



General Assembly

Amendment

February Session, 2024

LCO No. 5265



Offered by:

SEN. MILLER P., 27th Dist.
REP. DOUCETTE, 13th Dist.
SEN. BERTHEL, 32nd Dist.
REP. DELNICKI, 14th Dist.

To: Subst. Senate Bill No. 121

File No. 135

Cal. No. 111

"AN ACT CONCERNING THE ATTORNEY GENERAL, THE BANKING COMMISSIONER AND THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 3-129e of the general statutes is repealed and the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

5 (a) As used in this section:

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

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

11 (3) "Commissioner" has the same meaning as provided in section 36a-
12 2, and shall not include any other state's banking regulatory authority;

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

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

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

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

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

25 (9) "Out-of-state bank" has the same meaning as provided in section
26 36a-2, and includes any affiliate thereof that is described in 12 USC
27 5481(6)(B), as amended from time to time;

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

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

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

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

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

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

74 after the Attorney General receives such request. The Attorney General
75 and the commissioner shall make their best efforts to address such
76 material concern and reach an agreement regarding such draft
77 subpoena and shall not unreasonably withhold such agreement.

78 (iii) The Attorney General shall, in the case of exigent circumstances,
79 submit to the commissioner such draft subpoena and a written
80 description of such exigent circumstances. The commissioner shall, not
81 later than two business days after receiving such draft subpoena,
82 approve such draft subpoena or request an opportunity to meet and
83 confer with the Attorney General regarding any material concern about
84 such draft subpoena which is related to an examination, investigation,
85 administrative proceeding or supervisory or regulatory matter within
86 the commissioner's authority. If the commissioner approves such draft
87 subpoena, or, after two business days, the commissioner does not
88 approve such draft subpoena or request an opportunity to meet and
89 confer with the Attorney General, the Attorney General may issue such
90 subpoena in accordance with this subsection. If the commissioner
91 requests, not later than two business days after receiving such draft
92 subpoena, an opportunity to meet and confer with the Attorney
93 General, the commissioner and the Attorney General, or their designees,
94 shall meet and confer not later than two business days after the Attorney
95 General receives such request. The Attorney General and the
96 commissioner shall make their best efforts to address such material
97 concern and reach an agreement regarding such draft subpoena and
98 shall not unreasonably withhold such agreement.

99 (C) Notwithstanding subparagraph (B) of this subdivision, for any
100 subpoena issued under this subsection to a bank or out-of-state bank, or
101 an officer, director or employee of such bank or out-of-state bank, the
102 Attorney General shall, not less than ten business days prior to issuing
103 such subpoena, provide a draft of such subpoena to the primary
104 supervisory agency of such bank or out-of-state bank. If, upon
105 reviewing such draft subpoena, the primary supervisory agency
106 identifies a material concern related to an examination, investigation,
107 administrative proceeding or supervisory or regulatory matter within

108 the primary supervisory agency's authority, the primary supervisory
109 agency may, not later than ten business days after receiving such draft
110 subpoena, request an opportunity to meet and confer with the Attorney
111 General. If the primary supervisory agency makes such request, the
112 Attorney General, or the Attorney General's designee, shall make the
113 Attorney General, or the Attorney General's designee, available to meet
114 and confer with the primary supervisory agency not later than ten
115 business days after the primary supervisory agency makes such request.

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

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

132 (iii) If the Attorney General believes in good faith that a high-ranking
133 official of a bank or out-of-state bank that is served with a subpoena
134 under this subsection has unique, direct knowledge about a violation of
135 the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L.
136 111-203, as amended from time to time, and that the information sought
137 by such subpoena could not be obtained through other, less
138 burdensome or intrusive means, such high-ranking official shall testify
139 pursuant to such subpoena.

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

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

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

166 (3) Service of subpoenas ad testificandum, subpoenas duces tecum,
167 notices of deposition and written interrogatories, as provided in this
168 subsection, may be made (A) by any proper officer by personal service
169 or service at the usual place of abode, or (B) if service cannot with
170 reasonable diligence be effected under subparagraph (A) of this
171 subdivision, by any proper officer or other person lawfully empowered
172 to make service by registered or certified mail, return receipt requested,

173 a duly executed copy thereof addressed to the person to be served at
174 such person's principal place of business in this state or at the place of
175 such person's registered agent in this state, or, if such person has no
176 principal place of business in this state or registered agent in this state,
177 at such person's principal office or such person's usual place of abode.

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

196 (5) Notwithstanding the prohibition against public disclosure of
197 documentary material and other information provided in this
198 subsection, any confidential material may be used by the Attorney
199 General in connection with the taking of oral testimony conducted
200 pursuant to this subsection when (A) the Attorney General reasonably
201 determines that it is necessary to disclose such confidential material to
202 a person providing oral testimony in order to adduce evidence of a
203 suspected violation of a provision of the Dodd-Frank Wall Street Reform
204 and Consumer Protection Act, P.L. 111-203, as amended from time to
205 time, that a state attorney general is authorized by said act to enforce,
206 and (B) the Attorney General believes in good faith that the person

207 providing any such oral testimony (i) is an author or recipient of such
208 confidential material, (ii) has read such confidential material, or (iii) is
209 otherwise aware of the substance of such confidential material. No copy
210 or original of the confidential material described or shown to a person
211 providing oral testimony pursuant to this subsection shall be retained
212 by such person.

213 (6) The Attorney General may, without waiving any privilege,
214 disclose any confidential material for any appropriate supervisory,
215 governmental, law enforcement or other public purpose, including, but
216 not limited to, a civil action brought pursuant to subsection (b) of this
217 section, and may cooperate with officials of the federal government, the
218 state and other states by, among other things, sharing and disclosing
219 information and evidence obtained pursuant to a subpoena issued
220 under this subsection. No such disclosure or sharing shall be made
221 unless (A) the Attorney General determines that such disclosure or
222 sharing may be made in compliance with any applicable state or federal
223 laws, regulations or rules of civil procedure that govern the right of such
224 officials of the federal government, the state and other states to access
225 such information and evidence, and (B) such disclosure or sharing is
226 made under safeguards designed to prevent further dissemination of
227 such confidential material. In any proceeding before a court, the court
228 may issue a protective order in appropriate circumstances to protect the
229 confidentiality of any such confidential material and order that any such
230 confidential material on file with the court or filed in connection with
231 the court proceeding be sealed, and that the public be excluded from
232 any portion of the proceeding at which any such confidential material is
233 disclosed.

234 (7) In the event any person refuses to comply with, or otherwise fails
235 to comply with, a subpoena served in accordance with the provisions of
236 this subsection, the Attorney General may apply to the superior court
237 for the judicial district where such person resides or maintains an office
238 or, if such person does not reside or maintain an office in the state, the
239 superior court for the judicial district of Hartford for an order (A)
240 compelling such person to comply with such subpoena, which court

241 may, upon notice to such person, issue such order, which shall be served
242 upon such person, and (B) requiring such person to pay to the state a
243 civil penalty in an amount not to exceed ten thousand dollars, which
244 court may, after notice to such person and a hearing thereon, issue such
245 order.

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

259 (B) Upon the filing of such motion to quash, any party to the
260 proceeding regarding such motion to quash may, as provided by law,
261 file a motion to seal or limit the disclosure of files, affidavits, documents
262 or other materials on file or lodged with the court or in connection with
263 a court proceeding. The court shall, as provided by law, hold a hearing
264 on such motion.

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

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

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

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

287 (m) In addition to the requirements established in subsections (a) to
 288 (l), inclusive, of this section, if a consumer's mobile telephone or mobile
 289 electronic device telephone number does not appear on the then current
 290 quarterly "no sales solicitation calls" listing made available by the
 291 department pursuant to subsection (a) of this section, no telemarketer
 292 may make, or cause to be made, a telephonic sales call for the purpose
 293 of a marketing [, selling or soliciting] or sales solicitation of consumer
 294 goods or services unless the telemarketer has received prior express
 295 written consent from the consumer to receive such call."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	3-129e
Sec. 2	October 1, 2024	42-288a(m)