



General Assembly

Substitute Bill No. 121

February Session, 2024



AN ACT CONCERNING THE ATTORNEY GENERAL, THE BANKING COMMISSIONER 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 Section 3-129e of the general statutes is repealed and the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, 2024*):

3 (a) As used in this section:

4 (1) "Bank" has the same meaning as provided in section 36a-2;

5 (2) "Commissioner" means the Banking Commissioner;

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

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

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

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

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

18 (8) "Out-of-state bank" has the same meaning as provided in section
19 36a-2; and

20 (9) "Person" means an individual, a corporation, a limited liability
21 company, a partnership, a limited partnership, a limited liability
22 partnership, an association, a joint-stock company, an unincorporated
23 organization, a federal, state or municipal government or agency, an
24 agency of a political subdivision of a federal, state or municipal
25 government or any other legal entity.

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

32 (c) (1) (A) Whenever during the course of an investigation the
33 Attorney General has reason to believe that any person has violated any
34 provision of the Dodd-Frank Wall Street Reform and Consumer
35 Protection Act, P.L. 111-203, as amended from time to time, that a state
36 attorney general is authorized by said act to enforce, within this state,
37 the Attorney General may, prior to instituting any action or proceeding
38 against such person, issue in writing and cause to be served upon any
39 person in or outside the state, by subpoena or subpoena duces tecum, a
40 demand requiring such person to (i) submit to the Attorney General any
41 documentary material, (ii) appear before the Attorney General and give
42 testimony in or outside the state, or (iii) respond to written
43 interrogatories as to any matters relevant to the scope of the alleged
44 violation.

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

52 (ii) The commissioner shall, not later than ten business days after
53 receiving such draft subpoena, approve such draft subpoena or request
54 an opportunity to meet and confer with the Attorney General regarding
55 any material concern about such draft subpoena which is related to an
56 examination, investigation, administrative proceeding or supervisory or
57 regulatory matter within the commissioner's authority. If the
58 commissioner approves such draft subpoena, or, after ten business days,
59 the commissioner does not approve such draft subpoena or request an
60 opportunity to meet and confer with the Attorney General, the Attorney
61 General may issue such subpoena in accordance with this subsection. If
62 the commissioner requests, not later than ten business days after
63 receiving such draft subpoena, an opportunity to meet and confer with
64 the Attorney General, the commissioner and the Attorney General, or
65 their designees, shall meet and confer not later than five business days
66 after the Attorney General receives such request. The Attorney General
67 and the commissioner shall make their best efforts to address such
68 material concern and reach an agreement regarding such draft
69 subpoena and shall not unreasonably withhold such agreement.

70 (iii) The Attorney General shall, in the case of exigent circumstances,
71 submit to the commissioner such draft subpoena and a written
72 description of such exigent circumstances. The commissioner shall, not
73 later than two business days after receiving such draft subpoena,
74 approve such draft subpoena or request an opportunity to meet and
75 confer with the Attorney General regarding any material concern about
76 such draft subpoena which is related to an examination, investigation,
77 administrative proceeding or supervisory or regulatory matter within

78 the commissioner's authority. If the commissioner approves such draft
79 subpoena, or, after two business days, the commissioner does not
80 approve such draft subpoena or request an opportunity to meet and
81 confer with the Attorney General, the Attorney General may issue such
82 subpoena in accordance with this subsection. If the commissioner
83 requests, not later than two business days after receiving such draft
84 subpoena, an opportunity to meet and confer with the Attorney
85 General, the commissioner and the Attorney General, or their designees,
86 shall meet and confer not later than two business days after the Attorney
87 General receives such request. The Attorney General and the
88 commissioner shall make their best efforts to address such material
89 concern and reach an agreement regarding such draft subpoena and
90 shall not unreasonably withhold such agreement.

91 (C) (i) For any subpoena issued under this subsection to a bank or
92 out-of-state bank, the Attorney General and such bank or out-of-state
93 bank shall, promptly after any such subpoena is served, confer in good
94 faith about the matters for examination as set forth in such subpoena.

95 (ii) Such bank or out-of-state bank shall designate one or more
96 officers, directors, managing agents or other individuals who consent to
97 testify on behalf of such bank or out-of-state bank, and may determine
98 the matters on which each such individual shall testify. The individuals
99 designated by such bank or out-of-state bank shall testify about
100 information known or reasonably available to such bank or out-of-state
101 bank.

102 (iii) In any such subpoena, the Attorney General shall, in addition to
103 satisfying any applicable requirements of subdivision (2) of this
104 subsection, describe with reasonable particularity the matters for
105 examination pursuant to such subpoena and advise the bank or out-of-
106 state bank of such bank's or out-of-state bank's duty pursuant to this
107 subparagraph to confer with the Attorney General and to designate
108 individuals who shall testify.

109 (iv) The provisions of this subparagraph shall not preclude any other

110 procedure allowed under this subsection.

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

127 (3) Service of subpoenas ad testificandum, subpoenas duces tecum,
128 notices of deposition and written interrogatories, as provided in this
129 subsection, may be made (A) by any proper officer by personal service
130 or service at the usual place of abode, or (B) if service cannot with
131 reasonable diligence be effected under subparagraph (A) of this
132 subdivision, by any proper officer or other person lawfully empowered
133 to make service by registered or certified mail, return receipt requested,
134 a duly executed copy thereof addressed to the person to be served at
135 such person's principal place of business in this state or at the place of
136 such person's registered agent in this state, or, if such person has no
137 principal place of business in this state or registered agent in this state,
138 at such person's principal office or such person's usual place of abode.

139 (4) All documentary material and responses to interrogatories
140 furnished to, and all transcripts of testimony taken by, the Attorney
141 General pursuant to a subpoena issued under this subsection or
142 voluntarily, and all information obtained, collected or prepared in

143 connection with an investigation conducted pursuant to this subsection,
144 including the identity of the person furnishing such documentary
145 material, responses or transcripts, shall be held in the custody of the
146 Attorney General, and shall not be available to the public or be subject
147 to inspection or disclosure under the Freedom of Information Act. Any
148 documentary material furnished to the Attorney General shall be
149 returned to the person that furnished such documentary material, or
150 erased if such documentary material was furnished in electronic format,
151 upon the termination of the Attorney General's investigation or final
152 determination of any action or proceeding commenced thereunder.
153 Except as prohibited by applicable court order, nothing in this
154 subsection shall prohibit a person upon whom a subpoena has been
155 served from disclosing the existence of such subpoena or any
156 information such person furnishes in response to such subpoena.

157 (5) Notwithstanding the prohibition against public disclosure of
158 documentary material and other information provided in this
159 subsection, any confidential material may be used by the Attorney
160 General in connection with the taking of oral testimony conducted
161 pursuant to this subsection when (A) the Attorney General reasonably
162 determines that it is necessary to disclose such confidential material to
163 a person providing oral testimony in order to adduce evidence of a
164 suspected violation of a provision of the Dodd-Frank Wall Street Reform
165 and Consumer Protection Act, P.L. 111-203, as amended from time to
166 time, that a state attorney general is authorized by said act to enforce,
167 and (B) the Attorney General reasonably believes that the person
168 providing any such oral testimony (i) is an author or recipient of such
169 confidential material, (ii) has read such confidential material, or (iii) is
170 otherwise aware of the substance of such confidential material. No copy
171 or original of the confidential material described or shown to a person
172 providing oral testimony pursuant to this subsection shall be retained
173 by such person.

174 (6) The Attorney General may, without waiving any privilege,
175 disclose any confidential material for any appropriate supervisory,

176 governmental, law enforcement or other public purpose, including, but
177 not limited to, a civil action brought pursuant to subsection (b) of this
178 section, and may cooperate with officials of the federal government, the
179 state and other states by, among other things, sharing and disclosing
180 information and evidence obtained pursuant to a subpoena issued
181 under this subsection. No such disclosure or sharing shall be made
182 unless (A) the Attorney General determines that such disclosure or
183 sharing may be made in compliance with any applicable state or federal
184 laws, regulations or rules of civil procedure that govern the right of such
185 officials of the federal government, the state and other states to access
186 such information and evidence, and (B) such disclosure or sharing is
187 made under safeguards designed to prevent further dissemination of
188 such confidential material. In any proceeding before a court, the court
189 may issue a protective order in appropriate circumstances to protect the
190 confidentiality of any such confidential material and order that any such
191 confidential material on file with the court or filed in connection with
192 the court proceeding be sealed, and that the public be excluded from
193 any portion of the proceeding at which any such confidential material is
194 disclosed.

195 (7) In the event any person refuses to comply with, or otherwise fails
196 to comply with, a subpoena served in accordance with the provisions of
197 this subsection, the Attorney General may apply to the superior court
198 for the judicial district of Hartford for an order (A) compelling such
199 person to comply with such subpoena, which court may, upon notice to
200 such person, issue such order, which shall be served upon such person,
201 and (B) requiring such person to pay to the state a civil penalty in an
202 amount not to exceed ten thousand dollars, which court may, after
203 notice to such person and a hearing thereon, issue such order.

204 (8) (A) For any subpoena issued under this subsection, the person
205 upon whom service of such subpoena was made may file a motion to
206 quash such subpoena in the superior court for the judicial district where
207 such person resides or maintains an office. Notwithstanding any
208 provision of the general statutes, no fees or costs shall be assessed for

209 the filing of such motion. The person filing the motion to quash shall be
210 designated as the plaintiff and the Attorney General shall be designated
211 as the defendant. Such motion to quash shall be expeditiously assigned
212 and heard by the court. The date and time of such hearing shall be
213 established by the court. The court shall give notice to the parties of such
214 hearing.

215 (B) Upon the filing of such motion to quash, any party to the
216 proceeding regarding such motion to quash may file a motion pursuant
217 to section 11-20A of the Connecticut Practice Book, as amended from
218 time to time, to seal or limit the disclosure of files, affidavits, documents
219 or other materials on file or lodged with the court or in connection with
220 a court proceeding. The court shall hold a hearing on such motion filed
221 pursuant to section 11-20A of the Connecticut Practice Book, as
222 amended from time to time.

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

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

238 (d) Nothing in this section shall be construed to limit the authority of
239 the commissioner to enforce the Dodd-Frank Wall Street Reform and
240 Consumer Protection Act, P.L. 111-203, as amended from time to time,

241 or any other state or federal law or regulation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	3-129e

Statement of Legislative Commissioners:

In Subsecs. (c)(1)(B)(ii) and (c)(1)(B)(iii), "an examination, an investigation, an administrative proceeding or a supervisory or regulatory matter" was changed to "an examination, investigation, administrative proceeding or supervisory or regulatory matter" for consistency with standard drafting conventions; in Subsec. (c)(1)(C)(iii), "subdivision (3)" was changed to "subdivision (2)" for accuracy; Subsec. (c)(5) was divided into subparagraphs for clarity; and Subsecs. (c)(5)(A) to (c)(5)(C), inclusive, were redesignated as Subsecs. (c)(5)(B)(i) to (c)(5)(B)(iii), inclusive, for clarity.

BA *Joint Favorable Subst.*