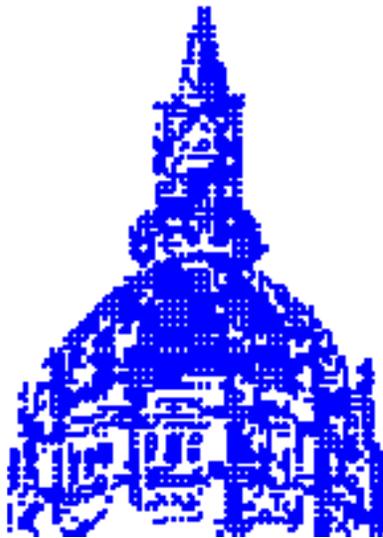


Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

Banking



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To the Reader

This report provides highlights of new laws (public acts) affecting banking enacted during the 2004 regular and May 2004 special legislative sessions. At the end of each summary we indicate the public act (PA) number or, if that is not yet available, the bill number. A number of the changes were made as part of several large acts that are commonly known as “the budget act” (PA 04-216, formerly HB 5692), the “DSS Implementer” (sHB 5689), and the “OPM Implementer” (HB 5801, PA 04-2, MAY 11 Special Session, which passed in the May special session). The report does not cover special acts, some of which affect municipalities, and public acts that only affect a single municipality.

Not all provisions of the acts are included here. Complete summaries of all 2004 public acts passed will be available in the fall when OLR’s *Public Act Summary* book is published; some are already on OLR’s webpage: <http://www.cga.state.ct.us/olr/publicactsummaries.asp>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk’s Office, or the General Assembly’s website: <http://www.cga.state.ct.us/default.asp>.

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ABANDONED PROPERTY

Abandoned Property Fees on Property Held by Banks or Financial Institutions

A new law exempts banks and financial institutions that possess certain abandoned property from the general prohibitions against (1) imposing dormancy, abandonment, inactivity, or similar charges or fees on it and (2) suggesting in an agreement or otherwise that the property may be subject to such a fee. It continues to prohibit the imposition of escheat charges or fees on the property. The law applies to:

1. demand or savings deposits in the state,
2. funds paid in the state to buy shares or interests in a financial organization or a deposit made with them,
3. matured time deposits in this state, and
4. property or funds in safe deposit boxes on which the rental periods have expired (**PA 04-2**, May Special Session; effective upon passage).

Disposition of Abandoned Property from a Safe Deposit Box

By law, the holder of abandoned personal property from a safe deposit box must sell

the property and give the state treasurer the sale proceeds, minus any charges that may be lawfully withheld. A new act:

1. allows the holder to contract with a third party to store and sell the property and pay the proceeds to the treasurer, as long as the third party is bonded or insured in his performance of these activities;
2. exempts the property holder from responsibility for claims related to these transactions;
3. if the treasurer exempts the property from requirements that it be sold and the proceeds remitted to her, allows the holder to dispose of the abandoned property in any way it considers appropriate and exempts the holder from responsibility for any claims related to the property disposition or the property itself; and
4. specifies that the charges that may lawfully be withheld from the treasurer include costs for storage, appraisal, advertising, sales commissions, and any charges owed under the safe deposit rental contract (**PA 04-2**, May Special Session; effective upon passage).

BANKING DEPARTMENT AND LICENSEES

Commissioner's Annual Report

Within 30 days after the end of each quarter of FY 2005, a new law requires the banking commissioner to submit to the Appropriations Committee, through the Office of Fiscal Analysis, a report showing the amount of each fee, charge, assessment, fine, civil penalty, settlement payment, and other revenue the Banking Department collected during the preceding quarter (**PA 04-2**, May Special Session; effective July 1, 2004).

Penalty for Engaging in Business of Money Transmission Without a License

A new act makes it a class D felony (punishable by imprisonment for one to five years, a fine up to \$5,000, or both) for anyone to engage knowingly in the business of (1) issuing Connecticut payment instruments or (2) money transmission, without first obtaining a money transmitter's license from the banking commissioner. It specifies that each transaction in violation of this provision constitutes a separate offense (**PA 04-61**, effective October 1, 2004).

Check Cashing Services and Money Transmission

A new law requires limited liability companies applying for check cashing or money transmission licenses to include specific information in their applications and notify the banking commissioner before making certain changes. It requires the commissioner, if he determines that a check filed with his office to pay license, application, or certain other fees has been dishonored, to suspend the license automatically and give the licensee notice and an opportunity for a hearing. It expands money transmission laws to apply to stored and monetary value, in addition to money. And it increases surety bond requirements and allows surety companies to cancel money transmitters' surety bonds at any time by giving notice to the licensee and the commissioner (**PA 04-14**, effective October 1, 2004, except that provisions applying money transmission laws to stored and monetary value and allowing surety companies to cancel their bonds take effect upon passage).

Consumer Credit Licensees and Creditors' Collection Practices

A new act requires the banking commissioner to suspend automatically the license of several Banking Department licensees, including

mortgage lenders and brokers, if a check used to pay their license fee is dishonored. Under prior law, a dishonored check did not trigger suspension. The act allows surety companies issuing bonds to certain licensees to cancel the bond by giving 30 days' notice and requires the commissioner to suspend the license if a new or renewal bond is not in place. It increases the commissioner's enforcement authority over actions that constitute banking law violations. The act expands debt adjusters' bond requirements and permits the commissioner to allow them to carry insurance if they cannot meet the required bond threshold (**PA 04-69**, effective October 1, 2004).

BANKS

Bank Branching

A new law allows certain out-of-state banks with Connecticut branches to establish additional branches without following the statutorily defined process (**PA 04-136**, effective upon passage).

Banks in Receivership

A new law makes a number of changes to the banking statutes regarding trust banks, uninsured banks, receiverships, conservatorships, and franchise taxes, including:

1. requiring trust and uninsured banks to maintain at least \$1

- million in assets on deposit;
2. decreasing the franchise tax that newly organized capital stock Connecticut banks with more than 10,000 authorized shares must pay;
3. protecting client interests in receiverships and conservatorships;
4. expanding the circumstances under which an independent person may serve as a receiver or conservator;
5. requiring a trust or uninsured bank's receiver to publish notice of the bank's receivership and depositors', clients', and creditors' rights;
6. expanding the receiver's reporting and notice requirements;
7. creating a specific order of priority for distributing trust and uninsured banks' assets;
8. directing receivers to substitute successor fiduciaries to take over the bank's fiduciary positions;
9. requiring certain claimants to file a proof of claim, specifying its content, and establishing procedures for claimants to file claims against a bank in receivership; and

10. creating receiver and conservator immunity and indemnity for acts within the scope of their employment (**PA 04-136**, effective upon passage).

Mutual Savings Bank Conversions and Reorganizations

When a mutual savings bank converts to a capital stock bank, an act directs the conversion plan to require approval by a majority of the (1) converting bank's corporators, provided the bank must have at least 25 corporators at the time (unless the banking commissioner allows otherwise), and (2) bank's independent corporators who constitute at least 60% of all corporators. The approval must be given at a meeting held in accordance with the bank's charter, certificate of incorporation, or bylaws. If a mutual savings bank reorganizes into a mutual holding company, the act requires approval by the same numbers and proportions of corporators at a similar meeting.

The act requires a converting or reorganizing mutual savings bank, prior to the meeting for approval, to provide the corporators with information on the plan. It must be filed with and approved by the commissioner before distribution and include disclosures summarizing the (1) conversion or reorganization, (2) distribution

of shares, and (3) compensation plans proposed for management. The bank also must provide the commissioner with the following information on the corporators eligible to vote at the meeting to approve the conversion or reorganization plan:

1. the number of corporators who are (a) not bank employees, officers, directors, or trustees; (b) employees, but not officers, directors, or trustees; and (c) officers, directors, or trustees;
2. a description of any loan relationships, outstanding within the five years before the meeting, between the mutual savings bank and any of its corporators who are not also employees, officers, directors, or trustees; and
3. a description of any commercial relationships (sale or lease of real or personal property or provision of commercial services), other than the loan relationships with corporators described above, in existence within five years before the meeting between the bank and any of the corporators who are not bank employees, officers, directors, or trustees.

The converting or reorganizing bank's secretary must file with the commissioner a certification

that the incorporators approved the plan at the required meeting (**PA 04-23**, effective upon passage).

CURRENCY AND COIN SERVICES

Sales Tax Exemption for Certain Currency and Coin Services

A new law exempts coin and currency services provided to a financial service company, such as a bank or credit union, by or through another such company from the 6% sales and use tax (**PA 04-136**, effective upon passage).

CREDIT UNIONS

Connecticut Credit Union Branches

An act eliminates the banking commissioner's authority to disapprove an application to establish a branch of a single or multiple common-bond Connecticut credit union branch if the proposed branch will result in an oversaturation of credit unions in the town. Under the act, common-bond credit unions (those based on a common bond of occupation or association) may establish branches regardless of how many credit unions are already located in the town (**PA 04-51**, effective upon passage).

LOANS

Tax Refund Anticipation Loan Disclosures

An act requires tax refund anticipation loan facilitators to disclose, when the borrower is making the loan application, on a document separate from the application:

1. the estimated fee for preparing and electronically filing a tax return,
2. the refund anticipation loan fee schedule,
3. the annual percentage rate (APR) using guidelines established by official staff interpretations of Regulation Z of the federal Truth in Lending Act,
4. the estimated total cost to the borrower for the refund anticipation loan,
5. the estimated number of days within which the loan will be paid if the borrower's application is approved,
6. that the borrower must repay the loan and related fees if the tax refund is not paid or not paid in full, and
7. that electronic filing is available and the average time for the Internal Revenue Service to refund a consumer who files electronically if does not obtain an anticipation loan.

It defines “refund anticipation loan” as a loan arranged to be paid directly from the proceeds of the borrower’s income tax refund. The act defines “refund anticipation loan fees” as all charges, fees, or other consideration charged or imposed for making a refund anticipation loan.

The act subjects a facilitator who fails to make the required disclosures to a \$500 criminal penalty for each violation. It also makes facilitators liable to the aggrieved borrower for three times the amount of the refund anticipation loan fee, plus reasonable attorney’s fees. The act allows suits to be brought by aggrieved borrowers or by the attorney general on their behalf (**PA 04-170**, effective October 1, 2004).

Connecticut Student Loan Foundation

A new law broadens the Connecticut Student Loan Foundation’s authority by allowing it to grant loans to anyone for elementary, secondary, or higher education expenses, regardless of whether they are attending school in, or residents of, Connecticut. Prior law only allowed it to grant loans for postsecondary education, and limited recipients to (1) people attending or planning to attend eligible Connecticut colleges and universities, (2) Connecticut residents attending or planning to attend eligible colleges and

universities outside the state, and (3) people receiving loans from eligible lenders (**PA 02-225**, effective July 1, 2004).

MORTGAGES

Validation of Mortgage Releases

An act validates mortgage releases executed by partnerships, associations, limited liability companies, or corporations that would otherwise be invalid because they were not issued or executed by, or failed to appear in the name of, the record holder of the mortgage on one- to four-family residential real estate in Connecticut. Under the act, such mortgage releases are valid as if released in the mortgage-holder’s name unless (1) an action challenging the validity is brought and notice of the pending litigation is recorded in the town where the release is recorded within five years after the release’s recording or (2) the release was obtained by forgery or fraud.

The person executing the mortgage release also must record on the land records where the mortgage was recorded an affidavit stating:

1. the person making the affidavit has been the record owner of the mortgaged property for at least the last two years;

2. the recording information for the mortgage, any assignments, and release;
3. since the date the release was recorded, the person has not received a demand for payment of any or all of the debt the mortgage secures and has received no notice or communication indicating that any or all of the mortgage debt remains due or owing; and
4. to the best of his knowledge and belief, the mortgage has been paid in full (**PA 04-67**, effective July 1, 2004).

Mortgage Rate Lock-Ins

Prior law prohibited mortgage lenders from entering into a mortgage rate lock-in agreement unless the agreement was in writing. An act instead prohibits a lender from committing to a first mortgage loan applicant or his representative that the lender will make a loan at a specified rate if the loan is closed by the expiration of a specified period of time except by issuing a mortgage rate lock-in. It eliminates the requirement that the lock-in be in writing.

The act prohibits a mortgage broker from (1) collecting a rate lock-in fee, except where a governmental agency requires it to collect the fee directly; (2) issuing a mortgage rate lock-in; or (3) otherwise representing to a first mortgage loan applicant or

his representative that the loan will be made at a specified rate if it is closed by a certain time. But it specifies that a mortgage broker may provide a mortgage lender's mortgage rate lock-in to an applicant or his representative on the lender's behalf and collect a rate lock-in fee, payable to the lender, on the lender's behalf (**PA 04-105**, effective upon passage).

Mortgage Advancements

For mortgages executed and recorded after September 30, 2004, a new law increases from \$1,000 to \$5,000 the maximum advancement a lender can add to the mortgage debt for repairs, alterations, or improvements (**PA 04-132**, effective October 1, 2004).

SECURITIES

Connecticut Uniform Securities Act

An act makes several changes to the Connecticut Uniform Securities Act. It removes provisions allowing investment advisers registered with the federal Securities and Exchange Commission to avoid certain application and notification requirements applicable to Connecticut investment advisers. It sets a \$50 per agent fee for transferring multiple broker-dealer or investment adviser agents from one broker-dealer or investment adviser to another, and charges the fee to the

broker-dealer or investment adviser. The act extends the amount of time a person has to bring an action for intentional misrepresentation or fraud in connection with investment advisory services from (1) one to two years after the date misrepresentation or fraud is, or

reasonably should have been, discovered and (2) three to five years from the date the misrepresentation or fraud actually occurred. It also makes several fees nonrefundable (**PA 04-45**, effective October 1, 2004).

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