



Substitute Senate Bill No. 121

Public Act No. 24-75

AN ACT CONCERNING THE ATTORNEY GENERAL, THE BANKING COMMISSIONER, THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT AND TELEPHONIC SALES CALLS FOR SOLICITING CONSUMER GOODS OR SERVICES.

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

Section 1. Section 3-129e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) As used in this section:

(1) "Affiliate" has the same meaning as provided in 12 USC 5481, as amended from time to time;

(2) "Bank" has the same meaning as provided in section 36a-2, and includes any affiliate thereof that is described in 12 USC 5481(6)(B), as amended from time to time;

(3) "Commissioner" has the same meaning as provided in section 36a-2, and shall not include any other state's banking regulatory authority;

(4) "Confidential material" means documentary material, responses to interrogatories or written transcripts of oral testimony, or copies thereof, or other information produced pursuant to a subpoena issued under subsection (c) of this section;

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(5) "Documentary material" includes, but is not limited to, any information in a written, recorded or electronic form;

(6) "Federal savings association" has the same meaning as provided in 12 USC 1462, as amended from time to time;

(7) "Freedom of Information Act" has the same meaning as provided in section 1-200;

(8) "National bank" has the same meaning as provided in 12 USC 25b, as amended from time to time;

(9) "Out-of-state bank" has the same meaning as provided in section 36a-2, and includes any affiliate thereof that is described in 12 USC 5481(6)(B), as amended from time to time;

(10) "Person" means an individual, a corporation, a limited liability company, a partnership, a limited partnership, a limited liability partnership, an association, a joint-stock company, an unincorporated organization or any other legal entity; and

(11) "Primary supervisory agency" means the primary state or federal chartering agency of a bank or out-of-state bank.

(b) The Attorney General may bring a civil action in any court of competent jurisdiction to enforce any provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act, [Public Law] P.L. 111-203, as amended from time to time, that a state attorney general is authorized by said act to enforce and to seek any relief that a state attorney general is authorized by said act to seek.

(c) (1) (A) Whenever during the course of an investigation the Attorney General has a good faith reason to believe that any person has violated any provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, as amended from time to time,

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that a state attorney general is authorized by said act to enforce, within this state, the Attorney General may, prior to instituting any action or proceeding against such person, issue in writing and cause to be served upon any person in or outside the state, by subpoena or subpoena duces tecum, a demand requiring such person to (i) submit to the Attorney General any documentary material, (ii) appear before the Attorney General and give testimony in or outside the state, or (iii) respond to written interrogatories. Any such demand shall be limited to information relevant to the scope of the alleged violation.

(B) (i) For any subpoena the Attorney General intends to issue under this subsection to any person within the jurisdiction of the commissioner or against whom the commissioner is authorized to take an enforcement action, the Attorney General shall, allowing for as much time in advance of the issuance of such subpoena as practicable under the circumstances, coordinate with the commissioner and submit to the commissioner a draft of such subpoena.

(ii) The commissioner shall, not later than ten business days after receiving such draft subpoena, approve such draft subpoena or request an opportunity to meet and confer with the Attorney General regarding any material concern about such draft subpoena which is related to an examination, investigation, administrative proceeding or supervisory or regulatory matter within the commissioner's authority. If the commissioner approves such draft subpoena, or, after ten business days, the commissioner does not approve such draft subpoena or request an opportunity to meet and confer with the Attorney General, the Attorney General may issue such subpoena in accordance with this subsection. If the commissioner requests, not later than ten business days after receiving such draft subpoena, an opportunity to meet and confer with the Attorney General, the commissioner and the Attorney General, or their designees, shall meet and confer not later than five business days after the Attorney General receives such request. The Attorney General

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and the commissioner shall make their best efforts to address such material concern and reach an agreement regarding such draft subpoena and shall not unreasonably withhold such agreement.

(iii) The Attorney General shall, in the case of exigent circumstances, submit to the commissioner such draft subpoena and a written description of such exigent circumstances. The commissioner shall, not later than two business days after receiving such draft subpoena, approve such draft subpoena or request an opportunity to meet and confer with the Attorney General regarding any material concern about such draft subpoena which is related to an examination, investigation, administrative proceeding or supervisory or regulatory matter within the commissioner's authority. If the commissioner approves such draft subpoena, or, after two business days, the commissioner does not approve such draft subpoena or request an opportunity to meet and confer with the Attorney General, the Attorney General may issue such subpoena in accordance with this subsection. If the commissioner requests, not later than two business days after receiving such draft subpoena, an opportunity to meet and confer with the Attorney General, the commissioner and the Attorney General, or their designees, shall meet and confer not later than two business days after the Attorney General receives such request. The Attorney General and the commissioner shall make their best efforts to address such material concern and reach an agreement regarding such draft subpoena and shall not unreasonably withhold such agreement.

(C) Notwithstanding subparagraph (B) of this subdivision, for any subpoena issued under this subsection to a bank or out-of-state bank, or an officer, director or employee of such bank or out-of-state bank, the Attorney General shall, not less than ten business days prior to issuing such subpoena, provide a draft of such subpoena to the primary supervisory agency of such bank or out-of-state bank. If, upon reviewing such draft subpoena, the primary supervisory agency

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identifies a material concern related to an examination, investigation, administrative proceeding or supervisory or regulatory matter within the primary supervisory agency's authority, the primary supervisory agency may, not later than ten business days after receiving such draft subpoena, request an opportunity to meet and confer with the Attorney General. If the primary supervisory agency makes such request, the Attorney General, or the Attorney General's designee, shall make the Attorney General, or the Attorney General's designee, available to meet and confer with the primary supervisory agency not later than ten business days after the primary supervisory agency makes such request.

(D) (i) For any subpoena issued under this subsection to a bank or out-of-state bank, the Attorney General shall request, promptly after any such subpoena is served, to confer in good faith with such bank or out-of-state bank about the matters for examination set forth in such subpoena.

(ii) Except as provided in subparagraph (D)(iii) of this subdivision, when the Attorney General issues a subpoena ad testificandum under this subsection to a bank, out-of-state bank or high-ranking official of a bank or out-of-state bank, such bank, out-of-state bank or high-ranking official may designate one or more officers, directors, managing agents or other individuals who consent to testify on behalf of such bank, out-of-state bank or high-ranking official, and may determine the matters on which each such individual shall testify. The individuals designated by such bank, out-of-state bank or high-ranking official shall testify about information known or reasonably available to such bank, out-of-state bank or high-ranking official.

(iii) If the Attorney General believes in good faith that a high-ranking official of a bank or out-of-state bank that is served with a subpoena under this subsection has unique, direct knowledge about a violation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, as amended from time to time, and that the information sought

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by such subpoena could not be obtained through other, less burdensome or intrusive means, such high-ranking official shall testify pursuant to such subpoena.

(iv) In any such subpoena issued under this subsection to a bank or out-of-state bank, the Attorney General shall, in addition to satisfying any applicable requirements of subdivision (2) of this subsection, describe with reasonable particularity the matters for examination pursuant to such subpoena and advise the bank or out-of-state bank of such bank's or out-of-state bank's duty pursuant to this subparagraph to confer with the Attorney General and to designate individuals who shall testify.

(v) The provisions of this subparagraph shall not preclude any other procedure allowed under this subsection.

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

(3) Service of subpoenas ad testificandum, subpoenas duces tecum,

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notices of deposition and written interrogatories, as provided in this subsection, may be made (A) by any proper officer by personal service or service at the usual place of abode, or (B) if service cannot with reasonable diligence be effected under subparagraph (A) of this subdivision, by any proper officer or other person lawfully empowered to make service by registered or certified mail, return receipt requested, a duly executed copy thereof addressed to the person to be served at such person's principal place of business in this state or at the place of such person's registered agent in this state, or, if such person has no principal place of business in this state or registered agent in this state, at such person's principal office or such person's usual place of abode.

(4) All documentary material and responses to interrogatories furnished to, and all transcripts of testimony taken by, the Attorney General pursuant to a subpoena issued under this subsection or voluntarily, and all information obtained, collected or prepared in connection with an investigation conducted pursuant to this subsection, including the identity of the person furnishing such documentary material, responses or transcripts, shall be held in the custody of the Attorney General, and shall not be available to the public or be subject to inspection or disclosure under the Freedom of Information Act. Any documentary material furnished to the Attorney General shall be returned to the person that furnished such documentary material, or erased if such documentary material was furnished in electronic format, upon the termination of the Attorney General's investigation or final determination of any action or proceeding commenced thereunder. Except as prohibited by applicable court order, nothing in this subsection shall prohibit a person upon whom a subpoena has been served from disclosing the existence of such subpoena or any information such person furnishes in response to such subpoena.

(5) Notwithstanding the prohibition against public disclosure of documentary material and other information provided in this

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subsection, any confidential material may be used by the Attorney General in connection with the taking of oral testimony conducted pursuant to this subsection when (A) the Attorney General reasonably determines that it is necessary to disclose such confidential material to a person providing oral testimony in order to adduce evidence of a suspected violation of a provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, as amended from time to time, that a state attorney general is authorized by said act to enforce, and (B) the Attorney General believes in good faith that the person providing any such oral testimony (i) is an author or recipient of such confidential material, (ii) has read such confidential material, or (iii) is otherwise aware of the substance of such confidential material. No copy or original of the confidential material described or shown to a person providing oral testimony pursuant to this subsection shall be retained by such person.

(6) The Attorney General may, without waiving any privilege, disclose any confidential material for any appropriate supervisory, governmental, law enforcement or other public purpose, including, but not limited to, a civil action brought pursuant to subsection (b) of this section, and may cooperate with officials of the federal government, the state and other states by, among other things, sharing and disclosing information and evidence obtained pursuant to a subpoena issued under this subsection. No such disclosure or sharing shall be made unless (A) the Attorney General determines that such disclosure or sharing may be made in compliance with any applicable state or federal laws, regulations or rules of civil procedure that govern the right of such officials of the federal government, the state and other states to access such information and evidence, and (B) such disclosure or sharing is made under safeguards designed to prevent further dissemination of such confidential material. In any proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of any such confidential material and order that any such

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confidential material on file with the court or filed in connection with the court proceeding be sealed, and that the public be excluded from any portion of the proceeding at which any such confidential material is disclosed.

(7) In the event any person refuses to comply with, or otherwise fails to comply with, a subpoena served in accordance with the provisions of this subsection, the Attorney General may apply to the superior court for the judicial district where such person resides or maintains an office or, if such person does not reside or maintain an office in the state, the superior court for the judicial district of Hartford for an order (A) compelling such person to comply with such subpoena, which court may, upon notice to such person, issue such order, which shall be served upon such person, and (B) requiring such person to pay to the state a civil penalty in an amount not to exceed ten thousand dollars, which court may, after notice to such person and a hearing thereon, issue such order.

(8) (A) For any subpoena issued under this subsection, the person upon whom service of such subpoena was made may file, not later than ten business days after such subpoena is served, a motion to quash such subpoena in the superior court for the judicial district where such person resides or maintains an office or, if such person does not reside or maintain an office in the state, the superior court for the judicial district of Hartford. Notwithstanding any provision of the general statutes, no fees or costs shall be assessed for the filing of such motion. The person filing the motion to quash shall be designated as the plaintiff and the Attorney General shall be designated as the defendant. Such motion to quash shall be expeditiously assigned and heard by the court. The date and time of such hearing shall be established by the court. The court shall give notice to the parties of such hearing.

(B) Upon the filing of such motion to quash, any party to the proceeding regarding such motion to quash may, as provided by law,

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file a motion to seal or limit the disclosure of files, affidavits, documents or other materials on file or lodged with the court or in connection with a court proceeding. The court shall, as provided by law, hold a hearing on such motion.

(C) The court may quash or modify any subpoena issued pursuant to this subsection for any just cause, including, but not limited to, the following grounds: (i) The information sought by such subpoena is plainly irrelevant to the Attorney General's investigation; (ii) the information sought by such subpoena is protected by the attorney-client privilege or a statutory or constitutional privilege; (iii) the production of property sought by such subpoena would be unreasonable or oppressive; or (iv) the property sought by such subpoena constitutes attorney work product.

(9) Notwithstanding any provision of this subsection, the Attorney General shall not exercise visitatorial powers, including, but not limited to, by issuing a subpoena under this subsection, with respect to a national bank or federal savings association except in a manner consistent with federal law, including, but not limited to, 12 USC 25b(i), as amended from time to time.

(d) Nothing in this section shall be construed to limit the authority of the commissioner to enforce the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, as amended from time to time, or any other state or federal law or regulation.

Sec. 2. Subsection (m) of section 42-288a of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(m) In addition to the requirements established in subsections (a) to (l), inclusive, of this section, if a consumer's mobile telephone or mobile electronic device telephone number does not appear on the then current

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quarterly "no sales solicitation calls" listing made available by the department pursuant to subsection (a) of this section, no telemarketer may make, or cause to be made, a telephonic sales call for the purpose of a marketing [, selling or soliciting] or sales solicitation of consumer goods or services unless the telemarketer has received prior express written consent from the consumer to receive such call.

Approved May 30, 2024