



General Assembly

**Amendment**

February Session, 2024

LCO No. 5117



Offered by:

SEN. MILLER P., 27<sup>th</sup> Dist.  
REP. DOUCETTE, 13<sup>th</sup> Dist.  
SEN. BERTHEL, 32<sup>nd</sup> Dist.  
REP. DELNICKI, 14<sup>th</sup> 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 Section 3-129e of the general statutes is repealed and the  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" means the Banking Commissioner;
- 12       (4) "Confidential material" means documentary material, responses  
13 to interrogatories or written transcripts of oral testimony, or copies  
14 thereof, or other information produced pursuant to a subpoena issued  
15 under subsection (c) of this section;
- 16       (5) "Documentary material" includes, but is not limited to, any  
17 information in a written, recorded or electronic form;
- 18       (6) "Federal savings association" has the same meaning as provided  
19 in 12 USC 1462, as amended from time to time;
- 20       (7) "Freedom of Information Act" has the same meaning as provided  
21 in section 1-200;
- 22       (8) "National bank" has the same meaning as provided in 12 USC 25b,  
23 as amended from time to time;
- 24       (9) "Out-of-state bank" has the same meaning as provided in section  
25 36a-2, and includes any affiliate thereof that is described in 12 USC  
26 5481(6)(B), as amended from time to time;
- 27       (10) "Person" means an individual, a corporation, a limited liability  
28 company, a partnership, a limited partnership, a limited liability  
29 partnership, an association, a joint-stock company, an unincorporated  
30 organization, a federal, state or municipal government or agency, an  
31 agency of a political subdivision of a federal, state or municipal  
32 government or any other legal entity; and
- 33       (11) "Primary supervisory agency" means the primary state or federal  
34 chartering agency of a bank or out-of-state bank.
- 35       (b) The Attorney General may bring a civil action in any court of  
36 competent jurisdiction to enforce any provision of the Dodd-Frank Wall  
37 Street Reform and Consumer Protection Act, [Public Law] P.L. 111-203,  
38 as amended from time to time, that a state attorney general is authorized  
39 by said act to enforce and to seek any relief that a state attorney general

40 is authorized by said act to seek.

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

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

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

73 the Attorney General, the commissioner and the Attorney General, or  
74 their designees, shall meet and confer not later than five business days  
75 after the Attorney General receives such request. The Attorney General  
76 and the commissioner shall make their best efforts to address such  
77 material concern and reach an agreement regarding such draft  
78 subpoena and shall not unreasonably withhold such agreement.

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

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

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

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