



House of Representatives

General Assembly

File No. 163

January Session, 2023

House Bill No. 6681

House of Representatives, March 22, 2023

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

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

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

1 Section 1. Section 3-129e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) The Attorney General may bring a civil action in any court of
4 competent jurisdiction to enforce any provision of the Dodd-Frank Wall
5 Street Reform and Consumer Protection Act, Public Law 111-203, that a
6 state attorney general is authorized by said act to enforce and to seek
7 any relief that a state attorney general is authorized by said act to seek.

8 (b) (1) Whenever during the course of an investigation the Attorney
9 General has reason to believe that any person has violated any provision
10 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,
11 Public Law 111-203, that a state attorney general is authorized by said
12 act to enforce, within this state, the Attorney General may, prior to

13 instituting any action or proceeding against such person, issue in
14 writing and cause to be served upon any person in or outside the state,
15 by subpoena or subpoena duces tecum, a demand requiring such person
16 to (A) submit to the Attorney General any documentary material, (B)
17 appear before the Attorney General and give testimony in or outside the
18 state, or (C) respond to written interrogatories as to any matters relevant
19 to the scope of the alleged violation. For the purposes of this subsection,
20 "documentary material" includes, but is not limited to, any information
21 in a written, recorded or electronic form.

22 (2) Any subpoena for documentary material issued under this
23 subsection shall (A) state the nature of the alleged violation, (B) describe
24 the class or classes of documentary material to be reproduced
25 thereunder with such definiteness and certainty as to be accurately
26 defined, and (C) prescribe a date that would allow a reasonable time to
27 respond. All testimony taken in accordance with subparagraph (B) of
28 subdivision (1) of this subsection shall be under oath and a written
29 transcript shall be made of the same, a copy of which shall be furnished
30 to such person appearing, and shall not be available for public
31 disclosure. All written interrogatories shall prescribe a return date that
32 would allow a reasonable time to respond, which responses shall be
33 under oath and not be available for public disclosure. No subpoena
34 issued under this subsection shall require the submission of that portion
35 of any documentary material, testimony or responses to interrogatories
36 that would be privileged or precluded from disclosure if demanded in
37 a grand jury investigation.

38 (3) Service of subpoenas ad testificandum, subpoenas duces tecum,
39 notices of deposition and written interrogatories, as provided in this
40 subsection, may be made (A) by personal service or service at the usual
41 place of abode, or (B) by registered or certified mail, return receipt
42 requested, a duly executed copy thereof addressed to the person to be
43 served at such person's principal place of business in this state or at the
44 place of such person's registered agent in this state, or, if such person
45 has no principal place of business in this state or registered agent in this
46 state, at such person's principal office or such person's residence.

47 (4) All documentary material and responses to interrogatories
48 furnished to, and all transcripts of testimony taken by, the Attorney
49 General pursuant to a subpoena issued under this subsection or
50 voluntarily, and all information obtained, collected or prepared in
51 connection with an investigation conducted pursuant to this subsection,
52 including the identity of the person furnishing such documentary
53 information or testimony, shall be held in the custody of the Attorney
54 General, and shall not be available to the public or be subject to
55 inspection or disclosure under the Freedom of Information Act, as
56 defined in section 1-200. Any documentary material furnished to the
57 Attorney General shall be returned to the person furnishing such
58 documentary material, or erased if furnished in electronic format, upon
59 the termination of the Attorney General's investigation or final
60 determination of any action or proceeding commenced thereunder.
61 Except as prohibited by applicable court order, nothing in this
62 subsection shall prohibit a person upon whom a subpoena has been
63 served from disclosing the existence of such subpoena or any
64 information such person furnishes in response to such subpoena.

65 (5) Notwithstanding the prohibition against public disclosure of
66 documentary material and other information provided in this
67 subsection, any confidential material may be used by the Attorney
68 General in connection with the taking of oral testimony conducted
69 pursuant to this subsection when the Attorney General reasonably
70 determines that it is necessary to disclose such confidential material to
71 a person providing oral testimony in order to adduce evidence of a
72 suspected violation of a provision of the Dodd-Frank Wall Street Reform
73 and Consumer Protection Act, Public Law 111-203, that a state attorney
74 general is authorized by said act to enforce, and the Attorney General
75 reasonably believes that the person providing any such oral testimony
76 (A) is an author or recipient of such confidential material, (B) has read
77 such confidential material, or (C) is otherwise aware of such substance
78 of the confidential material. No copy or original of the confidential
79 material described or shown to a person providing oral testimony
80 pursuant to this subsection shall be retained by such person. For
81 purposes of this subsection, "confidential material" means documentary

82 material, responses to interrogatories or written transcripts of oral
83 testimony, or copies thereof, or other information produced pursuant to
84 a subpoena issued under this subsection.

85 (6) The Attorney General may, without waiving any privilege,
86 disclose any confidential material described in this subsection for any
87 appropriate supervisory, governmental, law enforcement or other
88 public purpose, including, but not limited to, a civil action brought
89 pursuant to subsection (a) of this section, and may cooperate with
90 officials of the federal government, the state and other states by, among
91 other things, sharing and disclosing information and evidence obtained
92 pursuant to a subpoena issued under this subsection. Any such
93 disclosure shall be made under safeguards designed to prevent further
94 dissemination of such confidential material. In any proceeding before a
95 court, the court may issue a protective order in appropriate
96 circumstances to protect the confidentiality of any such confidential
97 material and order that any such confidential material on file with the
98 court or filed in connection with the court proceeding be sealed and that
99 the public be excluded from any portion of the proceeding at which any
100 such confidential material is disclosed.

101 (7) In the event any person refuses to comply with, or otherwise fails
102 to comply with, a subpoena served in accordance with the provisions of
103 this subsection, the Attorney General may apply (A) to the superior
104 court for the judicial district of Hartford for an order compelling such
105 person to comply with such subpoena, which court may, upon notice to
106 such person, issue such order, which shall be served upon such person,
107 and (B) to the superior court for the judicial district of Hartford for an
108 order requiring such person to pay to the state a civil penalty in an
109 amount not to exceed ten thousand dollars, which court may, after
110 notice to such person and a hearing thereon, issue such order.

111 (8) Nothing in this section shall be construed to limit the authority of
112 the Banking Commissioner to enforce the Dodd-Frank Wall Street
113 Reform and Consumer Protection Act, Public Law 111-203, or any other
114 state or federal law or regulation.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2023</i>	3-129e
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BA *Joint Favorable*

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

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill is not expected to result in a fiscal impact to the state or municipalities.

The bill expands the investigative authority of the Office of the Attorney General (OAG) to enable enforcement of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) by authorizing the issuance of subpoenas.

As part of the expansion, the bill allows OAG to apply to Hartford Superior Court to enforce a subpoena, including requesting the court impose a civil penalty of up to \$10,000 for noncompliance.

This is not anticipated to result in a fiscal impact in FY 24 or FY 25, as such civil penalties are not expected to be issued.

The Out Years

State Impact: To the extent enforcement action becomes necessary in the out years, the bill could result in revenue to the General Fund from penalties.

Municipal Impact: None

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)