



# Acts Affecting Banking

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## Notice to Readers

This report provides summaries of new laws (Public Acts and Special Acts) affecting banking enacted during the 2017 regular session. OLR's other Acts Affecting reports, including Acts Affecting Business and Jobs, Acts Affecting Insurance, Acts Affecting Municipalities, and Acts Affecting Real Estate, are, or will soon be, available on OLR's website:

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Each summary indicates the Public Act (PA) or Special Act (SA) number. Not all provisions of the acts are included. The report does not include vetoed acts unless the veto was overridden.

Complete summaries of Public Acts are, or will soon be, available on OLR's website:

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

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## **Banking Commissioner's Oversight**

A new law codifies existing practice by specifying that, in addition to the banking regulations, the banking commissioner's enforcement authority also applies to any orders he issues to mortgage lenders, correspondent lenders, brokers, originators, loan processors, and underwriters ([PA 17-236](#), § 1, effective October 1, 2017).

The new law adds to the documentation a bank must file with the commissioner as part of its annual audit, such as any written communication from an accountant to the bank's governing board noting significant deficiencies and material weaknesses in the bank's internal controls ([PA 17-236](#), § 4, effective upon passage).

It authorizes the commissioner to impose a fine of up to \$100,000 per act on any person who he finds has engaged, directly or indirectly, in dishonest or unethical practices as described under state banking regulations ([PA 17-236](#), § 16, effective upon passage).

The new law also expressly allows Connecticut banks and credit unions to accept and store funds deposited by any state-licensed entity ([PA 17-236](#), § 21, effective October 1, 2017).

## **Blight and Tax Lien Actions**

A new law makes privileged, with respect to assignment for trial, actions commenced on or after January 1, 2018 to foreclose a municipal tax or blight lien ([PA 17-126](#), effective January 1, 2018).

Another new law establishes an eight-member task force to study how to prevent the issuance of mortgages to persons with excessive blight fines or who have violated nuisance abatement laws. The task force must report its findings and recommendations to the Banking Committee by July 1, 2018 ([PA 17-236](#), § 18, effective upon passage).

## **Collaborative Lending**

Launched in 2011, the state's Small Business Express Program (EXP) offers low-cost financing to small businesses under an expedited application review and approval process. A new law authorizes the economic and community development commissioner to collaborate with Connecticut banks to design and operate a new EXP component with lending terms and conditions different from EXP's existing components. The new component may include an arrangement under which the commissioner may transfer EXP loans to private lenders and, in the process, replenish EXP's loan funds ([PA 17-219](#), § 2, effective October 1, 2017).

## **Commercial Property Assessed Clean Energy Program (C-PACE)**

This session, the legislature substantially revised the C-PACE program, which provides financing for energy efficiency or renewable energy improvements on certain commercial properties in participating municipalities. Among other things, these revisions:

1. expand the purposes for which C-PACE financing may be provided,
2. allow participating third-party capital providers to provide leases and power purchase agreements, and
3. specify that foreclosures on C-PACE liens are limited to late C-PACE assessment payments and that liens for payments that will become due in the future survive the foreclosure ([PA 17-201](#), effective October 1, 2017).

## **Community Banks and Credit Unions**

By law, the state treasurer may establish a program to invest up to \$100 million in community banks or credit unions. A new law raises the maximum asset limit for community banks and credit unions to participate in this program from \$500 million to \$1 billion dollars ([PA 17-8](#), effective upon passage).

## **Consumer Collection Agencies**

A new law requires consumer collection agencies to have a minimum tangible net worth of \$50,000 as a condition of licensure and prohibits them from retaining unlicensed consumer collection agencies ([PA 17-236](#), §§ 14 & 15, effective October 1, 2017).

## **Data Match Program Agreements**

The legislature made administrative and policy changes to the Department of Revenue Services' (DRS) "data match" program, under which the department and financial institutions exchange information about delinquent taxpayers. Among other things, it expanded the type of information banks must provide to include (1) taxpayer account numbers and balances and (2) any other information the DRS commissioner requires to administer the program. Under the new law, financial institutions may disclose information they receive through the program to service providers and government agencies, but not to other parties ([PA 17-147](#), § 21, effective upon passage).

## **Debit Card Fraud**

A new law expands credit card crimes to cover crimes involving debit cards. It defines a “debit card” as any card, code, device, or other means of access, or combination of them that (1) is issued or authorized to debit an asset account held directly or indirectly by a financial institution and (2) a cardholder may use to obtain money, goods, services, or anything of value. The card itself does not have to be called a debit card. The new law specifically covers payroll and ATM cards but excludes checks, drafts, or similar paper instruments and their electronic representations. The new law also changes how notice of a card's revocation must be sent for purposes of debit and credit card crimes and expands certain credit card crimes to cover falsely loading payment cards (i.e., credit or debit cards) into digital wallets ([PA 17-26](#), §§ 1-6, effective October 1, 2017).

## **Disclosures by Administrators of Certain 403(b) Plans**

Starting January 1, 2019, a new law requires companies that administer certain 403(b) retirement plans offered by a political subdivision of the state to disclose the (1) fee ratio and return, net of fees, for each investment under the plan and (2) fees paid to any person who provides investment advice to plan participants directly or through publications or writings. The administrators must make the disclosures to each plan participant upon enrollment and annually thereafter.

PA 17-236, § 22, deems a company compliant with the above disclosure requirements if the company adheres to the Employee Retirement Income Security Act's disclosure requirements in effect on July 1, 2017 and any subsequent amendments, provided the amended requirements are substantially similar to those in effect on July 1, 2017 ([PA 17-142](#), effective October 1, 2017).

## **Electronic Fund Transfer**

A new law addresses a gap in how state and federal law apply to remittance transfers (i.e., certain electronic transfer of funds) by allowing state law to apply whenever federal law does not.

State law (Uniform Commercial Code (UCC) Article 4A) generally governs commercial fund transfers but, under prior law, did not apply if any part of the transfer was governed by the federal Electronic Fund Transfer Act (EFTA). EFTA applies to remittance transfers, which are a type of electronic transfer of funds but in some circumstances EFTA does not govern all parts of such transfers.

The new law applies state law (specifically UCC Article 4A) to the remittance transfers unless the remittance transfer is covered by EFTA as an electronic fund transfer. The new law applies EFTA's provisions when there is an inconsistency between state and federal law regarding a fund transfer ([PA 17-40](#), effective October 1, 2017).

## **Establishing a Bank Account for Weekly Sales Tax Remittance**

Under a new law, taxpayers required to remit the sales tax on a weekly basis must establish a separate account in a financial institution exclusively for that purpose, unless they choose to remit the tax through a certified service provider. The DRS commissioner may order payments from these accounts if a taxpayer fails to remit the tax and the commissioner determines it might not otherwise be collected. The establishment of these accounts and the commissioner's authority to order payments from them do not affect a financial institution's right to remove funds from an account as a charge-back to recover uncollected funds ([PA 17-147](#), § 4, effective upon passage).

## **Financial Planners Serving Seniors**

A new law establishes advertising and disclosure requirements for financial planners not otherwise regulated by state or federal law. It prohibits them from expressing or implying special training, education, or experience serving seniors unless they meet certain education requirements. It also requires them to disclose to consumers, upon request, whether they have a fiduciary duty with regard to each recommendation they make.

Additionally, the law requires the Banking and Consumer Protection departments to post on their respective websites links to certain information regarding financial planning professionals and consumers' rights ([PA 17-120](#), effective upon passage).

## **Lead Abatement**

A new law requires the Banking and Housing departments, within available appropriations, to (1) study the development of a lead abatement interest rate reduction program that provides interest rate subsidies to certain owners who experience difficulty obtaining financing to abate lead and (2) on or before January 1, 2018, report their findings to the Banking, Housing, and Planning and Development committees ([PA 17-236](#), § 20, effective upon passage).

## Lead Generators

A new law creates a new license category for “lead generators” (i.e., certain mortgage professionals who sell information identifying new customers for residential mortgage loans) administered by the Department of Banking. Starting January 1, 2018, the new law prohibits anyone from acting as a lead generator unless they obtain this license. Among other things, the new law:

1. establishes licensure requirements and license fees,
2. establishes related record keeping and notification requirements for licensees, requires lead generators to include a disclosure statement in their residential mortgage loan advertisements and lead solicitations, and
3. gives the banking commissioner investigatory and enforcement authority over licensees ([PA 17-38](#), effective October 1, 2017).

## Maturity Periods for Mortgages and Mobile Home Loans

A new law increases, from 20 to 25 years, the maximum length of the maturity period Connecticut credit unions can establish for second mortgages and mobile home loans and updates the approval process for changes to their bylaws ([PA 17-236](#), §§ 2 & 3, effective upon passage).

## Money Transmitters

A new law requires money transmitters to establish an anti-money-laundering program with specific features, such as an independent audit function to test the program’s effectiveness ([PA 17-236](#), § 13, effective October 1, 2017).

## Nondepository Licensees

A new law makes various changes to the banking laws that govern nondepository licensees. Among other things, it:

1. extends, to nondepository licensees (e.g. sales finance companies, check cashers, and consumer collection agencies), and their control persons, the prohibitions that already apply to certain mortgage servicers;



2. requires nondepository licensees to establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with applicable laws and regulations (effective July 1, 2018 for mortgage servicers);
3. adds the use of electronic bonds to the requirements that the banking commissioner may establish for participation in the Nationwide Mortgage Licensing System (“system”);
4. reduces the prelicensing education requirements for mortgage loan originators, loan processors, and underwriters and establishes when the education requirements must be met (effective January 1, 2019);
5. allows the commissioner to provide certain notices to licensees by personal delivery (i.e., email) and establishes when such a notice is deemed received; and
6. sets limits for money transmitters on virtual currency transactions and timeframes for remitting money ([PA 17-233](#), effective October 1, 2017).

## **Rental Payments on Foreclosed Property**

Under a new law, it is a form of larceny for a previous mortgagor of real property against whom a final foreclosure judgment has been entered to continue to collect rent after a final judgment if he or she has no right to do so. The penalty for larceny varies, based on the value of property taken, from a class C misdemeanor (punishable by up to three months in prison, a fine of up to \$500, or both) to a class B felony (punishable by up to 20 years in prison, a fine of up to \$15,000, or both) ([PA 17-26](#), §§ 1-6, effective October 1, 2017).

## **Sales Finance Companies**

A new law expands the definition of "sales finance company" to include persons who transfer interest in retail installment or installment loan contracts but continue servicing such contracts or loans. In doing so, the new law subjects these contract or loan servicers to all the sales finance company's licensure requirements, such as the application process, criminal history record checks, liability for investigation and examination costs, and an \$800 biennial license fee. It also subjects servicers to fines of up to \$500, imprisonment for up to six months, or both for any violation ([PA 17-236](#), § 12, effective upon passage).

## **Student Loan Ombudsman**

A new law requires the banking commissioner to report to the Banking Committee, by July 1, 2018, on a plan to implement the department's student loan ombudsman ([PA 17-236](#), § 19, effective upon passage).

## **Uniform Fraudulent Transfer Act**

The Uniform Fraudulent Transfer Act protects creditors by, among other things, providing ways to determine which transfers and obligations are fraudulent and allowing the court to void these transfers and obligations (CGS §§ 52-552a et. seq.).

Under this new law, transfers and obligations against a higher education institution are not voidable if they were made or incurred by a minor's or adult child's parent or guardian on the minor's or child's behalf for his or her undergraduate education. The new law thus limits the ability of a creditor of a parent or guardian to have tuition payments voided to fulfill a debt to the creditor ([PA 17-50](#), effective October 1, 2017).

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