



General Assembly

January Session, 2023

Raised Bill No. 1033

LCO No. 4317



Referred to Committee on BANKING

Introduced by:
(BA)

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. Section 36a-555 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 As used in this section and sections 36a-556 to 36a-573, inclusive, as
4 amended by this act:

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

11 (2) "APR" means the annual percentage rate for the loan calculated
12 according to the provisions of the federal [Truth-in-Lending Act, 15 USC
13 1601] Military Lending Act, 10 USC 987 et seq., as amended from time
14 to time, and the regulations promulgated thereunder; [, and the

15 "disclosed APR" shall mean the APR disclosed, as applicable, pursuant
16 to 12 CFR Section 1026.6 or 12 CFR Section 1026.18. If more than one
17 APR is disclosed pursuant to 12 CFR Section 1026.6, the "disclosed APR"
18 shall be the highest APR disclosed pursuant to said section;]

19 (3) "Branch office" means a location other than the main office where
20 the licensee, or any person on behalf of the licensee, will engage in
21 activities that require a small loan license;

22 (4) "Connecticut borrower" means any borrower who resides in or
23 maintains a domicile in this state and who (A) negotiates or agrees to
24 the terms of the small loan in person, by mail, by telephone or via the
25 Internet while physically present in this state, (B) enters into or executes
26 a small loan agreement with the lender in person, by mail, by telephone
27 or via the Internet while physically present in this state, or (C) makes a
28 payment on the loan in this state. For purposes of this subdivision,
29 "payment on the loan" includes a debit on an account the borrower holds
30 in a branch of a financial institution or the use of a negotiable instrument
31 drawn on an account at a financial institution. For purposes of this
32 subdivision, "financial institution" means any bank or credit union
33 chartered or licensed under the laws of this state, any other state or the
34 United States and having its main office or a branch office in this state;

35 (5) "Control person" means an individual that directly or indirectly
36 exercises control over another person, and includes any person that (A)
37 is a director, general partner or executive officer, [;] (B) in the case of a
38 corporation, directly or indirectly has the right to vote ten per cent or
39 more of a class of any voting security or has the power to sell or direct
40 the sale of ten per cent or more of any class of voting securities, [;] (C) in
41 the case of a limited liability company, is a managing member, [;] or (D)
42 in the case of a partnership, has the right to receive upon dissolution, or
43 has contributed, ten per cent or more of the capital. For purposes of this
44 subdivision, "control" means the power, directly or indirectly, to direct
45 the management or policies of a company, whether through ownership
46 of securities, by contract or otherwise;

47 (6) "Finance charge" means (A) a charge set forth in 32 CFR
48 232.4(c)(1), as amended from time to time, (B) a charge for any ancillary
49 product, membership or service sold in connection or concurrent with a
50 small loan, (C) any amount offered or agreed to by a borrower in
51 furtherance of obtaining credit or as compensation for the use of money,
52 and (D) any fee, voluntarily or otherwise, charged, agreed to or paid by
53 a borrower in connection or concurrent with a small loan;

54 ~~[(6)]~~ (7) "Generating leads" means (A) engaging in the business of
55 selling leads for small loans, [;] (B) generating or augmenting leads for
56 small loans for other persons for or with the expectation of
57 compensation or gain, [;] or (C) referring consumers to other persons for
58 a small loan for or with the expectation of compensation or gain for such
59 referral, except "generating leads" shall not include generating or
60 augmenting leads for small loans for an exempt person, as described in
61 subsection (b) of section 36a-557, as amended by this act, using the
62 exempt person's data or customer information;

63 ~~[(7)]~~ (8) "Lead" means any information identifying a potential
64 consumer of a small loan;

65 ~~[(8)]~~ (9) "Main office" means the main address designated on the
66 system;

67 ~~[(9)]~~ (10) "Open-end small loan" has the same meaning as "open-end
68 credit", as defined in 12 CFR 1026.2, as amended from time to time;

69 ~~[(10)]~~ (11) "Person" means a natural person, corporation, company,
70 limited liability company, partnership or association;

71 ~~[(11)]~~ (12) "Small loan" (A) means any loan of money or extension of
72 credit, or the purchase of, or an advance of money on, a borrower's
73 [future income where the following conditions are present: (A) The]
74 future potential source of money, including, but not limited to, future
75 pay, salary, pension income or a tax refund, if (i) the amount or value is
76 [fifteen] fifty thousand dollars or less, [;] and [(B)] (ii) the APR is greater
77 than twelve per cent, [. For purposes of this subdivision, "future income"

78 means any future potential source of money, and expressly includes, but
79 is not limited to, a future pay or salary, pension or tax refund. For
80 purposes of this section and sections 36a-556 to 36a-573, inclusive,
81 "small loan" shall] and (B) does not include [:] (i) [A] a retail installment
82 contract made in accordance with section 36a-772, [:] (ii) a loan or
83 extension of credit for agricultural, commercial, industrial or
84 governmental use, [:] (iii) a residential mortgage loan, as defined in
85 section 36a-485, [:] or (iv) an open-end credit account that is accessed by
86 a credit card issued by an exempt entity, as described in subdivision (1)
87 of subsection (b) of section 36a-557, as amended by this act;

88 [(12)] (13) "Trigger lead" means a consumer report obtained pursuant
89 to Section 604(C)(1)(B) of the Fair Credit Reporting Act, 15 USC 1681b,
90 where the issuance of the report is triggered by an inquiry made with a
91 consumer reporting agency in response to an application for credit.
92 "Trigger lead" does not include a consumer report obtained by a small
93 loan lender that holds or services existing indebtedness of the applicant
94 who is the subject of the report; and

95 [(13)] (14) "Unique identifier" means a number or other identifier
96 assigned by protocols established by the system.

97 Sec. 2. Section 36a-556 of the general statutes is repealed and the
98 following is substituted in lieu thereof (*Effective October 1, 2023*):

99 (a) Without having first obtained a small loan license from the
100 commissioner pursuant to section 36a-565, no person shall, by any
101 method, including, but not limited to, mail, telephone, Internet or other
102 electronic means, unless exempt pursuant to section 36a-557, as
103 amended by this act:

104 (1) Make a small loan to a Connecticut borrower;

105 (2) Offer, solicit, broker, directly or indirectly arrange, place or find a
106 small loan for a prospective Connecticut borrower;

107 (3) Engage in any other activity intended to assist a prospective

108 Connecticut borrower in obtaining a small loan, including, but not
109 limited to, generating leads;

110 (4) Receive payments of principal and interest in connection with a
111 small loan made to a Connecticut borrower;

112 (5) Purchase, acquire or receive assignment of a small loan made to a
113 Connecticut borrower; and

114 (6) Advertise or cause to be advertised in this state a small loan or any
115 of the services described in subdivisions (1) to (5), inclusive, of this
116 subsection.

117 (b) No person shall accept any lead, referral or application for a small
118 loan to a prospective Connecticut borrower from a person who is not (1)
119 licensed pursuant to section 36a-565, or (2) exempt from licensure
120 pursuant to section 36a-557, as amended by this act.

121 (c) No person shall sell, transfer, pledge, assign or otherwise dispose
122 of any small loan made to a Connecticut borrower to any person who is
123 not (1) licensed pursuant to section 36a-565, or (2) exempt from licensure
124 pursuant to section 36a-557, as amended by this act.

125 (d) Any person who purports to act as an agent, service provider or
126 in another capacity for a person who is exempt from licensure pursuant
127 to subsection (a) or (b) of section 36a-557, as amended by this act, shall
128 be licensed pursuant to subsection (a) of this section if: (1) Such person
129 holds, acquires or maintains, directly or indirectly, the predominant
130 economic interest in a small loan; (2) the person markets, brokers,
131 arranges or facilitates the loan and holds the right, requirement or first
132 right of refusal to purchase the small loans, receivables or interests in
133 the small loans; or (3) the totality of the circumstances indicate that such
134 person is the lender and the transaction is structured to evade the
135 requirements of sections 36a-555 to 36a-573, inclusive, as amended by
136 this act. Circumstances weighing in favor of deeming a person a lender
137 who shall be licensed under sections 36a-555 to 36a-573, inclusive, as
138 amended by this act, include, but are not limited to, the person: (A)

139 Indemnifying, insuring or protecting an exempt person for any costs or
140 risks related to a small loan; (B) predominantly designing, controlling
141 or operating a small loan program; or (C) purporting to act as an agent,
142 service provider or in another capacity for an exempt person in this state
143 while acting directly as a lender in another state.

144 Sec. 3. Section 36a-557 of the general statutes is repealed and the
145 following is substituted in lieu thereof (*Effective October 1, 2023*):

146 (a) The following persons are exempt from the requirement for
147 licensure set forth in section 36a-556, as amended by this act:

148 (1) A licensed pawnbroker;

149 (2) A person licensed as a consumer collection agency in accordance
150 with section 36a-801 when engaged in the activities of a consumer
151 collection agency in the normal course of business;

152 (3) A person who services small loans for an exempt person described
153 in subsection (b) of this section, when such exempt person owns the
154 small loans, provided the servicing arrangements include, in addition to
155 receiving payments of principal and interest in connection with the
156 small loans, the provision of accounting, recordkeeping and data
157 processing services and such person does not engage in the activities set
158 forth in subsection (d) of section 36a-556, as amended by this act;

159 (4) A person who is a passive buyer of a small loan. For purposes of
160 this subdivision, "passive buyer" means a person who: (A) Has acquired
161 a small loan for investment purposes from a person who is either
162 licensed or exempt from licensure under subdivisions (1) to (3),
163 inclusive, of subsection (b) of this section; (B) will receive the principal
164 and interest and any other moneys due under the small loan through a
165 person who is either licensed or exempt from licensure under
166 subdivisions (1) to (3), inclusive, of subsection (b) of this section; and (C)
167 has had and will have no communications of any kind with the
168 Connecticut borrower regarding the small loan it has acquired;

169 (5) A consumer reporting agency, as defined in Section 603(f) of the
170 Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time,
171 when generating leads; and

172 (6) A retail seller who offers, extends or facilitates credit through an
173 open-end or closed-end credit plan for the purchase of goods or services
174 from such retail seller.

175 (b) The following persons are exempt from the provisions of sections
176 36a-555 to 36a-573, inclusive, as amended by this act:

177 (1) Any bank, out-of-state bank, Connecticut credit union, federal
178 credit union or out-of-state credit union, provided such bank or credit
179 union is federally insured;

180 (2) Any wholly-owned subsidiary of such bank or credit union; and

181 (3) Any operating subsidiary where each owner of such operating
182 subsidiary is wholly owned by the same bank or credit union.

183 (c) Loans made by an exempt person described in subsection (b) of
184 this section shall be exempt from the provisions of sections 36a-555 to
185 36a-573, inclusive, as amended by this act, including, without limitation,
186 the provisions applicable to licensed persons, even if: (1) The exempt
187 person utilizes the services of a person exempt from licensing or
188 required to be licensed pursuant to section 36a-556, as amended by this
189 act, in connection with the small loans that are made or offered to be
190 made by the exempt person described in subsection (b) of this section;
191 and (2) a person exempt from licensing or required to be licensed
192 pursuant to section 36a-556, as amended by this act, engages in activities
193 intended to assist a prospective Connecticut borrower or a Connecticut
194 borrower in obtaining a small loan that is made or offered to be made
195 by an exempt person described in subsection (b) of this section. Nothing
196 in this subsection shall be construed as exempting persons required to
197 be licensed pursuant to section 36a-556, as amended by this act, from
198 the requirements to obtain and maintain a license or from the provisions
199 of sections 36a-562 to 36a-573, inclusive. Notwithstanding the foregoing,

200 no person licensed or required to be licensed under section 36a-556, as
201 amended by this act, shall engage in any of the activities described in
202 subsection (a) of section 36a-556, as amended by this act, for any small
203 loan that has [a disclosed] an APR in excess of thirty-six per cent if that
204 small loan contains any condition or provision inconsistent with the
205 requirements of subsections (d) to (g), inclusive, of section 36a-558, as
206 amended by this act. This subsection shall not apply to loans described
207 in subsection (d) of section 36a-556, as amended by this act.

208 Sec. 4. Subsections (d) to (f), inclusive, of section 36a-558 of the
209 general statutes are repealed and the following is substituted in lieu
210 thereof (*Effective October 1, 2023*):

211 (d) Small loans that are the subject of the activities set forth in
212 subsections (a) and (b) of this section shall not contain:

213 (1) For a small loan that is under five thousand dollars, an [annual
214 percentage rate] APR that exceeds the lesser of thirty-six per cent or the
215 maximum annual percentage rate for interest that is permitted with
216 respect to the consumer credit extended under the Military Lending Act,
217 10 USC 987 et seq., as amended from time to time, or for a small loan
218 that is between five thousand and [fifteen] fifty thousand dollars, an
219 [annual percentage rate] APR that exceeds twenty-five per cent;

220 (2) For other than an open-end small loan, a provision that increases
221 the interest rate due to payment default;

222 (3) A payment schedule with regular periodic payments that when
223 aggregated do not fully amortize the outstanding principal balance;

224 (4) A payment schedule with regular periodic payments that cause
225 the principal balance to increase;

226 (5) A payment schedule that consolidates more than two periodic
227 payments and pays them in advance from the proceeds, unless such
228 payments are required to be escrowed by a governmental agency;

229 (6) A prepayment penalty;

230 (7) An adjustable rate provision;

231 (8) A waiver of participation in a class action or a provision requiring
232 a borrower, whether acting individually or on behalf of others similarly
233 situated, to assert any claim or defense in a nonjudicial forum that: (A)
234 Utilizes principles that are inconsistent with the law as set forth in the
235 general statutes or common law; or (B) limits any claim or defense the
236 borrower may have;

237 (9) A call provision that permits the lender, in its sole discretion, to
238 accelerate the indebtedness, except when repayment of the loan is
239 accelerated by a bona fide default pursuant to a due-on-sale clause;

240 (10) A security interest, except as provided in subsection (e) of this
241 section; or

242 (11) Fees or charges of any kind, except as expressly permitted by
243 subsection (e) of this section.

244 (e) Small loans as described in subsections (a) and (b) of this section
245 may contain provisions:

246 (1) For late fees, if: (A) Such fees are assessed after an installment
247 remains unpaid for ten or more consecutive days, including Sundays
248 and holidays; (B) such fees do not exceed five per cent of the outstanding
249 installment payment, excluding any previously assessed late fees, or a
250 total of twenty-five dollars per month, whichever is less; and (C) no
251 interest is charged on such fees;

252 (2) Allowing charges for a dishonored check or any other form of
253 returned payment, provided the total fee for such returned payment
254 shall not exceed twenty dollars;

255 (3) Allowing for collection of deferral charges, but only upon the
256 specific written authorization of the borrower and in a total amount not
257 to exceed the interest due during the applicable billing cycle;

258 (4) Allowing for the accrual of interest after the maturity date or the

259 deferred maturity date, provided such interest shall not exceed twelve
260 per cent per annum computed on a daily basis on the respective unpaid
261 balances;

262 (5) Providing for reasonable attorney's fees subject to the conditions
263 and restrictions set forth in section 42-150aa;

264 (6) Including credit life insurance or credit accident and health
265 insurance subject to the conditions and restrictions set forth in section
266 36a-559;

267 (7) Taking a security interest in a motor vehicle in connection with a
268 closed-end small loan made solely for the purchase or refinancing of
269 such motor vehicle, provided the APR of such loan shall not exceed the
270 rates indicated for the respective classifications of motor vehicles as
271 follows: (A) New motor vehicles, fifteen per cent; (B) used motor
272 vehicles of a model designated by the manufacturer by a year not more
273 than two years prior to the year in which the sale is made, seventeen per
274 cent; and (C) used motor vehicles of a model designated by the
275 manufacturer by a year more than two years prior to the year in which
276 the sale is made, nineteen per cent.

277 (f) Open-end small loans as described in subsections (a) and (b) of this
278 section shall, in addition to the requirements set forth in subsections (d)
279 and (e) of this section:

280 (1) Not provide for an advance of money exceeding at any one time
281 an unpaid principal of [~~fifteen~~] fifty thousand dollars;

282 (2) Provide for payments and credits to be made to the same
283 borrower's account from which advances, interests, charges and costs
284 on such loan are debited;

285 (3) Provide for interest to be computed on any unpaid principal
286 balance of the account in each billing cycle by one of the following
287 methods: (A) By converting the APR to a daily rate and multiplying
288 such daily rate by the daily unpaid principal balance of the account, in

289 which case the daily rate is determined by dividing the APR by three
290 hundred sixty-five; or (B) by converting the APR to a monthly rate and
291 multiplying the monthly rate by the average daily unpaid principal
292 balance of the account in the billing cycle, in which case (i) the monthly
293 rate is determined by dividing the APR by twelve, and (ii) the average
294 daily unpaid principal balance is the sum of the amount unpaid each
295 day during the cycle divided by the number of days in the cycle. In
296 either of such computations, the billing cycle shall be monthly and the
297 unpaid principal balance on any day shall be determined by adding to
298 any balance unpaid as of the beginning of such day all advances and
299 other permissible amounts charged to the borrower and deducting all
300 payments and other credits made or received that day;

301 (4) Not compound interest or charges by adding any unpaid interest
302 or charges authorized by sections 36a-555 to 36a-573, inclusive, as
303 amended by this act, to the unpaid principal balance of the borrower's
304 account; or

305 (5) Not include any other fees or charges of any kind, except as
306 expressly permitted by subsection (g) of this section.

307 Sec. 5. Section 36a-560 of the general statutes is repealed and the
308 following is substituted in lieu thereof (*Effective October 1, 2023*):

309 No licensee shall:

310 (1) Cause a borrower, including, but not limited to, a comaker or
311 guarantor, to owe at any time more than [fifteen] fifty thousand dollars
312 in principal on one or more small loans;

313 (2) Induce or permit a borrower to split or divide any small loan or
314 loans, or induce or permit a borrower to become obligated, directly or
315 indirectly, under more than one contract of loan at the same time,
316 primarily for the purpose of obtaining rates or charges that would
317 otherwise be prohibited by any applicable provision of sections 36a-555
318 to 36a-573, inclusive, as amended by this act;

319 (3) Take any (A) confession of judgment, (B) power of attorney, (C)
320 note or promise to pay that does not state the actual amount of the loan,
321 the time period for which the loan is made and the charges for such loan,
322 or (D) instrument related to the loan in which blanks are left to be filled
323 after the loan is made;

324 (4) Offer the borrower any other product or service for which there is
325 or will ever be any cost to the borrower in connection with a small loan
326 unless (A) permitted by sections 36a-555 to 36a-573, inclusive, as
327 amended by this act, (B) authorized under another license, or by
328 applicable exemption from any requirement for such licensure, to offer
329 such product or services, or (C) if no separate license or exemption
330 therefrom is required to offer such product or services, authorized in
331 advance, in writing, by the commissioner upon being satisfied that such
332 other product or service is of such a character that the granting of such
333 authority would not permit or easily facilitate evasion of the provisions
334 of sections 36a-555 to 36a-573, inclusive, as amended by this act, or of
335 any regulations promulgated thereunder; or

336 (5) Renew or refinance a small loan unless the renewal or refinancing
337 of the loan will result in a distinct advantage to the borrower, provided
338 restoration to a contractually up-to-date condition shall not, in itself,
339 constitute a distinct advantage to the borrower.

340 Sec. 6. Subsection (c) of section 36a-770 of the general statutes is
341 repealed and the following is substituted in lieu thereof (*Effective October*
342 *1, 2023*):

343 (c) Definitions. As used in sections 36a-770 to 36a-788, inclusive, as
344 amended by this act, 42-100b and 42-100c, unless the context otherwise
345 requires:

346 (1) "Boat" means any watercraft, as defined in section 22a-248, other
347 than a seaplane, used or capable of being used as a means of
348 transportation on water, by any power including muscular.

349 (2) "Cash price" means the total amount in dollars at which the seller

350 and buyer agreed the seller would transfer unqualified title to the goods,
351 if the transaction were a cash sale instead of a sale under a retail
352 installment contract.

353 (3) "Commercial vehicle" means any domestic or foreign truck or
354 truck tractor of ten thousand or more pounds gross vehicular weight or
355 any trailer or semitrailer designed for use in connection with any truck
356 or truck tractor of ten thousand or more pounds gross vehicular weight
357 and which is not used primarily for personal, family or household use.

358 (4) "Filing fee" means the fee prescribed by law for filing, recording
359 or otherwise perfecting and releasing or satisfying a security interest, as
360 defined in subdivision (35) of subsection (b) of section 42a-1-201,
361 retained or created by a retail installment contract or installment loan
362 contract.

363 (5) "Finance charge" means the amount in excess of the cash price of
364 the goods agreed upon by the retail seller and the retail buyer, to be paid
365 by the retail buyer for the privilege of purchasing the goods under the
366 retail installment contract or installment loan contract.

367 (6) "Goods" means (A) "consumer goods", as defined in subdivision
368 (23) of subsection (a) of section 42a-9-102 and motor vehicles included
369 under such definition, having an aggregate cash price of [~~fifty~~] seventy-
370 five thousand dollars or less, and (B) "equipment", as defined in
371 subdivision (33) of subsection (a) of section 42a-9-102, having an
372 aggregate cash price of [~~sixteen~~] twenty-five thousand dollars or less,
373 provided such consumer goods or such equipment is included in one
374 retail installment contract or installment loan contract.

375 (7) "Installment loan contract" means any agreement made in this
376 state to repay in installments the amount loaned or advanced to a retail
377 buyer for the purpose of paying the retail purchase price of goods and
378 by virtue of which a security interest, as defined in subdivision (35) of
379 subsection (b) of section 42a-1-201, is taken in the goods for the payment
380 of the amount loaned or advanced. For purposes of this subdivision,
381 "installment loan contract" does not include agreements to repay in

382 installments loans made by the United States or any department, agency
383 or instrumentality thereof.

384 (8) "Lender" means a person who extends or offers to extend credit to
385 a retail buyer under an installment loan contract.

386 (9) A retail installment contract or installment loan contract is "made
387 in this state" if: (A) An offer or agreement is made in Connecticut by a
388 retail seller or a lender to sell or extend credit to a resident retail buyer,
389 including, but not limited to, any verbal or written solicitation or
390 communication to sell or extend credit originating outside the state of
391 Connecticut but forwarded to and received in Connecticut by a resident
392 retail buyer; or (B) an offer to buy or an application for extension of
393 credit, or an acceptance of an offer to buy or to extend credit, is made in
394 Connecticut by a resident retail buyer, regardless of the situs of the
395 contract which may be specified therein, including, but not limited to,
396 any verbal or written solicitation or communication to buy or to have
397 credit extended, originating within the state of Connecticut but
398 forwarded to and received by a retail seller or a lender outside the state
399 of Connecticut. For purposes of this subdivision, a "resident retail
400 buyer" means a retail buyer who is a resident of the state of Connecticut.

401 (10) "Motor vehicle" means any device in, upon or by which any
402 person or property is or may be transported or drawn upon a highway
403 by any power other than muscular. For purposes of this subdivision,
404 "motor vehicle" does not include self-propelled wheelchairs and invalid
405 tricycles, tractors, power shovels, road machinery, implements of
406 husbandry and other agricultural machinery, or other machinery not
407 designed primarily for highway transportation but which may
408 incidentally transport persons or property on a highway, or devices
409 which move upon or are guided by a track or travel through the air.

410 (11) "Retail buyer" means a person who buys or agrees to buy one or
411 more articles of goods from a retail seller not for the purpose of resale
412 or lease to others in the course of business and who executes a retail
413 installment contract or an installment loan contract in connection

414 therewith.

415 (12) "Retail installment contract" means any security agreement, as
416 defined in subdivision (74) of subsection (a) of section 42a-9-102, made
417 in this state, including one in the form of a mortgage, conditional sale
418 contract or other instrument evidencing an agreement to pay the retail
419 purchase price of goods, or any part thereof, in installments over a
420 period of time and pursuant to which a security interest, as defined in
421 subdivision (35) of subsection (b) of section 42a-1-201, is retained or
422 taken by the retail seller for the payment of the amount of such retail
423 installment contract. For purposes of this subdivision, "retail installment
424 contract" does not include a rent-to-own agreement, as defined in
425 section 42-240.

426 (13) "Retail installment sale" means any sale evidenced by a retail
427 installment contract or installment loan contract wherein a retail buyer
428 buys goods from a retail seller at a time sale price payable in two or more
429 installments. The cash price of the goods, the amount, if any, included
430 for other itemized charges which are included in the amount of the
431 credit extended but which are not part of the finance charge under
432 sections 36a-675 to 36a-686, inclusive, and the finance charge shall
433 together constitute the time sale price. For purposes of this subdivision,
434 "retail installment sale" does not include a rent-to-own agreement, as
435 defined in section 42-240.

436 (14) "Retail seller" means a person who sells or agrees to sell one or
437 more articles of goods under a retail installment contract or an
438 installment loan contract to a retail buyer.

439 (15) "Sales finance company" means any person [engaging in this
440 state in the business, in whole or in part, of] (A) acquiring retail
441 installment contracts [from retail sellers] or installment loan contracts
442 from holders thereof, by purchase, discount or pledge, or by loan or
443 advance to the holder of either on the security thereof, or otherwise, or
444 (B) receiving payments of principal and interest from a retail buyer
445 under a retail installment contract or installment loan contract.

446 Sec. 7. (NEW) (*Effective October 1, 2023*) (a) For purposes of this
447 section, "guaranteed asset protection waiver" or "GAP waiver" means:
448 (1) A contractual agreement in which a creditor agrees, with or without
449 a separate charge, to cancel or waive all or part of the amounts due from
450 a borrower under a retail installment contract or installment loan
451 contract in the event of a total physical damage loss or unrecovered theft
452 of a motor vehicle, which agreement is a part of, or a separate addendum
453 to, the retail installment contract or installment loan contract; and (2) an
454 excess wear and use waiver contractual agreement in which a creditor
455 agrees, with or without a separate charge, to cancel or waive all or part
456 of the amounts that may become due from a borrower under a motor
457 vehicle lease agreement as a result of excessive wear and use of a leased
458 motor vehicle, including, but not limited to, excess mileage, which
459 contractual agreement is a part of, or a separate addendum to, the lease
460 agreement. A GAP waiver may provide, with or without a separate
461 charge, a benefit that waives an amount or provides a borrower with a
462 credit toward the purchase of a replacement motor vehicle. A GAP
463 waiver shall not be considered insurance for the purpose of refund
464 requirements set forth in section 36a-773 of the general statutes.

465 (b) A GAP waiver shall be cancellable and provide that if a borrower
466 cancels such waiver, the creditor, holder, administrator or other
467 authorized party shall provide to the borrower a full refund of the
468 purchase price of the GAP waiver, provided no benefits have been
469 provided under such GAP waiver. In the event of full satisfaction of the
470 retail installment contract or installment loan contract or repossession,
471 the creditor, holder, administrator or other authorized party shall
472 provide, or cause the administrator or retail seller to provide, not later
473 than thirty days after termination, any refund due to a borrower or a
474 credit to be applied to the borrower's outstanding balance without
475 requiring the borrower to request cancellation of the waiver.

476 (c) This section shall be applicable to GAP waiver contracts or
477 agreements entered into on or after October 1, 2023.

478 Sec. 8. Subsection (a) of section 36a-338 of the general statutes is

479 repealed and the following is substituted in lieu thereof (*Effective July 1,*
480 *2023*):

481 (a) On each call report date, each qualified public depository shall file
482 with the commissioner a written report, certified under oath unless such
483 report is filed electronically, indicating (1) the qualified public
484 depository's tier one leverage ratio and risk-based capital ratio or net
485 worth ratio, as determined in accordance with applicable federal
486 regulations and regulations adopted by the commissioner in accordance
487 with chapter 54, (2) the uninsured and total amount of public deposits
488 held by the qualified public depository other than deposits that have
489 been redeposited into the qualified public depository by another
490 insured depository institution pursuant to a reciprocal deposit
491 arrangement that makes such funds eligible for insurance coverage by
492 the Federal Deposit Insurance Corporation or the National Credit Union
493 Administration, (3) the description and market value of any eligible
494 collateral segregated and designated to secure the uninsured public
495 deposits in accordance with sections 36a-330 to 36a-338, inclusive, as
496 amended by this act, and (4) the amount and the name of the issuer of
497 any letter of credit issued pursuant to section 36a-337. Each depository
498 shall furnish a copy of its most recent report to any public depositor
499 having public funds on deposit in the depository, upon request of the
500 depositor. Any public depository which refuses or neglects to furnish
501 any report or give any information as required by this section shall no
502 longer be a qualified public depository and shall be excluded from the
503 right to receive public deposits.

504 Sec. 9. Subsection (b) of section 36a-486 of the general statutes is
505 repealed and the following is substituted in lieu thereof (*Effective October*
506 *1, 2023*):

507 (b) (1) No person licensed as a mortgage lender, mortgage
508 correspondent lender or mortgage broker shall engage the services of a
509 mortgage loan originator or of a loan processor or underwriter required
510 to be licensed under this section unless such mortgage loan originator
511 or loan processor or underwriter is licensed under section 36a-489 or

512 acting pursuant to the temporary authority provided in subsection (e)
513 of this section. No person licensed as a mortgage lender, mortgage
514 correspondent lender, mortgage broker or mortgage loan originator
515 shall engage the services of a lead generator unless such lead generator
516 is licensed under section 36a-489, or exempt from licensure pursuant to
517 subdivision (5) of this subsection. An individual, unless specifically
518 exempted under subdivision (2) of this subsection or acting pursuant to
519 the temporary authority provided in subsection (e) of this section, shall
520 not engage in the business of a mortgage loan originator on behalf of a
521 licensee or a person exempt under section 36a-487 with respect to any
522 residential mortgage loan without first obtaining and maintaining
523 annually a license as a mortgage loan originator under section 36a-489.
524 An individual, unless specifically exempted under subdivision (2) of
525 this subsection, shall be deemed to be engaged in the business of a
526 mortgage loan originator if such individual: (A) Acts as a mortgage loan
527 originator in connection with any residential mortgage loan on behalf of
528 a licensee or person exempt under section 36a-487; or (B) makes any
529 representation to the public through advertising or other means of
530 communication that such individual can or will act as a mortgage loan
531 originator on behalf of a licensee or person exempt under section 36a-
532 487. Each licensed mortgage loan originator and each licensed loan
533 processor or underwriter shall register with and maintain a valid unique
534 identifier issued by the system. No individual may act as a mortgage
535 loan originator for more than one person at the same time. No loan
536 processor or underwriter licensee may be sponsored by more than one
537 person at a time. The license of a mortgage loan originator or a loan
538 processor or underwriter is not effective during any period when such
539 mortgage loan originator or a loan processor or underwriter is not
540 sponsored by a licensed mortgage lender, mortgage correspondent
541 lender or mortgage broker, or by a person registered as an exempt
542 registrant under subsection (d) of section 36a-487, or during any period
543 in which the license of the mortgage lender, mortgage correspondent
544 lender or mortgage broker with whom such originator or loan processor
545 or underwriter is associated has been suspended. Either the mortgage
546 loan originator, the loan processor or underwriter or the sponsor may

547 file a notification of the termination of sponsorship with the system.

548 (2) The following are exempt from this section: (A) A registered
549 mortgage loan originator or an employee of an institution or subsidiary
550 described in section 36a-485, who is not required to be registered under
551 Section 1507 of the S.A.F.E. Mortgage Licensing Act of 2008, 12 USC
552 Section 5101 et seq., when acting for such institution or subsidiary; (B)
553 an individual who offers or negotiates the terms of a residential
554 mortgage loan with or on behalf of an immediate family member of such
555 individual; (C) an individual who offers or negotiates the terms of a
556 residential mortgage loan secured by a dwelling that served as the
557 individual's residence, unless the context demonstrates that such
558 individual engaged in such activities with a degree of habitualness or
559 repetition; (D) a Connecticut licensed attorney who negotiates the terms
560 of a residential mortgage loan on behalf of a client as an ancillary matter
561 to the attorney's representation of the client, unless the attorney is
562 compensated by a mortgage lender, mortgage correspondent lender,
563 mortgage broker or other mortgage loan originator or by any agent of
564 such mortgage lender, mortgage correspondent lender, mortgage
565 broker or other mortgage loan originator; (E) an individual who takes a
566 residential mortgage loan application or offers or negotiates terms of a
567 residential mortgage loan as an employee of a federal, state or local
568 government agency or housing finance agency exempt from licensure
569 pursuant to section 36a-487, and who does so only pursuant to such
570 individual's official duties as an employee of such agency; (F) an
571 individual who takes a residential mortgage loan application or offers
572 or negotiates terms of a residential mortgage loan as an employee of an
573 organization that has obtained bona fide nonprofit status from the
574 commissioner and is exempt from licensure pursuant to section 36a-487,
575 and who does so only pursuant to such individual's official duties as an
576 employee of such organization; and (G) an individual who offers or
577 negotiates the terms of a residential mortgage loan secured by a
578 dwelling that is not the individual's residence but is owned by such
579 individual, unless the context demonstrates that such individual
580 engaged in such activities with a degree of habitualness or repetition.

581 (3) No individual shall engage in the activities of a loan processor or
582 underwriter unless such individual obtains and maintains a license as a
583 loan processor or underwriter under section 36a-489. The following
584 individuals are exempt from the foregoing license requirement:

585 (A) An employee of a licensed mortgage lender, mortgage
586 correspondent lender or mortgage broker who engages in loan
587 processor or underwriter activities (i) in connection with residential
588 mortgage loans either originated or made by such licensee, and (ii) at
589 the direction of and subject to the supervision of a licensed mortgage
590 loan originator of such licensee;

591 (B) An employee of a person exempt from licensure under
592 subdivision (1), (2) or (3) of subsection (a) of section 36a-487 who
593 engages in loan processor or underwriter activities at the direction of
594 and subject to the supervision of either a licensed mortgage loan
595 originator or a registered mortgage loan originator of such exempt
596 person; or

597 (C) Any individual engaged, in any capacity, in loan processor or
598 underwriter activities in connection with a residential mortgage loan
599 originated by an individual not required to be licensed or registered as
600 a mortgage loan originator under this part.

601 (4) An individual engaging solely in loan processor or underwriter
602 activities shall not represent to the public, through advertising or other
603 means of communicating or providing information, including the use of
604 business cards, stationery, brochures, signs, rate lists or other
605 promotional items, that such individual can or will perform any of the
606 activities of a mortgage loan originator.

607 (5) On and after January 1, 2018, no person shall, directly or
608 indirectly, act as a lead generator without first obtaining a license under
609 section 36a-489, unless such person is exempt from licensure. The
610 following persons shall be exempt from licensure as a lead generator:

611 (A) Any bank, out-of-state bank, Connecticut credit union, federal

612 credit union or out-of-state credit union, provided such bank or credit
613 union is federally insured;

614 (B) Any wholly owned subsidiary of any such bank or credit union;

615 (C) Any operating subsidiary where each owner of such operating
616 subsidiary is wholly owned by the same such bank or credit union;

617 (D) Any person licensed as a mortgage lender, mortgage
618 correspondent lender or mortgage broker in this state, provided such
619 exemption shall not be effective during any period in which the license
620 of such person is suspended;

621 (E) A consumer reporting agency, as defined in Section 603 (f) of the
622 Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time;

623 (F) An employee of a person licensed as a lead generator or exempt
624 from licensure as a lead generator, while engaged in lead generator
625 activities on behalf of such person; and

626 (G) An individual employed by an affiliate of a bank or credit union
627 exempt from licensure pursuant to subparagraph (A) of this
628 subdivision, who is registered or licensed with a state or federal
629 regulator to engage in securities brokerage, investment advisory or
630 insurance sales activities and who, incidental to the performance of such
631 regulated activities, performs lead generation activities by referring one
632 or more leads to such bank or credit union. For purposes of this
633 subparagraph, "affiliate" means an entity that is controlled by or is
634 under common control with the bank or credit union, such that the bank
635 or credit union (i) directly or indirectly acting through one or more other
636 persons owns, controls or has the power to vote more than fifty per cent
637 of any class of voting securities of the affiliate, (ii) controls in any
638 manner the election of a majority of directors or trustees of the affiliate,
639 or (iii) directly or indirectly exercises a controlling influence over the
640 management or policies of the affiliate.

641 Sec. 10. Subsection (a) of section 36a-498e of the general statutes is

642 repealed and the following is substituted in lieu thereof (*Effective October*
643 *1, 2023*):

644 (a) No person who is required to be licensed and who is subject to
645 sections 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-534a
646 and 36a-534b, may, directly or indirectly:

647 (1) Employ any scheme, device or artifice to defraud or mislead
648 borrowers or lenders or to defraud any person;

649 (2) Engage in any unfair or deceptive practice toward any person;

650 (3) Obtain property by fraud or misrepresentation;

651 (4) Solicit or enter into a contract with a borrower that provides in
652 substance that such person or individual may earn a fee or commission
653 through "best efforts" to obtain a loan even though no loan is actually
654 obtained for the borrower;

655 (5) Solicit, advertise or enter into a contract for specific interest rates,
656 points or other financing terms unless the terms are actually available at
657 the time of soliciting, advertising or contracting;

658 (6) Conduct any business as a mortgage lender, mortgage
659 correspondent lender, mortgage broker, lead generator, mortgage loan
660 originator or loan processor or underwriter without holding a valid
661 license as required under sections 36a-485 to 36a-498e, inclusive, as
662 amended by this act, 36a-498h, 36a-534a and 36a-534b or assist or aid
663 and abet any person in the conduct of business as a mortgage lender,
664 mortgage correspondent lender, mortgage broker, lead generator,
665 mortgage loan originator or loan processor or underwriter without a
666 valid license as required under said sections;

667 (7) Fail to make disclosures as required by sections 36a-485 to 36a-
668 498e, inclusive, as amended by this act, 36a-498h, 36a-534a and 36a-534b
669 and any other applicable state or federal law including regulations
670 thereunder;

671 (8) Fail to comply with sections 36a-485 to 36a-498e, inclusive, as
672 amended by this act, 36a-498h, 36a-534a and 36a-534b or rules or
673 regulations adopted under said sections or fail to comply with any other
674 state or federal law, including the rules and regulations thereunder,
675 applicable to any business authorized or conducted under said sections;

676 (9) Make, in any manner, any false or deceptive statement or
677 representation including, with regard to the rates, points or other
678 financing terms or conditions for a residential mortgage loan, or engage
679 in bait and switch advertising;

680 (10) Negligently make any false statement or knowingly and wilfully
681 make any omission of material fact in connection with any information
682 or reports filed with a governmental agency or the system, as defined in
683 section 36a-2, or in connection with any investigation conducted by the
684 commissioner or another governmental agency;

685 (11) Make any payment, threat or promise, directly or indirectly, to
686 any person for the purposes of influencing the independent judgment
687 of the person in connection with a residential mortgage loan as defined
688 in section 36a-485 or make any payment, threat or promise, directly or
689 indirectly, to any appraiser of a property, for the purposes of influencing
690 the independent judgment of the appraiser with respect to the value of
691 the property;

692 (12) Collect, charge, attempt to collect or charge or use or propose any
693 agreement purporting to collect or charge any fee prohibited by sections
694 36a-485 to 36a-498e, inclusive, as amended by this act, 36a-498h, 36a-
695 534a and 36a-534b;

696 (13) Cause or require a borrower to obtain property insurance
697 coverage in an amount that exceeds the replacement cost of the
698 improvements as established by the property insurer; or

699 (14) Fail to truthfully account for moneys belonging to a party to a
700 residential mortgage loan transaction.

701 Sec. 11. Subsection (a) of section 36a-719 of the general statutes is
702 repealed and the following is substituted in lieu thereof (*Effective October*
703 *1, 2023*):

704 (a) The commissioner shall issue a mortgage servicer license to an
705 applicant for such license if the commissioner finds that: (1) The
706 applicant has identified a qualified individual for its main office and a
707 branch manager for each branch office where such business is
708 conducted, provided such qualified individual and branch manager
709 have supervisory authority over the mortgage servicer activities at the
710 respective office location and at least three years' experience in the
711 mortgage servicing business within the five years immediately
712 preceding the date of the application for licensure; (2) notwithstanding
713 the provisions of section 46a-80, the applicant, the control persons of the
714 applicant, the qualified individual and any branch manager have not
715 been convicted of or pled guilty or nolo contendere to, in a domestic,
716 foreign or military court, a felony during the seven-year period
717 preceding the date of the application for licensing or a felony involving
718 an act of fraud or dishonesty, a breach of trust or money laundering at
719 any time preceding the date of application, provided any pardon or
720 expungement of a conviction shall not be a conviction for purposes of
721 this subdivision; (3) the applicant demonstrates that the financial
722 responsibility, character and general fitness of the applicant, the control
723 persons of the applicant, the qualified individual and any branch
724 manager command the confidence of the community and warrant a
725 determination that the applicant will operate honestly, fairly and
726 efficiently within the purposes of sections 36a-715 to 36a-719l, inclusive;
727 (4) the applicant has met the surety bond, fidelity bond and errors and
728 omissions coverage requirement under section 36a-719c; (5) the
729 applicant, the control persons of the applicant, the qualified individual
730 and any branch manager have not made a material misstatement in the
731 application; and (6) the applicant has met any other similar
732 requirements as determined by the commissioner. If the commissioner
733 fails to make such findings, the commissioner shall not issue a license,
734 and shall notify the applicant of the denial and the reasons for such

735 denial. The commissioner may waive the requirements of subdivision
736 (1) of this subsection relating to the supervision and experience of (A) a
737 qualified individual where the applicant establishes to the satisfaction
738 of the commissioner that the applicant (i) will not conduct any activity
739 subject to licensure under sections 36a-715 to 36a-719l, inclusive, at the
740 main office, and (ii) has designated a qualified individual who is
741 responsible for the actions of the applicant; and (B) a qualified
742 individual or a branch manager where the applicant establishes to the
743 satisfaction of the commissioner that the applicant (i) holds only
744 mortgage servicing rights at the main office or branch office and
745 conducts no other activity at such office, and (ii) has designated a
746 qualified individual or branch manager at such main office or branch
747 office who is responsible for the actions of the application. No person
748 licensed as a mortgage servicer and granted a waiver by the
749 commissioner shall engage in any activity that would have precluded
750 the issuance of such waiver without first designating a qualified
751 individual or branch manager, as the case may be, who meets all
752 applicable requirements of subdivision (1) of this subsection and is
753 approved by the commissioner. For purposes of this subsection, the
754 level of offense of the crime and the status of any conviction, pardon or
755 expungement shall be determined by reference to the law of the
756 jurisdiction where the case was prosecuted. In the event such
757 jurisdiction does not use the term "felony", "pardon" or "expungement",
758 such terms shall include legally equivalent events. For purposes of
759 subdivision (1) of this subsection, "experience in the mortgage servicing
760 business" means paid experience in the (I) servicing of mortgage loans,
761 (II) accounting, receipt and processing of payments on behalf of
762 mortgagees or creditors, or (III) supervision of such activities, or any
763 other relevant experience as determined by the commissioner. [, and "at
764 the respective office location" may be established if the qualified
765 individual or branch manager resides not more than one hundred miles
766 from the location of the office or otherwise demonstrates to the
767 satisfaction of the commissioner an ability to provide full-time, in-
768 person supervision of the office.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	36a-555
Sec. 2	<i>October 1, 2023</i>	36a-556
Sec. 3	<i>October 1, 2023</i>	36a-557
Sec. 4	<i>October 1, 2023</i>	36a-558(d) to (f)
Sec. 5	<i>October 1, 2023</i>	36a-560
Sec. 6	<i>October 1, 2023</i>	36a-770(c)
Sec. 7	<i>October 1, 2023</i>	New section
Sec. 8	<i>July 1, 2023</i>	36a-338(a)
Sec. 9	<i>October 1, 2023</i>	36a-486(b)
Sec. 10	<i>October 1, 2023</i>	36a-498e(a)
Sec. 11	<i>October 1, 2023</i>	36a-719(a)

Statement of Purpose:

To (1) redefine "APR" and "small loan", (2) define "finance charge", (3) require additional persons to obtain small loan licenses, (4) provide that certain small loan requirements apply to loans that are between five thousand and fifty thousand dollars, (5) provide that certain small loans shall not provide for an advance exceeding unpaid principal of fifty thousand dollars, (6) redefine "goods" and "sales finance company", (7) establish that guaranteed asset protection waivers are cancellable, (8) provide that certain qualified public depository reports shall be certified under oath unless such reports are filed electronically, (9) provide that certain persons shall not engage the services of certain lead generators, and (10) eliminate a requirement that certain persons demonstrate an ability to supervise mortgage servicing offices in person.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]