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ACTS AFFECTING  

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BANKING

Office of Legislative Research



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by

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## **NOTICE TO READERS**

This report provides brief highlights of the 2000 session public acts originating in the Banks Committee and other committees' acts affecting banking. Not all provisions of the acts are included. Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library or the House Clerk's office. *Highlights of the Revised FY 01 Budget and Statutory Formula Grants to Municipalities* is available from the Office of Fiscal Analysis. Complete summaries of all public acts passed during the 2000 session will be available in early fall when OLR's Public Act Summary book is published, and some are available now on the OLR website.

<b>BANK AND CREDIT UNION ACTIVITIES</b> .....	<b>4</b>
Bank And Credit Union Acquisitions.....	4
Credit Union Holidays And Emergency Closings.....	4
Bank Conversions .....	4
Stop Payment Charges.....	5
Bankers’ Bank Services and Credit Unions .....	5
Credit Union Powers .....	5
<b>BANKING DEPARTMENT</b> .....	<b>6</b>
Bank Powers Act Annual Update .....	6
Banking Commissioner’s Enforcement and Examination Authority .....	6
Banking Department Confidential Records .....	6
<b>SMALL LOAN COMPANIES</b> .....	<b>6</b>
Small Loan Companies’ Bad Check Fees .....	7
<b>ACCOUNTANTS</b> .....	<b>7</b>
Public Accountants’ Fees .....	7
<b>STATE ASSISTANCE</b> .....	<b>7</b>
Residential Mortgage Refinancing Guarantee Program .....	7
Individual Development Accounts .....	8
<b>OTHER COMMITTEES’ BANKING-RELATED ACTS</b> .....	<b>8</b>
Insurance Required by Mortgage Lenders .....	8
Escrow Arrangements.....	9
Restrictions on State Treasurer’s Activities .....	9
Financial Institution Assistance.....	9
Capital Access Program .....	10

## **BANK AND CREDIT UNION ACTIVITIES**

### ***Bank And Credit Union Acquisitions***

This act expands the state's bank holding company law to cover previously excluded companies controlling banks whose deposits are not federally insured or that do not engage in consumer retail banking.

The act specifies filing requirements for (1) a Connecticut-chartered bank to purchase all or a significant part of the assets and business of an in-state federal bank or federal credit union and (2) a Connecticut-chartered credit union that wants to engage in such a transaction with an in-state federal credit union. The act specifically requires the purchasing institution to file an application with the commissioner that includes (1) a copy of any related notice, application, or other information filed with federal or state banking or credit union regulators and (2) additional information the commissioner requires. By law, such purchases require the banking commissioner's prior approval.

The act also makes it clear that (1) the approval and specific filing requirements apply to a Connecticut bank's purchase of an out-of-state bank's assets or business and (2) the commissioner must disapprove

such a purchase involving acquisition of a bank less than five years old. The law already contains a similar authorization for in-state banks to acquire a branch or a significant part of the assets of an out-of-state bank, subject to the other state's and Connecticut's laws for acquisitions between in-state banks. **(PA 00-2, effective upon passage)**

### ***Credit Union Holidays And Emergency Closings***

This act (1) makes it clear that any legal holiday the governor proclaims as a bank holiday is also a credit union holiday and makes conforming changes in other statutes; (2) allows the banking commissioner to close Connecticut-chartered credit unions, like state-chartered banks, during an emergency and permits them, like banks, to close an office on their own initiative if, because of the emergency, they cannot obtain his prior approval; and (3) lets Connecticut-chartered credit unions, like banks, close their offices on college or university campuses or in other educational institutions when they are not in regular session, with prior notice to the commissioner. **(PA 00-6, effective October 1, 2000)**

### ***Bank Conversions***

This act deletes statutory requirements that are inconsistent with federal rules for

converting a mutual savings bank or savings and loan association into a capital stock bank. It also allows the state banking commissioner to waive any provision of the state bank conversion regulations if (1) the provision is inconsistent with federal Office of Thrift Supervision regulations or (2) the waiver is needed to comply with Federal Deposit Insurance Corporation requirements.

The deleted statutory requirements concern such things as (1) limits on the stock that deposit account holders can purchase through priority subscription rights (the right to buy stock in the converted institution before it is sold to the public), (2) account balances below which account holders receive no subscription rights, (3) notice requirements, and (4) requirements and procedures for liquidation accounts. **(PA 00-14, effective upon passage)**

### ***Stop Payment Charges***

This act requires state and federally chartered banks and credit unions to make the fee they charge for stopping payment on a check cover not only the initial six-month stop payment period, but also the first six-month renewal. Under the state's Uniform Commercial Code, a written stop payment order is good for six months and the customer can renew it for additional six-month periods. A bank has no obligation to pay a

check, other than a certified check, after six months, but it may pay it. **(PA 00-15, effective October 1, 2000)**

### ***Bankers' Bank Services and Credit Unions***

This act allows credit unions in Connecticut, other New England states, and New York to join a group of banks that own a Connecticut-chartered bankers' bank and permits the bank to provide services to them. A "banker's bank" is a wholesale bank that provides services only to the institutions that own it and their directors, officers, and employees. It does not engage in retail banking. Connecticut currently has one such bank, Bankers' Bank Northeast. **(PA 00-28, effective October 1, 2000)**

### ***Credit Union Powers***

This act lets Connecticut-chartered credit unions engage in the same activities as federal credit unions (except selling title insurance), after filing written notice with the state-banking commissioner. The notice must describe the activity and its financial impact on the credit union, cite the federal legal authority for it, describe federal restrictions on the activity, and include other information the commissioner requires. The credit union can begin the activity unless the commissioner

disapproves it within 30 days after the notice is filed.

The act allows the commissioner to adopt regulations to ensure that credit unions conduct these activities in a safe and sound manner, with adequate consumer protections. **(PA 00-38, effective October 1, 2000)**

## **BANKING DEPARTMENT**

### ***Bank Powers Act Annual Update***

This act requires the state banking commissioner, by January 1 annually, to submit a report to the Banks Committee summarizing actions he has taken to (1) let Connecticut-chartered banks engage in certain activities closely related to banking, (2) let them engage in activities permitted for federally chartered banks, and (3) approve a new kind of Connecticut-chartered bank (an uninsured bank that does not take retail deposits) and subsequently approve expanded powers for it. **(PA 00-40, effective October 1, 2000)**

### ***Banking Commissioner's Enforcement And Examination Authority***

This act generally prohibits licensees under the banking law from engaging in fraudulent conduct and clarifies various prohibitions on false or misleading statements. It also

requires the banking commissioner to consider more factors when annually assessing foreign bank branches or agencies in Connecticut for the Banking Department's costs. It lets the commissioner (1) impose civil penalties on mortgage lenders and brokers who fail to perform an agreement with a borrower and (2) revoke, suspend, or refuse to renew licenses of second mortgage lenders or brokers who break oral agreements. Finally, the act gives sales finance companies more flexibility over where they keep their records. **(PA 00-61, effective July 1, 2000)**

### ***Banking Department Confidential Records***

This act changes the scope of the confidentiality requirements for state Banking Department records by (1) making it clear that banks' operating and condition reports are not confidential and (2) limiting the law's nondisclosure requirements to directors and personnel of state-chartered banks and credit unions, instead of both state and federally chartered institutions. The act specifies the types of records that, under most circumstances, cannot be disclosed. If records are disclosed under permitted conditions, the act requires safeguards against further dissemination. **(PA 00-123, effective October 1, 2000)**

## **SMALL LOAN COMPANIES**

### ***Small Loan Companies' Bad Check Fees***

This act allows a licensed small loan company to impose a \$20 bad check fee on a borrower whose loan payment check bounces. This is an increase from \$10 for open-end loans and a new fee for closed-end loans. But the act prohibits imposing this fee if the check writer has stopped payment on the check or raised a reasonable defense as to the underlying debt's validity, or if the check was stolen. **(PA 00-164, effective October 1, 2000)**

## **ACCOUNTANTS**

### ***Public Accountants' Fees***

This act allows licensed public accountants to (1) accept fees or commissions for referring clients to financial products or services under certain conditions and (2) perform services for clients based on contingent fees. But it continues to prohibit them from accepting such fees when performing specified services for their clients and in certain other situations. The act requires accountants accepting referral fees or commissions to disclose the fees to their clients and, for contingent fees, to disclose the method for determining the fee. It allows the State Board of Accountancy to adopt regulations implementing the provision

concerning referral charges and the required disclosures. The act also specifies that it does not relieve accountants of federal or state obligations, if appropriate, to obtain other professional licenses, such as insurance agent or securities broker licenses, before making referrals.

The act adds certain other fees to the law's prohibition on accountants paying a commission to obtain a client. These include rebates, preferences, discounts, or any other considerations. **(PA 00-42, effective October 1, 2000)**

## **STATE ASSISTANCE**

### ***Residential Mortgage Refinancing Guarantee Program***

This act removes the requirement that applicants for the new Residential Mortgage Refinancing Guarantee program, created by PA 99-262, must have mortgage insurance on the property in order to qualify. Mortgage insurance is usually obtained, either through a government agency or a private mortgage insurance company, by borrowers who have only a small down payment when they buy a house. It protects the lender in case the borrower defaults.

PA 99-262 created the loan guarantee program, which is not yet operational, to help homeowners refinance mortgages on homes whose market values have declined below what they

owe on their mortgages. To be eligible, people must have purchased their homes between 1986 and 1992, have incomes below 120% of the state median, have loan-to-value ratios of no more than 125%, and meet other requirements. The Connecticut Housing Finance Authority must run the program, work with secondary market investors, and design the program to facilitate sale of the guaranteed loans to secondary mortgage markets. **(PA 00-183, effective October 1, 2000)**

### ***Individual Development Accounts***

The act establishes a statewide individual development account (IDA) program, the "Connecticut IDA Initiative," to be run by the state Labor Department through community-based organizations. It allows people with some earned income and household income up to 80% of area median income (and qualified disabled people) to open savings accounts in financial institutions and receive matching funds as an incentive for saving. People can withdraw money from the accounts only for specified purposes. The maximum match ratio is \$2 for every \$1 the account holder deposits, up to \$1,000 per calendar year and \$3,000 for the duration of the program. Interest on the accounts will be exempt from state income tax and money in the account will not be counted

in determining eligibility for need-based state or joint state-federal programs. Private companies contributing to the program will receive a 5% corporation tax credit. The act prescribes the Labor Department's and the community organizations' responsibilities for the program. Finally, the labor commissioner, in consultation with the state treasurer, must adopt implementing regulations. **(PA 00-192, January 1, 2001 for IDA program and related tax exemptions and changes, applicable to taxable years and income years on or after January 1, 2001)**

### **OTHER COMMITTEES' BANKING-RELATED ACTS**

#### ***Insurance Required By Mortgage Lenders***

This act broadens the prohibition against mortgage lenders requiring prospective buyers of residential real estate to purchase insurance in excess of the premises' replacement value as a condition of granting a mortgage. It extends the prohibition to flood insurance; other extended coverage insurance; or any combination of insurance, including fire insurance. Prior law prohibited lenders from requiring fire insurance in excess of the premises' replacement value. **(PA 00-95, effective October 1, 2000)**

### ***Escrow Arrangements***

This act specifies that escrow agreements are not unenforceable solely because the escrow holder is a party's attorney, law firm, or agent. An escrow agreement is a written or oral agreement that requires a party or person to deliver money, documents, instruments, or property to a third party. The third party holds the items for delivery to a party or person when a specified event or condition specified in the agreement occurs. The escrow holder is the third party that receives and later disburses or delivers the money, documents, instruments, or property. The act applies to escrow agreements existing on or after its effective date. **(PA 00-74, effective upon passage)**

### ***Restrictions on State Treasurer's Activities***

This act establishes various new restrictions and limits on the operations of the state treasurer's office and on political contributions by firms doing business with the treasurer, and provides additional oversight over the investment of public funds.

It restricts who the treasurer can go to work for one year after her term ends; bans political contributions from certain types of firms doing business with the treasurer; bars the treasurer and high-ranking treasury employees, Investment Advisory Council

(IAC) members, and treasurer candidates from asking for campaign contributions from such firms; and extends the state Ethics Code and financial disclosure rules to all IAC members.

The act also bans finder's fees and requires disclosure of third-party fees paid in connection with investing public funds, requires state investments to be carried out according to an approved and publicly disclosed investment policy statement, enhances IAC oversight of the treasurer's investments, and limits the power of lame-duck and acting treasurers to make unilateral investment decisions.

The act increases the portion of state trust funds that can be invested in common stock. **(PA 00-43, effective upon passage, except the provisions raising the limit on investments in stock and requiring the treasurer to invest trust funds according to the investment policy are effective January 1, 2001)**

### ***Financial Institution Assistance***

Among other provisions, this act makes a financial institution with at least 2,000 qualified employees at a facility or facilities in a municipality with more than 100,000 people eligible for additional tax credits and Manufacturing Assistance Act (MAA) assistance. Under the act, the company may qualify for up to \$25 million in tax credits. The

initial qualified year for the tax credits is the income year the Department of Economic and Community Development (DECD) executes an agreement to provide the new MAA financing. The company's tax credit level beyond the 10<sup>th</sup> income year hinges on whether it has at least 3,000 qualified employees in the state.

The act authorizes DECD to give this business MAA assistance and exempts the assistance from the requirement that economic development assistance to any company that exceeds \$10 million in two years be specifically approved by the General Assembly. **(PA 00-170, effective upon passage)**

### ***Capital Access Program***

The act expands the range of lenders that can participate in the Connecticut Development Authority's (CDA) Capital Access program (i.e. Urbank Program),

which insures groups or portfolios of business loans that are somewhat riskier than conventional loans. Under prior law, only state and federally chartered banks, savings banks, savings and loan associations, and credit unions and licensed first and second mortgage lenders qualified for the program's guarantees. The act expands the list to include trust companies, insurance and investment companies, mortgage bankers, trustees, executors, pension funds, retirement funds or other fiduciary or financial institutions, state agencies, municipalities, and other political subdivisions. CDA generally provides loans, loan guarantees, or other types of financing to businesses for constructing plants, purchasing machinery and equipment or training workers. **(PA 00-187, § 57, effective July 1, 2000)**