
OLR Bill Analysis

sHB 5220

AN ACT CONCERNING OBLIGORS.

SUMMARY

Existing law limits the total liabilities of any one obligor (i.e., borrower) to a Connecticut bank. The limit is a specified percentage of the bank's equity capital and loan and lease loss reserves (generally 15% for unsecured liabilities and 10% for secured liabilities). This bill restricts who is considered an obligor for these purposes by excluding anyone who is a "guarantor" or "indemnitor" of a direct or indirect liability under specified conditions.

Under the bill, a guarantor or indemnitor is excluded as an obligor when:

1. the bank primarily relies on the "primary obligor's" general credit standing (except as described below),
2. there is no aspect of the loan that is being made as an exception to the bank's lending policies,
3. the guarantor or indemnitor is not an obligor under state law's direct benefit or common enterprise tests, and
4. if the primary obligor is not a natural person, the bank seeks repayment of the liability from the primary obligor's business operations and primarily relies on the business forecast of its operations.

Under the bill, a "primary obligor" is anyone named as a borrower or debtor, and not a guarantor or indemnitor, in a direct or indirect liability. A "guarantor" is anyone obligated to pay a direct or indirect liability when the primary obligor has defaulted on the liability under its terms. An "indemnitor" is anyone who becomes obligated to pay a

direct or indirect liability under an indemnity agreement.

EFFECTIVE DATE: October 1, 2022

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 17 Nay 0 (03/08/2022)