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## OLR Bill Analysis

HB 6681

### ***AN ACT CONCERNING THE OFFICE OF THE ATTORNEY GENERAL AND THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.***

#### **SUMMARY**

This bill expands the attorney general's pre-trial investigative authority to enforce the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) by, among other things, authorizing him to issue subpoenas for documentary material, testimony, or responses to written interrogatories. It generally makes information he collects under subpoenas confidential and specifies when and to whom it may be disclosed. The bill also allows him to apply to Hartford Superior Court to enforce a subpoena, including requesting the court impose a civil penalty of up to \$10,000.

Under existing law, the attorney general may bring a civil action in a court of competent jurisdiction to enforce the provisions of the Dodd-Frank Act that state attorneys general are authorized to enforce. He may also seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

The bill states that nothing in it limits the banking commissioner's authority to enforce the Dodd-Frank Act or any other state or federal law or regulation.

EFFECTIVE DATE: October 1, 2023

#### **SUBPOENA POWER**

The bill allows the attorney general, during an investigation, to subpoena anyone in or outside the state who he has reason to believe has violated the provisions of the Dodd-Frank Act that he is authorized to enforce under existing law, within Connecticut.

Before starting an action or proceeding against a person, the attorney general may specifically serve a demand, in writing and by subpoena, for him or her to:

1. submit documentary material (including written, recorded, or electronic information);
2. appear before the attorney general and testify in or outside the state; or
3. respond to written interrogatories on relevant matters within the scope of an alleged violation.

The bill requires that subpoenas for documentary material state:

1. the nature of the alleged violation;
2. specifically enough to accurately identify them, the types of documentary material to be reproduced; and
3. a date that allows a reasonable time to respond.

Similarly, the bill requires that all written interrogatories have a return date that allows a reasonable time to respond.

Additionally, all testimony taken during a subpoenaed appearance before the attorney general and all written interrogatory responses provided must be under oath and not be publicly disclosed, and a written transcript must be made of the testimony, with a copy furnished to the person testifying. Subpoenas issued under the bill cannot require anything that would be privileged or precluded from disclosure if demanded in a grand jury investigation.

Subpoenas, notices of deposition, and written interrogatories may be served:

1. on the person or at his or her usual residence or
2. by registered or certified mail, return receipt requested, with a copy addressed to the person to be served at his or her (a)

principal place of business in Connecticut, (b) in-state registered agent's place, or (c) residence or principal office when he or she does not have such a principal place of business or agent.

The bill requires that the following information be held in the attorney general's custody and not be disclosed to the public or subject to inspection or disclosure under the state's Freedom of Information Act:

1. the identity of individuals who submit documentary information or testimony to the attorney general and what they submit, whether they do so in response to a subpoena issued under the bill or voluntarily, and
2. all information (e.g., interrogatories and testimony transcripts) the attorney general obtains, collects, or prepares in connection with a Dodd-Frank Act investigation.

Under the bill, documentary material that is given must be returned, or erased if it is electronic, when the investigation ends or on the final determination of an action or proceeding. The bill allows a person who is served a subpoena to disclose its existence and any information he or she provides in response to it, unless prohibited by court order.

### ***Use and Disclosure of Confidential Information***

The bill allows the attorney general to disclose "confidential material" (i.e., original or copies of documentary material, interrogatory responses, or written transcripts of oral testimony or other information produced under a subpoena) to a person orally testifying in a Dodd-Frank Act investigation when he reasonably:

1. determines its use is necessary to bring out evidence of a suspected Dodd-Frank Act violation that he is authorized by law to enforce, and
2. believes the person testifying (a) is an author or recipient of the confidential material or (b) has read it or is aware of its substance.

The bill prohibits the person testifying from keeping any of the confidential material.

The bill further allows the attorney general, without waiving any privilege, to disclose any confidential material for any appropriate supervisory, governmental, law enforcement, or other public purpose, including in a civil action to enforce the Dodd-Frank Act. The attorney general may also cooperate with federal or state officials (including officials from other states), such as by sharing and disclosing information and evidence he obtains. However, the bill requires that any disclosure of confidential material must be made under safeguards designed to prevent its further distribution. In any court proceeding, the bill allows the court to issue a protective order in appropriate circumstances to protect the material's confidentiality and order that it be sealed, and that the public be excluded from any portion of the proceeding at which the material is disclosed.

**Compliance**

If a person refuses or otherwise fails to comply with a subpoena, the attorney general may apply to Hartford Superior Court for an order (1) requiring compliance, after a notice and serving the order on their person, or (2) imposing a civil penalty of up to \$10,000, after notice and hearing.

**COMMITTEE ACTION**

Banking Committee

Joint Favorable

Yea 8      Nay 4      (03/07/2023)