall be fifty
307 thousand dollars, and (B) a mortgage lender, mortgage correspondent
308 lender or mortgage broker shall have, (i) at the main office for which the
309 license is sought, a qualified individual who has supervisory authority
310 over the lending or brokerage activities of the licensee and who is
311 responsible for the actions of the licensee, and (ii) at each branch office,
312 a branch manager who has supervisory authority over the lending or
313 brokerage activities of the branch office, who is responsible for the
314 actions of the branch office, who has at least three years' experience in
315 the mortgage business within the five years immediately preceding the
316 date of the application for the license, and who is licensed as a mortgage
317 loan originator under section 36a-489. As used in this subdivision,
318 "experience in the mortgage business" means paid experience in the
319 origination, processing or underwriting of residential mortgage loans,
320 the marketing of such loans in the secondary market or in the
321 supervision of such activities, or any other relevant experience as
322 determined by the commissioner. As used in subparagraph (B) of this
323 subdivision, "at the main office" may be established by demonstrating
324 to the satisfaction of the commissioner that the qualified individual
325 [resides within one hundred miles of the main office or] is [otherwise]
326 capable of providing full-time [, in-person] supervision of the main
327 office, and "at each branch office" may be established by demonstrating
328 to the satisfaction of the commissioner that the branch manager [resides
329 within one hundred miles of the branch office or] is [otherwise] capable
330 of providing full-time [, in-person] supervision of the branch office. The
331 commissioner may waive the requirements of subparagraph (B) of this
332 subdivision pertaining to a qualified individual where it is
333 demonstrated to the satisfaction of the commissioner that no activity
334 subject to licensure under sections 36a-485 to 36a-498e, inclusive, as
335 amended by this act, 36a-534a and 36a-534b will be conducted at the

336 main office and the licensee designates a qualified individual
337 responsible for the actions of the licensee. The commissioner may waive
338 the requirements of subparagraph (B) of this subdivision pertaining to
339 a branch manager where a person licensed as a mortgage lender under
340 section 36a-489 will act only as a mortgage servicer at such branch office,
341 and the individual designated as branch manager meets the
342 requirements for branch manager as set forth in section 36a-719. No
343 person granted a waiver of the requirements of subparagraph (B) of this
344 subdivision shall conduct any activity at the main office or at any branch
345 office that would have precluded issuance of such waiver without first
346 designating a qualified individual or branch manager, as applicable,
347 who meets all applicable requirements and is approved by the
348 commissioner.

349 (2) Each licensee shall maintain the net worth required by this
350 subsection.

351 (b) The commissioner may issue a mortgage lender license, a
352 mortgage correspondent lender license, or a mortgage broker license.
353 Each mortgage lender licensee may also act as a mortgage
354 correspondent lender and a mortgage broker, and each mortgage
355 correspondent lender licensee may also act as a mortgage broker. An
356 application for a license as a mortgage lender, mortgage correspondent
357 lender or mortgage broker office or renewal of such license shall be filed,
358 in a form prescribed by the commissioner, with the system. Each such
359 form shall contain content as set forth by instruction or procedure of the
360 commissioner and may be changed or updated as necessary by the
361 commissioner in order to carry out the purpose of sections 36a-21, 36a-
362 485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a
363 and 36a-534b. The applicant shall, at a minimum, furnish to the system
364 information concerning the identity of the applicant, any control person
365 of the applicant, the qualified individual and any branch manager,
366 including personal history and experience in a form prescribed by the
367 system and information related to any administrative, civil or criminal
368 findings by any governmental jurisdiction. In the case of an initial
369 application for a license, the following supplementary information shall

370 be filed, as applicable: (1) For a main office license, a financial statement
371 as of a date not more than twelve months prior to the filing of the
372 application which reflects tangible net worth; (2) a bond as required by
373 section 36a-492, as amended by this act; (3) evidence that the qualified
374 individual or branch manager meets the experience required by
375 subsection (a) of this section; and (4) such other information pertaining
376 to the applicant, the applicant's background, the background of its
377 principals, employees, mortgage loan originators, and loan processors
378 or underwriters, and the applicant's activities as the commissioner may
379 require. For the purpose of this subsection, evidence of experience of the
380 qualified individual or branch manager shall include: (A) A statement
381 specifying the duties and responsibilities of such person's employment,
382 the term of employment, including month and year, and the name,
383 address and telephone number of a supervisor, employer or, if self-
384 employed, a business reference; and (B) if required by the
385 commissioner, copies of W-2 forms, 1099 tax forms or, if self-employed,
386 1120 corporate tax returns, signed letters from the employer on the
387 employer's letterhead verifying such person's duties and
388 responsibilities and term of employment including month and year, and
389 if such person is unable to provide such letters, other proof satisfactory
390 to the commissioner that such person meets the experience requirement.
391 The commissioner may conduct a criminal history records check of the
392 applicant, any control person of the applicant and the qualified
393 individual or branch manager and require the applicant to submit the
394 fingerprints of such persons and authorization of such persons for the
395 system and the commissioner to obtain an independent credit report
396 from a consumer reporting agency, as described in Section 603(p) of the
397 Fair Credit Reporting Act, 15 USC 1681a, as part of the application.

398 (c) The commissioner may issue a mortgage loan originator license or
399 a loan processor or underwriter license. Each mortgage loan originator
400 licensee may also act as a loan processor or underwriter. Each mortgage
401 loan originator licensee shall be associated with a specified licensed
402 office [from which such licensee will operate] and be subject to
403 supervision by a qualified individual or branch manager. [The specified
404 office shall be within a one-hundred-mile distance from where such

405 licensee resides, unless such licensee can otherwise demonstrate to the
406 commissioner's satisfaction that the licensee will be subject to
407 supervision by a qualified individual or branch manager.] An
408 application to license an individual as a mortgage loan originator or a
409 loan processor or underwriter or for renewal of such license shall be
410 filed, in a form prescribed by the commissioner, with the system. Each
411 such form shall contain content as set forth by instruction or procedure
412 of the commissioner and may be changed or updated as necessary by
413 the commissioner in order to carry out the purpose of sections 36a-485
414 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-534a and
415 36a-534b. The applicant shall, at a minimum, furnish to the system, in a
416 form prescribed by the system, information concerning the applicant's
417 identity, including personal history and experience and information
418 related to any administrative, civil or criminal findings by any
419 governmental jurisdiction. Each applicant for a mortgage loan
420 originator license or a loan processor or underwriter license shall
421 furnish to the system fingerprints for submission to the Federal Bureau
422 of Investigation and any governmental agency or entity authorized to
423 receive such information for a state, national and international criminal
424 history background check. Each applicant shall furnish authorization
425 for the system and the commissioner to obtain an independent credit
426 report from a consumer reporting agency, as described in Section 603(p)
427 of the Fair Credit Reporting Act, 15 USC 1681a.

428 (d) The commissioner may issue a lead generator license. An
429 application for a license as a lead generator or an application for a license
430 renewal shall be filed, in a form prescribed by the commissioner, with
431 the system, accompanied by the fees required under section 36a-491.
432 Each such form shall contain content as set forth by instruction or
433 procedure of the commissioner and may be changed or updated as
434 necessary by the commissioner in order to carry out the purposes of
435 sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h,
436 36a-534a and 36a-534b. The applicant shall, at a minimum, furnish to the
437 system information concerning the identity of the applicant, any control
438 person of the applicant and the qualified individual responsible for the
439 actions of the licensee, including, but not limited to, a personal history

440 and experience, in a form prescribed by the system, and information
441 related to any administrative, civil or criminal findings by any
442 governmental jurisdiction. The commissioner, in accordance with
443 section 29-17a, may conduct a state or national criminal history records
444 check of the applicant, any control person of the applicant and the
445 qualified individual, and, in accordance with section 36a-24b, may
446 require the submission of fingerprints of such persons to the Federal
447 Bureau of Investigation or other state, national or international criminal
448 databases as part of the application.

449 Sec. 6. Section 36a-492 of the general statutes is repealed and the
450 following is substituted in lieu thereof (*Effective from passage*):

451 (a) (1) Each licensed mortgage lender, mortgage correspondent
452 lender and mortgage broker shall file with the commissioner a single
453 surety bond, written by a surety authorized to write such bonds in this
454 state, covering its main office and [file an addendum to such bond to
455 cover] any branch office, in a penal sum determined in accordance with
456 subsection (d) of this section, provided the penal sum of the bond for
457 licensed mortgage lenders and mortgage correspondent lenders shall be
458 not less than one hundred thousand dollars and the penal sum of the
459 bond for mortgage brokers shall be not less than fifty thousand dollars.
460 The bond shall cover all mortgage loan originators sponsored by such
461 licensee.

462 (2) Each mortgage loan originator licensee shall be covered by a
463 surety bond with a penal sum in an amount that reflects the dollar
464 amount of loans originated by such mortgage loan originator in
465 accordance with subsection (d) of this section, provided such coverage
466 shall be provided through a single surety bond filed with the
467 commissioner by the person who sponsors such mortgage loan
468 originator.

469 (3) (A) In the case of an exempt registrant under subdivision (1), (2)
470 or (3) of subsection (a) of section 36a-487: (i) The surety bond shall cover
471 all mortgage loan originators sponsored by such exempt registrant and
472 comply with the requirements set forth in this section, and (ii) the penal

473 sum of such bond shall be in an amount determined in accordance with
474 subsection (d) of this section, provided the penal sum of the bond shall
475 be not less than one hundred thousand dollars; (B) in the case of an
476 exempt registrant under subsection (b) of section 36a-487: (i) The surety
477 bond shall cover all mortgage loan originators sponsored by such
478 exempt registrant and comply with the requirements set forth in this
479 section, and (ii) the penal sum of the bond shall be in an amount
480 determined in accordance with subsection (d) of this section, provided
481 the penal sum shall be not less than fifty thousand dollars; and (C) in
482 the case of a person exempt from licensure as a mortgage lender,
483 mortgage correspondent lender or mortgage broker under subdivision
484 (4) of subsection (a) of section 36a-487, the surety bond shall cover all
485 mortgage loan originators sponsored by such person and comply with
486 the requirements set forth in section 36a-671d, as amended by this act.

487 (4) The principal on a bond required by this section shall file quarterly
488 reports on the system reflecting residential mortgage loan volume in
489 accordance with subsection (c) of section 36a-534b to confirm that it
490 maintains the required penal sum in an amount required by subsection
491 (d) of this section. The principal shall file such information as the
492 commissioner may require under subsection (d) of this section and shall
493 file, as the commissioner may require, pursuant to subsection (d) of this
494 section, any bond rider or endorsement to the surety bond on file with
495 the commissioner to reflect any changes necessary to maintain the
496 surety bond coverage required by this section.

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

499 (b) Except for the bond required by subparagraph (C) of subdivision
500 (3) of subsection (a) of this section, the bond required by subsection (a)
501 of this section shall be (1) in a form approved by the Attorney General,
502 and (2) conditioned upon the mortgage lender, mortgage correspondent
503 lender or mortgage broker licensee and any mortgage loan originator
504 licensee sponsored by such mortgage lender, mortgage correspondent
505 lender or mortgage broker or, in the case of a mortgage loan originator

506 licensee sponsored by an exempt registrant, upon such mortgage loan
507 originator licensee faithfully performing any and all written agreements
508 or commitments with or for the benefit of borrowers and prospective
509 borrowers, truly and faithfully accounting for all funds received from a
510 borrower or prospective borrower by the licensee in the licensee's
511 capacity as a mortgage lender, mortgage correspondent lender,
512 mortgage broker or mortgage loan originator, and conducting such
513 mortgage business consistent with the provisions of sections 36a-485 to
514 36a-498e, inclusive, as amended by this act, 36a-534a and 36a-534b. Any
515 borrower or prospective borrower who may be damaged by failure to
516 perform any written agreements or commitments, or by the wrongful
517 conversion of funds paid by a borrower or prospective borrower to a
518 licensee, may proceed on such bond against the principal or surety
519 thereon, or both, to recover damages. Any borrower or prospective
520 borrower who may be damaged by a mortgage lender, mortgage
521 correspondent lender, mortgage broker or mortgage loan originator
522 licensee's failure to satisfy a judgment against the licensee arising from
523 the making or brokering of a nonprime home loan, as defined in section
524 36a-760, may proceed on such bond against the principal or surety
525 thereon, or both, to recover the amount of the judgment. The
526 commissioner may proceed on such bond against the principal or surety
527 thereon, or both, to collect any civil penalty imposed upon a licensee
528 pursuant to subsection (a) of section 36a-50 and any unpaid costs of
529 examination of a licensee as determined pursuant to section 36a-65 and,
530 on and after April 1, 2019, any restitution imposed pursuant to
531 subsection (c) of section 36a-50. The proceeds of the bond, even if
532 commingled with other assets of the principal, shall be deemed by
533 operation of law to be held in trust for the benefit of such claimants
534 against the principal in the event of bankruptcy of the principal and
535 shall be immune from attachment by creditors and judgment creditors.
536 The bond shall run concurrently with the period of the license for the
537 main office and the aggregate liability under the bond shall not exceed
538 the penal sum of the bond. The principal shall notify the commissioner
539 of the commencement of an action on the bond. When an action is
540 commenced on a principal's bond, the commissioner may require the

541 filing of a new bond and immediately on recovery on any action on the
542 bond, the principal shall file a new bond.

543 (c) The surety company shall have the right to cancel the bond at any
544 time by a written notice to the principal stating the date cancellation
545 shall take effect, provided the surety company notifies the
546 commissioner in writing not less than thirty days prior to the effective
547 date of cancellation. If the bond is issued electronically on the system,
548 written notice of cancellation may be provided by the surety company
549 to the principal and the commissioner through the system at least thirty
550 days prior to the date of cancellation. Any notice of cancellation not
551 provided through the system shall be sent by certified mail to the
552 principal and the commissioner at least thirty days prior to the date of
553 cancellation. A surety bond shall not be cancelled unless the surety
554 company notifies the commissioner in writing not less than thirty days
555 prior to the effective date of cancellation. After receipt of such
556 notification from the surety company, the commissioner shall give
557 written notice to the principal of the date such bond cancellation shall
558 take effect and such notice shall be deemed notice to each mortgage loan
559 originator licensee sponsored by such principal. The commissioner shall
560 automatically suspend the licenses of a mortgage lender, mortgage
561 correspondent lender or mortgage broker on such date and inactivate
562 the licenses of the mortgage loan originators sponsored by such lender,
563 correspondent lender or broker. In the case of a cancellation of an
564 exempt registrant's bond, the commissioner shall inactivate the licenses
565 of the mortgage loan originators sponsored by such exempt registrant.
566 No automatic suspension or inactivation shall occur if, prior to the date
567 that the bond cancellation shall take effect, (1) the principal submits a
568 letter of reinstatement of the bond from the surety company or a new
569 bond, (2) the mortgage lender, mortgage correspondent lender or
570 mortgage broker licensee has ceased business and has surrendered all
571 licenses in accordance with subsection (a) of section 36a-490, or (3) in the
572 case of a mortgage loan originator licensee, the sponsorship with the
573 mortgage lender, mortgage correspondent lender or mortgage broker
574 who was automatically suspended pursuant to this section or, with the
575 exempt registrant who failed to provide the bond required by this

576 section, has been terminated and a new sponsor has been requested and
577 approved. After a mortgage lender, mortgage correspondent lender or
578 mortgage broker license has been automatically suspended pursuant to
579 this section, the commissioner shall (A) give the licensee notice of the
580 automatic suspension, pending proceedings for revocation or refusal to
581 renew pursuant to section 36a-494 and an opportunity for a hearing on
582 such action in accordance with section 36a-51, and (B) require such
583 licensee to take or refrain from taking such action as the commissioner
584 deems necessary to effectuate the purposes of this section. The
585 commissioner may provide information to an exempt registrant
586 concerning actions taken by the commissioner pursuant to this
587 subsection against any mortgage loan originator licensee that was
588 sponsored and bonded by such exempt registrant.

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

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

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

598 (3) An exempt registrant under subsection (d) of section 36a-487 who
599 is exempt from licensure under subdivision (1), (2) or (3) of subsection
600 (a) of section 36a-487 shall file a bond in a penal sum of one hundred
601 thousand dollars the first time such exempt registrant sponsors a
602 mortgage loan originator.

603 (4) An exempt registrant under subsection (d) of section 36a-487 who
604 is exempt from licensure under subsection (b) of section 36a-487 shall
605 file a bond in a penal sum of fifty thousand dollars the first time such
606 exempt registrant sponsors a mortgage loan originator.

607 (5) Persons exempt from licensure under subdivision (4) of
608 subsection (a) of section 36a-487, shall file a bond in a penal sum as set
609 forth in section 36a-671d, as amended by this act.

610 (6) (A) For mortgage lender and mortgage correspondent lender
611 licensees and persons sponsoring and bonding at least one mortgage
612 loan originator as an exempt registrant under subsection (d) of section
613 36a-487 and who are exempt from licensing under subdivision (1), (2) or
614 (3) of subsection (a) of section 36a-487, if: (i) The aggregate dollar
615 amount of all residential mortgage loans originated by such licensee at
616 all licensed locations or by the exempt registrant during the preceding
617 four quarters ending June thirtieth is less than thirty million dollars, the
618 penal sum of the bond shall be one hundred thousand dollars; (ii) the
619 aggregate dollar amount of all residential mortgage loans originated by
620 such licensee at all licensed locations or by the exempt registrant during
621 the preceding four quarters ending June thirtieth is thirty million dollars
622 or more but less than one hundred million dollars, the penal sum of the
623 bond shall be two hundred thousand dollars; (iii) the aggregate dollar
624 amount of all residential mortgage loans originated by such licensee at
625 all licensed locations or by the exempt registrant during the preceding
626 four quarters ending June thirtieth is one hundred million dollars or
627 more but less than two hundred fifty million dollars, the penal sum of
628 the bond shall be three hundred thousand dollars; and (iv) the aggregate
629 dollar amount of all residential mortgage loans originated by such
630 licensee at all licensed locations or by the exempt registrant during the
631 preceding four quarters ending June thirtieth is two hundred fifty
632 million dollars or more, the penal sum of the bond shall be five hundred
633 thousand dollars.

634 (B) For mortgage broker licensees and persons who are sponsoring
635 and bonding at least one mortgage loan originator as an exempt
636 registrant under subsection (d) of section 36a-487 and who are exempt
637 from licensing under subsection (b) or (c) of section 36a-487, if: (i) The
638 aggregate dollar amount of all residential mortgage loans originated by
639 such licensee at all licensed locations or by the exempt registrant during
640 the preceding four quarters ending June thirtieth is less than thirty

641 million dollars, the penal sum of the bond shall be fifty thousand dollars;
642 (ii) the aggregate dollar amount of all residential mortgage loans
643 originated by such licensee at all licensed locations or by the exempt
644 registrant during the preceding four quarters ending June thirtieth is
645 thirty million dollars or more but less than fifty million dollars, the penal
646 sum of the bond shall be one hundred thousand dollars; and (iii) the
647 aggregate dollar amount of all residential mortgage loans originated by
648 such licensee at all licensed locations or by the exempt registrant during
649 the preceding four quarters ending June thirtieth is fifty million dollars
650 or more, the penal sum of the bond shall be one hundred fifty thousand
651 dollars.

652 (7) For purposes of this subsection, the aggregate dollar amount of all
653 residential mortgage loans originated by such licensee or exempt
654 registrant includes the aggregate dollar amount of all closed residential
655 mortgage loans that the licensee or exempt registrant originated,
656 brokered or made, as applicable.

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

661 (9) The commissioner may require a change in the penal sum of the
662 bond if the commissioner determines at any time that the aggregate
663 dollar amount of all residential mortgage loans originated warrants a
664 change in the penal sum of the bond.

665 Sec. 7. Section 36a-671d of the general statutes is repealed and the
666 following is substituted in lieu thereof (*Effective from passage*):

667 (a) (1) No debt negotiation license, and no renewal thereof, shall be
668 granted unless the applicant has filed the surety bond required by this
669 section, which bond shall be written by a surety authorized to write such
670 bonds in this state.

671 (2) No application for a debt negotiation license for a main office or

672 branch office, and no renewal of such a license, shall be granted unless
673 the applicant has filed a single surety bond with the commissioner in an
674 aggregate amount of fifty thousand dollars for each licensed location, or
675 such other amount required by subdivision (4) of this subsection. [No
676 application for a debt negotiation license branch office, and no renewal
677 of such a license, shall be granted unless the applicant has identified
678 such branch office as a bonded location by addendum to the main office
679 surety bond required by this section.]

680 (3) Each debt negotiation licensee shall file a single surety bond that
681 complies with the requirements of this section [in connection with the
682 main office license] with the commissioner in an aggregate amount of
683 fifty thousand dollars for each licensed location, or such other amount
684 required in subdivision (4) of this subsection. [, which bond shall
685 identify any licensed branch office as a bonded location on such bond
686 by addendum.]

687 (4) In the case of a debt negotiation licensee engaging or offering to
688 engage in the business of negotiating residential mortgage loans on
689 behalf of mortgagors, such debt negotiation licensee shall file a bond in
690 the penal sum amount set forth in subsection (e) of this section based on
691 the aggregate dollar amount of the residential mortgage loans
692 negotiated or offered to be negotiated by its sponsored mortgage loan
693 originator licensees. The principal on a bond required by this
694 subdivision shall file quarterly reports on the system reflecting
695 residential mortgage loan volume in accordance with subsection (g) of
696 this section and subsection (m) of section 36a-671 to confirm that it
697 maintains the required penal sum in the amount required by this
698 subdivision.

699 (5) Each debt negotiation licensee shall file with the commissioner
700 such information as the commissioner may require to confirm that the
701 penal sum of the bond remains consistent with the amount required by
702 this section. The principal shall file, as the commissioner may require,
703 any bond rider or endorsement to the surety bond on file with the
704 commissioner to reflect any changes necessary to maintain the surety

705 bond coverage required by this section.

706 (b) The form of any surety bond submitted pursuant to subsection (a)
707 of this section shall be approved by the Attorney General. Any surety
708 bond filed under subsection (a) of this section shall be conditioned upon
709 the debt negotiation licensee and any sponsored mortgage loan
710 originator licensee faithfully performing any and all written agreements
711 or commitments with or for the benefit of debtors and mortgagors, as
712 applicable, truly and faithfully accounting for all funds received from a
713 debtor or mortgagor by the principal or a mortgage loan originator
714 sponsored by the principal in the principal's capacity as debt negotiation
715 licensee, and conducting such business consistent with the provisions of
716 sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a,
717 36a-534b and 36a-671 to 36a-671f, inclusive, as amended by this act. Any
718 debtor or mortgagor who may be damaged by a failure to perform any
719 written agreements, by the wrongful conversion of funds paid by a
720 debtor or mortgagor to a debt negotiation licensee or mortgage loan
721 originator licensee, or by conduct inconsistent with the provisions of
722 sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a,
723 36a-534b and 36a-671 to 36a-671f, inclusive, as amended by this act, may
724 proceed on any such surety bond against the principal or surety thereon,
725 or both, to recover damages. The commissioner may proceed on any
726 such surety bond against the principal or surety thereon, or both, to
727 collect any civil penalty imposed upon the licensee pursuant to
728 subsection (a) of section 36a-50 and any unpaid costs of examination of
729 a licensee as determined pursuant to section 36a-65 and effective April
730 1, 2019, any restitution imposed pursuant to subsection (c) of section
731 36a-50. The proceeds of any bond, even if commingled with other assets
732 of the principal, shall be deemed by operation of law to be held in trust
733 for the benefit of such claimants against the principal in the event of
734 bankruptcy of the principal and shall be immune from attachment by
735 creditors and judgment creditors. Any bond required by this section
736 shall be maintained during the entire period of the license granted to the
737 applicant, and the aggregate liability under any such bond shall not
738 exceed the penal amount of the bond. The principal shall notify the
739 commissioner of the commencement of an action on the bond. When an

740 action is commenced on a principal's bond, the commissioner may
741 require the filing of a new bond and immediately on recovery on any
742 action on the bond, the principal shall file a new bond. Any mortgagor
743 or prospective mortgagor who may be damaged by a failure of the debt
744 negotiation licensee or mortgage loan originator licensee to satisfy a
745 judgment against the licensee arising from the negotiation of or offer to
746 negotiate a nonprime home loan, as defined in section 36a-760, may
747 proceed on such bond against the principal or surety on such bond, or
748 both, to recover the amount of the judgment.

749 (c) The surety shall have the right to cancel any bond written or
750 issued under subsection (a) of this section at any time by a written notice
751 to the debt negotiation licensee and the commissioner stating the date
752 cancellation shall take effect. If such bond is issued electronically on the
753 system, written notice of cancellation may be provided by the surety to
754 the licensee and the commissioner through the system at least thirty
755 days prior to the date of cancellation. Any notice of cancellation not
756 provided through the system shall be sent by certified mail to the
757 licensee and the commissioner at least thirty days prior to the date of
758 cancellation. No such bond shall be cancelled unless the surety notifies
759 the commissioner in writing not less than thirty days prior to the
760 effective date of cancellation. After receipt of such notification from the
761 surety, the commissioner shall give written notice to the debt
762 negotiation licensee of the date such bond cancellation shall take effect.
763 The commissioner shall automatically suspend the licenses of the debt
764 negotiation licensee on such date and inactivate the license of any
765 sponsored mortgage loan originator, unless prior to such date the debt
766 negotiation licensee submits a letter of reinstatement of the bond from
767 the surety or a new bond, surrenders all licenses or, in the case of a
768 mortgage loan originator sponsored by a debt negotiation licensee, the
769 sponsorship has been terminated and a new sponsor has been requested
770 and approved. After a license has been automatically suspended, the
771 commissioner shall (1) give the debt negotiation licensee notice of the
772 automatic suspension pending proceedings for revocation or refusal to
773 renew and an opportunity for a hearing on such actions in accordance
774 with section 36a-51, and (2) require the debt negotiation licensee to take

775 or refrain from taking such action as the commissioner deems necessary
776 to effectuate the purposes of this section.

777 (d) No licensee shall use, attempt to use or make reference to, either
778 directly or indirectly, any word or phrase that states or implies that the
779 licensee is endorsed, sponsored, recommended, bonded or insured by
780 the state.

781 (e) The penal sum of the bond required by subdivision (4) of
782 subsection (a) of this section shall be determined as follows:

783 (1) An initial applicant for a debt negotiation license shall file a bond
784 in a penal sum of fifty thousand dollars.

785 (2) A debt negotiation licensee exempt from licensure as a mortgage
786 lender, mortgage correspondent lender or mortgage broker pursuant to
787 subdivision (4) of subsection (a) of section 36a-487 and sponsoring and
788 bonding at least one mortgage loan originator as an exempt registrant
789 under subdivision (2) of subsection (a) and subsection (d) of section 36a-
790 487 shall file a bond with a penal sum in the following amount:

791 (A) If the aggregate dollar amount of all residential mortgage loans
792 negotiated or offered to be negotiated by all sponsored mortgage loan
793 originators during the preceding twelve-month period ending July
794 thirty-first of the current year is less than thirty million dollars, the penal
795 sum of the bond shall be fifty thousand dollars;

796 (B) If the aggregate dollar amount of all residential mortgage loans
797 negotiated or offered to be negotiated by all sponsored mortgage loan
798 originators during the preceding twelve-month period ending July
799 thirty-first of the current year is thirty million dollars or more but less
800 than fifty million dollars, the penal sum of the bond shall be one
801 hundred thousand dollars; and

802 (C) If the aggregate dollar amount of all residential mortgage loans
803 negotiated or offered to be negotiated by all sponsored mortgage loan
804 originators during the preceding twelve-month period ending July
805 thirty-first of the current year is fifty million dollars or more, the penal

806 sum of the bond shall be one hundred fifty thousand dollars.

807 (f) For purposes of subsection (e) of this section, "the aggregate dollar
808 amount of all residential mortgage loans negotiated or offered to be
809 negotiated" means the aggregate underlying dollar amount of all
810 residential mortgage loans for which a sponsored mortgage loan
811 originator provides debt negotiation services.

812 (g) Financial information necessary to verify the aggregate amount of
813 residential mortgage loans negotiated or offered to be negotiated shall
814 be filed with the commissioner as the commissioner may require, and
815 shall be reported on the system at such time and in such form as the
816 system may require. The commissioner may require a change in the
817 penal sum of the bond if the commissioner determines at any time that
818 the aggregate dollar amount of all residential mortgage loans negotiated
819 or offered to be negotiated warrants a change in the penal sum of the
820 bond.

821 (h) The commissioner may adopt regulations in accordance with
822 chapter 54 with respect to the requirements for such surety bonds.

823 Sec. 8. Subsection (i) of section 36a-801 of the 2022 supplement to the
824 general statutes is repealed and the following is substituted in lieu
825 thereof (*Effective from passage*):

826 (i) No person licensed to act within this state as a consumer collection
827 agency shall do so under any other name or at any other place of
828 business than that named in the license. No licensee may use any name
829 other than its legal name or a fictitious name approved by the
830 commissioner, provided such licensee may not use its legal name if the
831 commissioner disapproves use of such name. A licensee may change the
832 name of the licensee or address of the office specified on the most recent
833 filing with the system if, at least thirty calendar days prior to such
834 change, (1) the licensee files such change with the system and provides
835 a bond rider, endorsement or addendum, as applicable, to the surety
836 bond on file with the commissioner that reflects the new name or
837 address, and (2) the commissioner does not disapprove such change, in

838 writing, or request further information from the licensee within such
839 thirty-day period. Not more than one place of business shall be
840 maintained under the same license but the commissioner may issue
841 more than one license to the same licensee upon compliance with the
842 provisions of sections 36a-800 to 36a-814, inclusive, as amended by this
843 act, as to each new licensee. A license shall not be transferable or
844 assignable. Any change in any control person of the licensee, except a
845 change of a director, general partner or executive officer that is not the
846 result of an acquisition or change of control of the licensee, shall be the
847 subject of an advance change notice filed on the system at least thirty
848 days prior to the effective date of such change and no such change shall
849 occur without the commissioner's approval. For purposes of this section,
850 "change of control" means any change causing the majority ownership,
851 voting rights or control of a licensee to be held by a different control
852 person or group of control persons. [Any licensee holding, applying for,
853 or seeking renewal of more than one license may, at its option, file the
854 bond required under section 36a-802 separately for each place of
855 business licensed, or to be licensed, or a single bond, naming each place
856 of business, in an amount equal to twenty-five thousand dollars for each
857 place of business.] The commissioner may automatically suspend a
858 license for any violation of this subsection. After a license has been
859 automatically suspended pursuant to this section, the commissioner
860 shall (A) give the licensee notice of the automatic suspension, pending
861 proceedings for revocation or refusal to renew pursuant to section 36a-
862 804 and an opportunity for a hearing on such action in accordance with
863 section 36a-51, and (B) require such licensee to take or refrain from
864 taking such action as the commissioner deems necessary to effectuate
865 the purposes of this section.

866 Sec. 9. Subsection (a) of section 36a-802 of the general statutes is
867 repealed and the following is substituted in lieu thereof (*Effective October*
868 *1, 2022*):

869 (a) No such license and no renewal thereof shall be granted to a
870 consumer collection agency, except a consumer collection agency
871 engaged solely in the business of debt buying, unless the applicant has

872 filed with the commissioner a bond to the people of the state in the penal
873 sum of [twenty-five thousand dollars] one hundred thousand dollars for
874 the main office and fifty thousand dollars for each branch office,
875 approved by the Attorney General as to form and by the commissioner
876 as to sufficiency of the security thereof. Such bond shall be conditioned
877 that such licensee shall well, truly and faithfully account for all funds
878 entrusted to the licensee and collected and received by the licensee in
879 the licensee's capacity as a consumer collection agency. Any person who
880 may be damaged by the wrongful conversion of any creditor, consumer
881 debtor, property tax debtor or federal income tax debtor funds received
882 by such consumer collection agency may proceed on such bond against
883 the principal or surety thereon, or both, to recover damages. The
884 commissioner may proceed on such bond against the principal or surety
885 thereon, or both, to collect any civil penalty imposed upon the licensee
886 pursuant to subsection (a) of section 36a-50 and, effective April 1, 2019,
887 any restitution imposed pursuant to subsection (c) of section 36a-50, and
888 any unpaid costs of examination as determined pursuant to section 36a-
889 65. The proceeds of the bond, even if commingled with other assets of
890 the licensee, shall be deemed by operation of law to be held in trust for
891 the benefit of such claimants against the licensee in the event of
892 bankruptcy of the licensee and shall be immune from attachment by
893 creditors and judgment creditors. The bond shall run concurrently with
894 the period of the license granted to the applicant, and the aggregate
895 liability under the bond shall not exceed the penal sum of the bond.

896 Sec. 10. Subsection (b) of section 36a-811 of the general statutes is
897 repealed and the following is substituted in lieu thereof (*Effective from*
898 *passage*):

899 (b) Each consumer collection agency, except a consumer collection
900 agency engaged solely in the business of debt buying, shall deposit
901 funds collected or received from consumer debtors for payment for
902 others on an account, bill or other indebtedness in one or more trust
903 accounts maintained at a federally insured bank, Connecticut credit
904 union, federal credit union or an out-of-state bank, [that maintains in
905 this state a branch as defined in section 36a-410,] which accounts shall

906 be reconciled monthly. Such funds shall not be commingled with funds
907 of the consumer collection agency or used in the conduct of the
908 consumer collection agency's business. Such account shall not be used
909 for any purpose other than (1) the deposit of funds received from
910 consumer debtors, (2) the payment of such funds to creditors, (3) the
911 refund of any overpayments to be made to consumer debtors, and (4)
912 the payment of earned fees to the consumer collection agency, which
913 shall be withdrawn on a monthly basis. Except for payments authorized
914 by subdivisions (2) to (4), inclusive, of this subsection, any withdrawal
915 from such account, including, but not limited to, any service charge or
916 other fee imposed against such account by a depository institution, shall
917 be reimbursed by the consumer collection agency to such account not
918 more than thirty days after the withdrawal. Funds received from
919 consumer debtors shall be posted to their respective accounts in
920 accordance with generally accepted accounting principles.

921 Sec. 11. Section 31-76i of the 2022 supplement to the general statutes
922 is repealed and the following is substituted in lieu thereof (*Effective*
923 *October 1, 2022*):

924 The provisions of sections 31-76b to 31-76j, inclusive, shall not apply
925 with respect to (1) any driver or helper, excluding drivers or helpers
926 employed by exempt employers, with respect to whom the Interstate
927 Commerce Commission or its successor agency or the Secretary of
928 Transportation has power to establish qualifications and maximum
929 hours of service pursuant to the provisions of applicable federal law or
930 regulation of any employee of a carrier by air subject to the Railway
931 Labor Act or any employee of any employer subject to said Railway
932 Labor Act; (2) any employee employed as a seaman; (3) any employee
933 employed as an announcer, a news editor or chief engineer by a radio
934 station or television station; (4) repealed by 1972, P.A. 116, S. 3, 6; (5) any
935 person employed in a bona fide executive, administrative or
936 professional capacity as defined in the regulations of the Labor
937 Commissioner issued pursuant to section 31-60; (6) any person
938 employed in the capacity of outside salesman as defined in the
939 regulations of the Federal Fair Labor Standards Act; (7) any inside

940 salesperson whose sole duty is to sell a product or service (A) whose
941 regular rate of pay is in excess of two times the minimum hourly rate
942 applicable to him under section 31-58, (B) more than half of whose
943 compensation for a representative period, being not less than one
944 month, represents commissions on goods or services, and (C) who does
945 not work more than fifty-four hours during a work week of seven
946 consecutive calendar days. In determining the proportion of
947 compensation representing commissions, all earnings resulting from the
948 application of a bona fide commission rate shall be deemed
949 commissions on goods or services without regard to whether the
950 computed commissions exceed the draw or guarantee; (8) any person
951 employed as a taxicab driver by any employer engaged in the business
952 of operating a taxicab, if such driver is paid forty per cent or more of the
953 fares recorded on the meter of the taxicab operated by him; (9) any
954 person employed in the capacity of a household delivery route salesman
955 engaged in delivering milk or bakery products to consumers and who
956 is paid on a commission basis as defined in the regulations of the Labor
957 Commissioner issued pursuant to section 31-60; (10) any salesman
958 primarily engaged in selling automobiles. For the purposes of this
959 subdivision, "salesman" includes any person employed by a licensed
960 new car dealer (A) whose primary duty is to sell maintenance and repair
961 services, (B) whose regular rate of pay is in excess of two times the
962 minimum hourly rate applicable to him under the provisions of section
963 31-58, (C) more than half of whose compensation for a representative
964 period, being not less than one month, represents commissions on goods
965 or services, and (D) who does not work more than fifty-four hours
966 during a work week of seven consecutive days. In determining the
967 proportion of compensation representing commissions, all earnings
968 resulting from the application of a bona fide commission rate shall be
969 deemed commissions on goods or services without regard to whether
970 the computed commissions exceed the draw or guarantee; (11) any
971 person employed in agriculture; (12) any permanent paid members of
972 the uniformed police force of municipalities and permanent paid
973 members of the uniformed firefighters of municipalities; (13) any person
974 employed as a firefighter by a private nonprofit corporation which on

975 May 24, 1984, has a valid contract with any municipality to extinguish
976 fires and protect its inhabitants from loss by fire; (14) any person, except
977 a person paid on an hourly basis, employed as a beer delivery truck
978 driver by a licensed distributor, as defined in section 12-433; (15) any
979 person employed as a mechanic primarily engaged in the servicing of
980 motor vehicles, as defined in section 14-1, or farm implements, as
981 defined in section 14-1, by a nonmanufacturing employer primarily
982 engaged in the business of selling such vehicles or implements to
983 consumers, to the extent that such employees are exempt under the
984 federal Wage-Hour and Equal Pay Act, 29 USC 201 et seq. and 29 USC
985 213(b)(10), provided such person's actual weekly earnings exceed an
986 amount equal to the total of (A) such person's basic contractual hourly
987 rate of pay times the number of hours such person has actually worked
988 plus (B) such person's basic contractual hourly rate of pay times one-
989 half the number of hours such person has actually worked in excess of
990 forty hours in such week. For the purposes of this section, "basic
991 contractual hourly rate" means the compensation payable to a person at
992 an hourly rate separate from and exclusive of any flat rate, incentive rate
993 or any other basis of calculation; (16) any mortgage loan originator, as
994 defined in section 36a-485, who is a highly compensated employee, as
995 described in 29 CFR 541.601, provided this subdivision shall not apply
996 to an individual who performs the functions of a mortgage loan
997 originator solely from the office of such mortgage loan originator's
998 employer. For purposes of this subdivision, an office in the mortgage
999 loan originator's home shall not be considered the office of such
1000 mortgage loan originator's employer. Beginning on October 1, 2012, the
1001 total annual compensation for purposes of Subsection (a) of 29 CFR
1002 541.601 shall be increased annually, effective October first of each year,
1003 based on the percentage increase, from year to year, in the average of all
1004 workers' weekly earnings as determined by the Labor Commissioner
1005 pursuant to subdivision (1) of subsection (b) of section 31-309; or (17)
1006 any commercial mortgage loan originator who is a highly compensated
1007 employee, as described in 29 CFR 541.601. For purposes of this
1008 subdivision, (A) "commercial mortgage loan originator" means an
1009 individual who for compensation or gain or with the expectation of

1010 compensation or gain, either for such individual or for the person
 1011 employing or retaining such individual, (i) [accepts] takes a commercial
 1012 mortgage loan application, or (ii) offers or negotiates the terms of a
 1013 commercial mortgage loan, and (B) "commercial mortgage loan" means
 1014 a mortgage loan not primarily for personal, family or household use.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	36a-535(2)
Sec. 2	<i>October 1, 2022</i>	36a-596
Sec. 3	<i>October 1, 2022</i>	36a-598(d)(1)
Sec. 4	<i>October 1, 2022</i>	New section
Sec. 5	<i>from passage</i>	36a-488
Sec. 6	<i>from passage</i>	36a-492
Sec. 7	<i>from passage</i>	36a-671d
Sec. 8	<i>from passage</i>	36a-801(i)
Sec. 9	<i>October 1, 2022</i>	36a-802(a)
Sec. 10	<i>from passage</i>	36a-811(b)
Sec. 11	<i>October 1, 2022</i>	31-76i

Statement of Legislative Commissioners:

In Section 4 (e), "including, but not limited to, such as mortgage-backed securities" was changed to "including, but not limited to, mortgage-backed securities" for grammar.

BA *Joint Favorable Subst. -LCO*

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

This bill makes various changes to statutes governing banking department licensees and increases surety bond amounts for consumer collection agency licensees. These changes are not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 268*****AN ACT CONCERNING VARIOUS REVISIONS TO THE BANKING STATUTES.*****SUMMARY**

This bill makes various changes to statutes governing banking department licensees. Among other things, it increases regulatory requirements for money transmitter and mortgage servicer licensees. For money transmitters, it expands the definition of “control” and “control person” to incorporate key individuals and exclude passive investors, specifically as these individuals relate to notifying the department of a “change of control.” For certain mortgage servicers that service at least 2,000 residential loans, the bill requires they meet minimum capital and liquidity requirements, establish a board of directors, conduct annual audits, and establish a risk management program (§ 4).

The bill also increases the financial surety required for debt negotiator, consumer collection, and certain mortgage licensees. Under the bill, applicants for a debt negotiation branch office license must file a surety bond for the same \$50,000 that existing law requires for main office license applications. Additionally, the bill specifies that a bond must be filed for each licensed location (main and branch offices) (§ 7). For consumer collection agency licensees, the bill increases the required bond amount for license renewals from \$25,000 for a main or branch office to \$100,000 for each main office and \$50,000 for each branch office. For mortgage lenders, correspondent lenders, and brokers, it requires they file a surety bond covering their main office and any branch office, rather than file one for the main office and an addendum for branch offices, as required under current law (§ 6).

The bill also adopts several remote work provisions for mortgage lenders, correspondent lenders, and brokers (§ 5);

Finally, the bill makes numerous minor changes to statutes governing licensees, including:

1. expanding the definition of “sales finance company” to include any business that receives principal and interest payments from a retail buyer under a retail installment or installment loan contract, regardless of whether they own or have ever conveyed, assigned, or transferred the loan (§ 1);
2. specifying that a “commercial mortgage loan originator” who is exempt from certain state overtime laws as a highly compensated employee is a person who “takes” commercial loan applications, rather than accepts these applications (§ 11); and
3. expanding the types of banks consumer collection licensees can deposit debtor money into (§§ 8-10).

EFFECTIVE DATE: October 1, 2022, except the provisions on remote supervision and work provisions; mortgage licensee, debt negotiator, and certain consumer collection agency bond requirements; and expanding the banks eligible for consumer collection agency deposit are effective upon passage.

§ 2 & 3 — MONEY TRANSMITTERS

By law, money transmitter licenses are not transferable or assignable. Under current law, licensees must file an advance change notice and receive the commissioner’s approval before changing a control person, unless it is a change of a director, general partner, or executive officer, unrelated to an acquisition or other change of control.

The bill instead:

1. allows “passive investors” into the definition of “control person,” generally allowing certain individuals between 10% and 25% of voting rights to rebut a presumption of control; and

2. requires this filing when changing any key individual, provided it is unrelated to an acquisition or other change of control as with the exemption under current law.

Under the bill, a “key individual” is any individual ultimately responsible for establishing or directing a licensee’s policies or procedures, including an executive officer, manager, director, or trustee.

Control Person

Under the bill, a control person is any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, or a key individual. “Control” is the power to:

1. vote, directly or indirectly, at least 25% of the outstanding voting shares or interests of a licensee or a person in control of the licensee;
2. elect or appoint a majority of key individuals or executive officers, managers, directors, trustees, or other people exercising managerial authority of a person in control of a licensee; or
3. exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of them.

The bill specifies that, for the purposes determining the percentage of control, a person's interests are aggregated with those of his or her immediate family members, including spouse, parents, children, siblings, in-laws, and any person sharing their home.

The bill presumes a person is exercising a controlling influence when he or she holds at least 10% of the voting rights of a licensee or person in control of the licensee. However, “passive investors” can rebut this presumption. Under the bill, a passive investor is someone who:

1. does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee;

2. is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;
3. does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and
4. attests to meeting these requirements in a form and manner the Banking Commissioner prescribes.

Under current law, a “control person” is an individual that directly or indirectly exercises control over another person. The following people are presumed to be control persons: directors, general partners, executive officers, individuals holding the rights to at least 10% of voting shares, managing members of limited liabilities companies, and any individual holding the right to receive at least 10% or more of a partnership’s capital after dissolution. In changing the definition of “control person,” the bill applies the new expanded definition to several other money transmitter statutes, including requirements related to licensing and the commissioner’s authority to enforce statutory requirements, including the:

1. range of people on whom the commissioner can perform background checks;
2. reasons and extent to which the commissioner can take disciplinary action against a licensee;
3. range of people whose character the commissioner must assess, including their capability to demonstrate financial responsibility; and
4. range of people prohibited from fraud and other actions.

§ 4 — MORTGAGE LOAN SERVICERS

The bill imposes capital and liquidity requirements on certain covered institutions that service 2,000 or more residential mortgage loans. Among other things, these provisions require covered institutions

to establish and maintain a board of directors, conduct annual audits, and create risk management programs.

Covered Institutions

Under the bill, a “covered institution” is a mortgage servicer that services (or subservices for others) at least 2,000 mortgage loans that are primarily for personal, family, or household use and secured by residential property in the United States. This threshold excludes owned whole loans (i.e., loans the lender retains in their portfolio) and loans being interim serviced, prior to sale, as reported on the system (i.e., NMLS, a license and registration system used nationwide) or another document the commissioner requires. (“Interim serviced” is the process of collecting mortgage payments for up to 185 days before selling the loan on the secondary market.)

Excluded from covered institutions are:

1. certain people exempt from mortgage servicer licensing (i.e., banks and certain bank subsidies),
2. any federally tax-exempt mortgage servicer, and
3. any agency that existing state law exempts from mortgage servicer requirements (e.g., state, municipal or federal agencies, people servicing five or fewer mortgage loans a year, and bona fide nonprofit organizations making residential mortgage loans to promote home ownership for economically disadvantaged individuals).

Capital and Liquidity Requirements

Under the bill, covered institutions must maintain requirements for minimum capital ratio, net worth, and liquidity outlined in the Federal Housing Finance Agency’s Eligibility Requirements for Enterprise with Single-Family Seller/Servicers. They must do so regardless of their approval for government sponsored enterprise servicing.

The bill also requires covered institutions to maintain:

1. sufficient allowable assets for liquidity to cover normal business operations, in addition to the amounts required for servicing liquidity and
2. sound cash management and business operating plans commensurate with its institutional complexity to ensure normal business operations.

Under the bill, a covered institution must have written policies and procedures implementing these capital and servicing liquidity requirements, including a sustainable written methodology for satisfying the bill's requirements. Additionally, a covered institution must develop, establish, and implement plans, policies, and procedures for maintain operating liquidity sufficient for its ongoing needs, including sustainable, written methodologies for maintain sufficient operating liquidity.

Under the bill, "allowable assets for liquidity" are assets that may be used to satisfy liquidity requirements, including unrestricted cash and cash equivalents and unencumbered investment grade assets held for sale or trade (including mortgage backed securities held by Fannie Mae, Freddie Mac, Ginnie Mae, and U.S. treasury-backed obligations.)

For the purposes of complying with these requirements, all financial data must be determined according to generally accepted accounting principles (GAAP). Additionally, an institution's reverse mortgage portfolio is excluded from these calculations.

The bill, presumably, excludes from these requirements any mortgage servicers that solely (1) own reverse mortgage loans or conducts reverse mortgage services, or (2) subservice others' loans with no responsibility to advance money in connection with these activities. However, the extent of the exclusion, if any, is unclear.

Board of Directors

The bill requires covered institutions to establish and maintain a board of directors responsible for its oversight. For institutions that are

not approved to service government sponsored enterprise loans or Ginnie Mae loans, or where a federal agency has granted approval for a board alternative, an institution may establish a similar governing body to fulfill these oversight responsibilities.

Under the bill, the board (or similar governing body) must:

1. establish a written corporate governance framework, including appropriate internal controls designed to monitor corporate governance and assess compliance;
2. monitor and ensure institutional compliance with existing mortgage servicing statutes, including accurately and timely completing and submitting all regulatory reports (including the mortgage call report); and
3. establish internal audit requirements appropriate for the institution's size, complexity and risk profile, including appropriate independence to provide a reliable evaluation of the servicer's internal control structure, risk management, and governance.

Audits

The bill requires covered institutions to annually procure an external audit from an independent public accountant. The audit must include:

1. audited financial statements, including a balance sheet, income statement, cash flow, and notes and supplemental schedules prepared in accordance with GAAP;
2. an assessment of the institution's internal control structure;
3. a computation of its tangible net worth;
4. validation of its applicable mortgage servicing rights valuation and reserve methodology;
5. verification of adequate fidelity and errors and omissions

insurance; and

6. testing of risk management controls, including applicable compliance and stress testing.

Risk Management Program

Under the bill, covered institutions must establish a risk management program, under the board's oversight, that identifies, measures, monitors, and controls risk commensurate with the institution's complexity. The program must:

1. have the appropriate processes and models in place to measure, monitor and mitigate financial risk and changes to the institution's risk profile and that of its serviced assets; and
2. be scaled to the institution's complexity.

The program must be sufficient to manage the institution's risks, including the following risks:

1. credit (i.e., the risk that a borrower or counterparty will fail to perform on an obligation);
2. liquidity (i.e., the risk that the servicer will be unable to meet its obligations as they come due because of an inability to liquidate assets or obtain adequate funding);
3. operational (i.e., the risk resulting from inadequate or failed internal processes, people, and systems or from external events);
4. market (i.e., the risk to the servicer's condition due to adverse market conditions);
5. compliance (i.e., the risk of regulatory sanctions, fines, penalties, or losses due to failure to comply with laws, rules, regulations, or other applicable supervisory requirements);
6. legal (i.e., the risk that potential actions against the servicer that result in unenforceable contracts, lawsuits, legal sanctions, or

adverse judgments can disrupt or otherwise negatively affect its operations); and

7. reputation (i.e., the risk to earnings and capital from negative publicity).

Covered institutions must annually conduct a risk management assessment and provide a written report to the board of directors that includes (1) evidence of risk management activities, (2) any adverse risk management findings, and (3) proposed corrective action.

If the commissioner finds any significant risks after an investigation, inquiry, or examination, the bill allows him to order or direct the institution to take additional actions necessary to ensure it operates in a safe and sound manner and complies with applicable laws.

§ 5 — REMOTE WORK AND SUPERVISION FOR MORTGAGE LENDERS, CORRESPONDENT LENDERS, BROKERS AND LOAN ORIGINATORS

The bill allows mortgage lenders, correspondent lenders, and brokers to remotely supervise licensed activities at main and branch offices.

By law, an applicant for a mortgage lender, correspondent lender, or broker license must be supervised by a qualified individual at the main or branch office where they work. Current law requires these qualified individuals to live within 100 miles of the main office and be capable of providing fulltime, in-person supervision. Under the bill, an applicant must instead demonstrate to the banking commissioner's satisfaction that the qualified individual can provide full time supervision. Unchanged by the bill, licensees supervising each office must still meet net worth and experience requirements, such as having at least three years immediate experience to supervise a branch office.

The bill similarly allows loan originators to work remotely by eliminating the requirement that they operate from an office. The bill also makes a corresponding change allowing qualified individuals and branch managers to supervise loan originators remotely by eliminating the requirement they live within 100 miles of the licensed office.

§§ 8 - 10 – CONSUMER COLLECTION AGENCY LICENSEES***Increased Surety Bond Amount (§§ 8 & 9)***

Under current law, a consumer collection agency licensee applying for license renewal must file either an individual bond of \$25,000 for each place of business (i.e., main or branch office) or a single bond of \$25,000 per office that covers all of them. The bill increases the required bond amount to \$100,000 for main offices and \$50,000 for branch offices.

As under existing law, consumer collection agencies that solely buy debt are exempt from the bond requirements.

Out-of-State Bank Deposits (§ 10)

Existing law requires consumer collection agencies to deposit funds they receive from debtors into trust accounts held at certain types of financial institutions. Under current law, they may deposit these funds in out-of-state banks only if they have a Connecticut branch; the bill eliminates this Connecticut branch requirement.

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 17 Nay 0 (03/15/2022)