

# CT Bankers Association

## 2011 Legislation Session Report

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### **SB 88: AN ACT CONCERNING WAIVING AUTOMATIC OVERDRAFT PROTECTION ON DEBIT CARD PURCHASES**

This bill, which died in committee, would have given customers of Connecticut banks and credit unions the option of avoiding overdraft fees or penalties on a debit card purchase.

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### **SB 144: AN ACT CONCERNING DIGITAL COPIERS AND PRIVACY**

In its original form, this bill would have required lessors of a digital copy machine to ensure that all copied data is erased from or encrypted in the memory of the copier before transferring the machine.

The bill as amended would have required the end user of a digital copy machine to ensure that all copied data was erased or encrypted. The end user does not violate this provision if he or she enters into a contract with a reseller or lessor to erase or encrypt the data.

The bill also requires each digital copier sold within the state on and after October 1, 2011, to include data security and encryption information about the copier.

This bill died on the House Calendar.

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### **SB 195: AN ACT ESTABLISHING A CENTRALIZED DATABASE OF BANK ACCOUNT INFORMATION TO FACILITATE THE COLLECTION OF COURT JUDGMENTS**

This bill would have established a centralized database of bank account information to facilitate the collection of judgments issued by Connecticut and federal courts.

This bill died in Committee.

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**SB 196: AN ACT INCREASING CHECK CASHING AMOUNTS**

This bill, which died in Committee, would have prohibited banks from charging fees for “on us check cashing.”

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**SB 254: AN ACT CONCERNING CREDIT FILE MONITORING FOR VICTIMS OF PERSONAL IDENTIFYING INFORMATION THEFT**

This bill, which died in Committee, would have amended the general statutes to require lending institutions that inadequately safeguard a person's personal identifying information to provide lifetime credit file monitoring to such person in the event such information is lost or stolen.

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**SB 414: AN ACT CONCERNING FINANCIAL INSTITUTIONS' CONSIDERATION OF UNPAID HEALTH CARE BILLS**

This bill would have prohibited banks, credit agencies and other lending institutions from considering unpaid health care bills when determining an individual's credit worthiness.

This bill died in Committee.

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**SB 693: AN ACT CONCERNING CHANGES ON MORTGAGE NOTES**

To provide notice to town clerks of any liens, assignments or other changes of interest in a mortgage note.

This bill died in Committee.

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**SB 913: AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES**

This bill requires most employers that employ 50 or more people in the state to provide certain employees with paid sick leave accruing at a rate of one hour per 40 hours worked. The bill provides paid sick leave to service workers who work in an occupation with one of 68 federal Standard Occupational Classification System titles named in the bill and are paid by the hour.

The earliest service workers can begin accruing sick leave is January 1, 2012. They must meet the following thresholds before they can begin using accrued sick leave: have worked for the employer for at least 680 hours and have worked an average of at least 10 hours a week for the employer in the most recent complete calendar quarter.

Under the bill, the leave can be used for the service worker's illness, injury, and related treatment or for the service worker's child or spouse. A service worker can also use it for reasons related to family violence or sexual assault. Employers that offer other types of paid leave that can be used for the same purposes and accrues at least as quickly are deemed to comply.

The bill excludes manufacturers and certain tax-exempt organizations from its requirements. Also, it does not require covered employers to provide paid sick leave to day or temporary workers or non-hourly employees such as salaried professionals.

The bill permits anyone aggrieved by an alleged violation of the bill to file a complaint with the labor commissioner. The commissioner can impose a civil penalty of up to \$100 on employers found in violation. It also bans employers from retaliating or discriminating against employees who request or use the leave the bill provides or that the employer voluntarily provides. The labor commissioner can impose a fine of up to \$500 on employers found in violation of the retaliation ban. The commissioner can also order other appropriate relief such as rehiring or payment of back wages. Parties can appeal the commissioner's decision to the Superior Court.

The bill requires employers to provide employees with notice of the rights and protections it provides and allows the labor commissioner to develop regulations for additional notice requirements.

The bill also specifies that it does not preempt the terms of any union contract in effect before January 1, 2012, or diminish any right provided to any employee under a union contract.

## **§ 1 — DEFINITIONS**

### ***Employer***

The bill defines “employer” as any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity, including the state and its municipalities, that employs 50 or more individuals in the state in any quarter in the previous year, which must be determined annually on January 1. The employee count must be made based upon the quarterly employer wage reports that employers must, by law, submit to the commissioner (CGS § 31-225a (j)).

“Employer” does not include any manufacturing business as classified in sectors 31, 32, and 33 of the North American Industrial Classification System (NAICS) or any nationally chartered organization nonprofit tax-exempt organization, in accordance with the federal Internal Revenue Code that provides the following: recreation, child care, and education services. The NAICS codes cover all forms of manufacturing including the following products: food, textiles, wood, petroleum, chemical, plastics, metal, machinery, motor vehicles, aerospace, computer, electronic, and miscellaneous products.

***Service Worker and Employee***

In the bill “service worker” means an employee primarily engaged in an occupation with one of the following broad or detailed occupation code numbers and titles, as defined by the federal Bureau of Labor Statistics Standard Occupational Classification system or any successor system:

<b>Title</b>	<b>Code</b>	<b>Title</b>	<b>Code</b>
Food Service Managers	11-9050	Medical and Health Services Managers	11-9110
Social Workers	21-1020	Social and Human Service Assistants	21-1093
Community Health Workers	21-1094	Community and Social Service Specialists, All Other	21-1099
Librarians	25-4020	Pharmacists	29-1050
Physician Assistants	29-1070	Therapists	29-1120
Registered Nurses	29-1140	Nurse Anesthetists	29-1150
Nurse Midwives	29-1160	Nurse Practitioners	29-1170
Dental Hygienists	29-2020	Emergency Medical Technicians and Paramedics	29-2040
Health Practitioner Support Technologists and Technicians	29-2050	Licensed Practical and Licensed Vocational Nurses	29-2060
Home Health Aides	31-1011	Nursing Aides, Orderlies and Attendants	31-1012
Psychiatric Aides	31-1013	Dental Assistants	31-9091
Medical Assistants	31-9092	Security Guards	33-9032
Crossing Guards	33-9091	Supervisors of Food Preparation and Serving Workers	35-1010
Cooks	35-2010	Food Preparation Workers	35-2020
Bartenders	35-3010	Fast Food and Counter Workers	35-3020
Waiters and Waitresses	35-3030	Food Servers, Nonrestaurant	35-3040
Dining Room and Cafeteria Attendants and Bartender Helpers	35-9010	Dishwashers	35-9020
Hosts and Hostesses, Restaurant, Lounge and Coffee Shop	35-9030	Miscellaneous Food Preparation and Serving Related Workers	35-9090
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	37-2011	Building Cleaning Workers, All Other	37-2019
Ushers, Lobby Attendants, and Ticket Takers	39-3030	Barbers, Hairdressers, Hairstylists, and Cosmetologists	39-5010
Baggage Porters, Bellhops, and Concierges	39-6010	Child Care Workers	39-9010
Personal Care Aides	39-9021	First-Line Supervisors of Sales Workers	41-1010
Cashiers	41-2011	Counter and Rental Clerks	41-2021

Retail Salespersons	41-2030	Tellers	43-3070
Hotel, Motel, and Resort Desk Clerks	43-4080	Receptionists and Information Clerks	43-4170
Couriers and Messengers	43-5020	Secretaries and Administrative Assistants	43-6010
Computer Operators	43-9010	Data Entry and Information Processing Workers	43-9020
Desktop Publishers	43-9030	Insurance Claims and Policy Processing Clerks	43-9040
Mail Clerks and Mail Machine Operators, Except Postal Service	43-9050	Office Clerks, General	43-9060
Office Machine Operators, Except Computer	43-9070	Proofreaders and Copy Markers	43-9080
Statistical Assistants	43-9110	Miscellaneous Office and Administrative Support Workers	43-9190
Bakers	51-3010	Butchers and Other Meat, Poultry, and Fish Processing Workers	51-3020
Miscellaneous Food Processing Workers	51-3090	Ambulance Drivers and Attendants, Except Emergency Medical Technicians	53-3010
Bus Drivers	53-3020	Taxi Drivers and Chauffeurs	53-3040

Under the bill, service workers must be paid on an hourly basis or subject to the 1938 federal Fair Labor Standards Act's minimum wage and overtime compensation requirements to be eligible for paid sick leave. These requirements generally exclude managers who have authority to hire and fire staff, professional occupations (such as lawyers and physicians), salespeople, and certain skilled computer professionals.

Furthermore, service worker excludes day or temporary workers, which the bill defines as those who perform work for another on a per diem basis or an occasional or irregular basis, for only the time required to complete the work, whether they are paid by the person for whom such work is performed or by an employment agency or temporary help service, as defined by law.

## **§§ 2, 3(D) & 4 (B) & (C) — PAID SICK LEAVE**

### ***Benefit Accrual***

Service workers cannot start accruing leave time until January 1, 2012. Those hired before then will start accruing on that date and service workers hired after that date will start accruing on their date of employment. Service workers cannot use the benefit until they have worked at least 680 hours after the benefit starts accruing and they must have worked an average of 10 hours a week for the employer during the most recently completed calendar quarter. The bill does not prevent an employer from allowing service workers to begin accruing time before January 1, 2012.

Service workers accrue one hour of sick leave for every 40 hours of work and they cannot accrue more than 40 hours of sick leave in a calendar year. They can carry up to 40 hours of sick leave into the next calendar year, but cannot use more than 40 hours of leave in any year.

### ***Sick Leave Pay***

The bill requires the service worker's compensation while on sick leave to be the greater of the worker's normal hourly wage or the statutory minimum wage required while the worker is on leave. If the service worker's hourly wage varies, the “normal hourly wage” is the average hourly wage paid to him or her in the pay period prior to the leave.

An employer does not have to pay a service worker for unused sick leave upon termination, unless otherwise provided by an employer policy or collective bargaining agreement.

### ***Other Complying Leave***

Employers are deemed to be in compliance if they provide other paid leave that accrues at least as quickly as the bill's sick leave and can be used for the same purposes. Under the bill, “other paid leave” includes paid vacation, personal days, or time off.

The bill does not prevent employers from providing a more generous paid leave policy than the bill requires and it allows them to limit the use of any benefits they provide that exceed the bill's requirements.

### ***Hour, Shift, and Benefit Flexibility***

The bill permits employers to allow, but not require, service workers to switch shifts or work extra hours in lieu of using sick leave. The different shifts or extra hours must be upon the mutual consent of the employer and service worker and during the same or following pay period as the sick leave. Employers can also allow service workers to donate any unused sick leave to their co-workers.

### ***Job Termination and Accrued Sick Leave***

Under the bill, any termination of a service worker's employment, whether voluntary or not, is construed as a break in service with that employer. If a service worker is rehired after such a break in service, he or she is not entitled to use any sick leave that was accrued before the service worker was separated from the job. The service worker begins accruing sick leave time anew in accordance with the bill's provisions.

## **§ 3 (A) & (C) — PERMITTED USES**

The bill requires an employer to allow a service worker to use paid sick leave for his or her, or a spouse's or child's:

- illness, injury, or health condition;
- medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- preventive medical care.

The bill defines a “child” as an employee's biological, adopted, or foster child, stepchild, legal ward of an employee, or a child of an employee acting instead of a parent, when the child is either under 18 years old or over 18 but incapable of self-care due to mental or physical disability. A “spouse” means a husband or wife.

The bill also requires employers to provide paid sick leave when the service worker is a victim of family violence or sexual assault for:

- medical care or psychological or other counseling for physical injury or disability,
- services from a victim services organization,
- relocating, or
- participation in any civil or criminal legal proceedings.

Family violence is any physical harm or threatened act of violence that constitutes fear of such harm between family or household members. Sexual assault includes all penal code crimes of unlawful conduct with the intimate parts of another person's body, except aggravated sexual assault of a minor (CGS § 53a-70c).

Under the bill, an employer does not have to provide paid sick leave for any reasons not specified in the bill.

**§ 3 (B) — PERMITTED REQUIREMENTS OF THE SERVICE WORKERS**

The bill allows employers to require that service workers provide notice up to seven days before taking the leave if it is foreseeable or as soon as practicable if it is not foreseeable.

If the leave is for three or more consecutive days, the employer can require reasonable documentation verifying the leave's purpose. Table 1 shows the bill's definitions of reasonable documentation.

**Table 1: Documentation Needed for Sick Leave**

<i>Type of Leave</i>	<i>Documentation</i>
For mental or physical illness, treatment of an illness or injury, mental or physical diagnosis, or preventive medical care for the service worker or the employee's child, or spouse	Documentation signed by the health care provider treating the service worker or the service worker's child or spouse and indicating the need for the number of days of the leave
For a victim of family violence or sexual assault	A court record or documentation signed by an employee or volunteer working for a victim services organization, an attorney, police officer, or other counselor involved with the service worker

## **§ 5 — ENFORCEMENT**

### ***Retaliation Prohibited***

The bill bans most employers from terminating, suspending, constructively discharging, demoting, unfavorably assigning, refusing to promote, disciplining, or taking any other adverse employment action against an employee because the employee requested or used paid sick leave as provided by the bill or in accordance with the employer's own paid sick leave policy or filed a complaint with the labor commissioner alleging an employer violated the bill's provisions.

Since this portion of the bill uses the term “employee” rather than “service worker,” it applies to a broader number of workers than the rest of the bill, which is focused on certain job classification codes. This extends the retaliation ban to all employers with 50 or more employees, excluding manufacturers and the tax-exempt organizations described in the bill, that provide their own paid sick leave. Thus, employers will fall into one of three groups: covered by all the bill's provisions, covered by only the retaliation ban, and exempt from the bill.

### ***Complaints, Hearings & Penalties***

Employees aggrieved by a violation of the bill's provisions may file a complaint with the labor commissioner. The commissioner may hold a hearing on the complaint and, after the hearing, any employer who is found by a preponderance of the evidence, to have violated the:

- general provisions of the bill will be liable to the Labor Department for a civil penalty of up to \$100 for each violation and
- retaliation provision of the bill will be liable to the department for a civil penalty of \$500 for each violation.

The commissioner can award the employee all appropriate relief, including the payment for used paid sick leave, rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of benefits for which the employee was otherwise eligible if not for the retaliatory personnel action or being discriminated against. Aggrieved parties can appeal the commissioner's decision to Superior Court.

The bill requires the labor commissioner to administer the bill's enforcement provisions within available appropriations.

## **§ 6 — EMPLOYEE NOTICE**

The bill requires each covered employer to provide notice to each employee at the time of hiring that:

- the employee is entitled to paid sick leave, the amount provided, and the terms under which it can be used;
- the employer cannot retaliate against the employee for requesting or using sick leave; and
- the employee can file a complaint with the labor commissioner for any violation.

An employer can comply with this requirement by displaying a poster with the required information in English and Spanish in a conspicuous place, accessible to employees, at the

employer's place of business. The bill authorizes the labor commissioner to adopt regulations establishing additional notice requirements. It requires him to administer the notice provision within available appropriations.

***PUBLIC ACT 11-52 EFFECTIVE DATE: January 1, 2012***

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**SB 950: AN ACT CONCERNING THE DUTIES OF A MORTGAGEE IN A FORECLOSURE ACTION ON RESIDENTIAL REAL PROPERTY**

This bill, which died in Committee, would have required a mortgagee (lender) initiating a foreclosure action on an owner-occupied one-to-four family residential property to notify the mortgagor (borrower) of the contact information for a person the mortgagee authorizes to process requests to refinance or modify the mortgage or take other actions to avoid foreclosure. The bill allows the mortgagee, upon notice, to later assign a different individual with such authority. The requirement applies to foreclosure actions with a return date on or after October 1, 2011.

The bill also authorizes a court to delay the entry of a judgment of strict foreclosure, foreclosure by sale, or a deficiency judgment (when the value of the property is not enough to pay the debt) on the mortgagee's behalf when, in the court's judgment, the delay is appropriate or required under the facts and circumstances and the court finds that the mortgagee:

- failed to provide the notice and contact information the bill requires;
- failed to respond within five business days to the mortgagor's request to refinance or modify the mortgage to avoid foreclosure; or
- engaged in conduct with respect to the mortgagor that the court determines would constitute an unfair or deceptive act or practice in violation of CUTPA.

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**SB 957: AN ACT CONCERNING NEIGHBORHOOD PROTECTION**

This bill was incorporated into HB6351 (see for more detail). PA 09-144 created a registration system for tracking the owners of uninhabited one-to-four family residential property obtained by strict foreclosure or foreclosure by sale (“registrants”). It allowed municipalities to enforce against a registrant any statutory provision or municipal ordinance on property repair or maintenance after the municipality had provided notice and an opportunity to remedy the situation.

This bill establishes a new registration requirement that applies to a broader class of buildings when the foreclosure process begins. These registrants are not subject to receiving notices from municipalities regarding violations of state law or municipal ordinances concerning property repair or maintenance. The bill also expands the scope of the existing registration requirement.

It provides civil penalties for each day someone violates the registration requirements, and specifies that the penalties do not constitute a lien on the property. It also provides that a foreclosing party's registration, or failure to do so, does not create legal obligations on the party to repair, maintain, or secure the property before that party takes title to it.

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**SB 988: AN ACT CONCERNING THE SOLVENCY OF THE  
UNEMPLOYMENT COMPENSATION TRUST FUND**

Beginning with the 2012 calendar year, this bill increases the amount that can be retained in the unemployment compensation trust fund by changing the method used to calculate the ideal amount of money the fund should contain. Under current law, the fund's goal is 0.8% of the total wages paid by employers contributing to the fund. The bill changes the goal to an Average High Cost Multiple (AHCM) of at least 0.5 (i.e., at least one half year of average recessionary level unemployment benefits) in 2012 and gradually increases it by 0.1 per year until it reaches an AHCM of 1.0 (one year of average recessionary level benefits). From 2018 forward, the fund's goal must be an AHCM of at least 1.0.

Under current law, the fund balance tax rate paid by employers varies between zero, when the fund meets its goal, and a statutory maximum of 1.4%, when the fund balance is significantly low. The bill keeps the maximum fund balance tax rate at 1.4% and continues to require that if the fund exceeds its goal at the end of a year, the fund administrator must lower the rate to eliminate the excess. It also prohibits the administrator from setting the rate at a level that will exceed the fund's goal. In practice, the rate has been at 1.4% for the past few years and the fund has been insolvent since October 2009.

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**SB 1074: AN ACT CONCERNING FORECLOSURE WHEN  
LEGAL TITLE HAS NOT BEEN CONVEYED**

This bill, which died in Committee, would have repealed provisions of the general statutes that permit title to mortgaged premises, which title has never been conveyed, to vest in a person entitled to receive the money secured by such mortgage in a foreclosure proceeding, in the same manner as such title would have vested in the mortgagee if the mortgagee had foreclosed, after the expiration of time for redemption and recording in the land records

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**SB 1078: AN ACT ENHANCING COMMUNITY BANK COMPETITIVENESS  
AND FRAUD PREVENTION ON CERTAIN PRODUCTS**

This bill was incorporated into HB6351 and prohibits fees or charges on general-use prepaid cards for dormancy, abandoned property, unclaimed property, escheat, or inactivity or any similar charge, fee, or penalty for inactivity. Suggestive language on them or in any agreement

relating to them that there is such a charge, fee, or penalty for inactivity, is also prohibited. It exempts general-use prepaid cards from state escheat law.

These provisions already apply to gift certificates, which include stored-value cards, but the bill explicitly excludes general-use prepaid cards from the definition of “gift certificate.”

It also prohibits a general-use prepaid card from including an expiration date for the underlying funds redeemable through its use, but it allows an expiration date for the card itself if certain requirements are met.

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### **SB 1109: AN ACT CONCERNING BANKS**

This bill makes various changes to the banking law.

The bill authorizes a Connecticut bank to merge with its non-bank affiliates, as long as the result of the merger is a Connecticut bank.

It changes reporting requirements for Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services.

The bill expands the types of agreements that the banking commissioner may enter into, alone or with federal agencies, regarding Connecticut banks, credit unions, and credit union service organizations that are insolvent or meet other specified criteria. In regards to a Connecticut bank, the bill allows the commissioner to enter such agreements in conjunction with the Federal Reserve.

It extends the current \$500 fee for relocation of an in-state branch of a Connecticut bank to the relocation of an out-of-state branch of a Connecticut bank.

The bill extends by two years the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, from September 30, 2011 to September 30, 2013. It permits a single application for the conditional preliminary approval of more than one such bank. Current law requires a separate application for each conditional preliminary approval. The bill also applies the current 18-month expiration of the conditional preliminary approval to all such banks, not just those that have not begun business or consummated an initial acquisition. By law, the commissioner can extend the approval beyond 18 months.

The bill amends loan-to-value limits for installments made by Connecticut banks for construction loans.

The bill removes certain references to federal regulations in the restrictions on Connecticut banks making loans to insiders.

It changes the notice requirement for Connecticut banks that invest a controlling interest in entities that are limited to banking functions.

The bill:

- adds to the list of regulatory orders or agreements that trigger higher collateral requirements for qualified public depositories,
- deletes a provision regarding how to determine the amount of public deposits held for purposes of those requirements,
- adds provisions regarding when the amounts must be determined and when deficiencies must be cured, and
- provides that any private insurance used to secure public deposits must be taken into account upon the failure of a qualified public depository.

It authorizes the banking commissioner to require criminal background checks for the principals, executive officers, and directors of nonbank corporations authorized to act as trustees and business and industrial development corporations. It also extends to senior management the commissioner's authority to require fingerprints for criminal background checks of key personnel in Connecticut credit unions.

The bill also makes minor and technical changes.

**EFFECTIVE DATE: July 1, 2011 for the provisions regarding background checks; October 1, 2011 for the provisions regarding electronic data processing, construction loan installments, and insider loans; upon passage for the remaining provisions.**

## **§ 1 — ELECTRONIC DATA PROCESSING**

By law, Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services must enter into a written contract with the servicer, whether the work is done on- or off-premises. Current law requires such entities to promptly send to the banking commissioner a copy of the contract. The bill eliminates this requirement, instead requiring such entities to promptly notify the commissioner of any material change in their electronic data processing services.

## **§ 2 — BANKING COMMISSIONER AGREEMENTS FOLLOWING INVESTIGATION**

By law, the banking commissioner may enter into various agreements with Connecticut banks, credit unions, or credit union service organizations, either alone or in conjunction with specified federal agencies, if the commissioner makes certain findings after examining or investigating the financial entity. The bill expands the list of permissible agreements to include consent orders for such financial entities and the issuance of preliminary warning letters to Connecticut credit unions or credit union service organizations. It also adds the Federal Reserve Bank or its successor as a permissible federal agency with which the commissioner may act in regards to an agreement or other specified arrangement with a Connecticut bank.

By law, the commissioner may take such actions upon finding that the entity has failed to file a report on time; is insolvent; has violated any banking law, regulation, rule, or order; or has engaged or participated in, or is engaging or participating in, an unsafe and unsound practice.

#### **§ 5 — CONSTRUCTION LOANS BY CONNECTICUT BANKS**

The law allows Connecticut banks to make construction mortgage loans in installments as the work progresses, at the lender's discretion. The law also sets loan-to-value ratio limits for such installments. Current law prohibits the ratio of the installment total to the property's current value from exceeding the greater of (1) 50% or (2) the final loan's proportion to the completed property value. The bill deletes option (1).

By law, these limits do not apply to loans of up to 24 months, or 36 months if approved by the banking commissioner. Different limits apply for loans insured by the Federal Housing Administration (CGS § 36a-261(k)). Different limits also apply for loans where the borrower has an agreement with a housing authority, secured by a commitment of the U. S. Department of Housing and Urban Development, to construct housing and sell the property to the housing authority upon completion (CGS § 36a-261(o)).

#### **§ 6 — INSIDER LOANS**

State law subjects Connecticut banks to federal regulations limiting insider loans. The bill repeals an exception that refers to a federal regulation on civil penalties. It also makes a technical change.

State law prohibits a Connecticut bank's or its affiliates' executive officers, directors, or principal shareholders from knowingly receiving, or knowingly permitting any of that person's related interests to receive, from a Connecticut bank, directly or indirectly, any extension of credit that violates the federal restrictions. It further prohibits an executive officer, director, employee, agent, or other person from participating in bank affairs that violate the federal restrictions.

#### **§ 7 — NOTICE REQUIREMENT FOR BANK INVESTMENTS IN CONTROLLING INTEREST IN ENTITIES LIMITED TO BANKING FUNCTIONS**

By law, subject to certain restrictions, Connecticut banks may purchase or hold for their own accounts equity securities and equity mutual funds. A bank must notify the commissioner, in writing, 24 hours before making such an investment that would result in the bank having invested in the aggregate in 25% or more of a corporation's equity securities. The bill excludes from the notice requirement a bank's investment in a controlling interest in an entity whose functions are limited to those that the bank may carry on directly in the exercise of its express or incidental powers. By law, such investments require the banking commissioner's approval.

For this purpose, the law defines a controlling interest as at least 51% of the equity securities issued by the entity, unless the commissioner determines that under the circumstances, a lesser percentage constitutes effective working control of the entity.

## **§§ 8-10 — PUBLIC DEPOSITS AND QUALIFIED PUBLIC DEPOSITORIES**

### ***Definitions***

The bill adds two new definitions to the law's provisions regarding the protection of public deposits. It defines “business day” as any day other than a Saturday, Sunday, or day when a financial institution is closed as required or authorized by federal or state law. It defines “close of business” as the time at which a financial institution closes for regular business operations on a business day.

### ***Collateral Requirement***

By law, a qualified public depository is a bank, Connecticut or federal credit union, or out-of-state bank with a Connecticut branch that receives or holds public deposits and segregates eligible collateral for public deposits or arranges for a letter of credit to be issued.

The bill adds to the list of regulatory orders or agreements that trigger higher collateral requirements for public depositories. The law requires qualified public depositories to maintain collateral equal to a specified percentage of their public deposits. The percentage is based primarily on their risk-based capital ratio. Qualified public depositories must maintain collateral equal to at least 120% of public deposits they hold if they are subject to a cease and desist order or have entered into a stipulation and agreement or a letter of understanding and agreement with a bank or credit union supervisor. The bill also imposes this collateral requirement on qualified public depositories that are subject to a consent order or preliminary warning letter, or have entered into a memorandum of understanding with a bank or credit union supervisor.

The bill changes the method for determining these collateral requirements. Under current law, the amount of public deposits a depository holds must be determined based on the greater of the public deposits reported on the most recent written report filed with the banking commissioner pursuant to law or the average of the public deposits reported on the four most recent written reports. The bill eliminates these methods and instead provides that the amount must be determined at the close of business on the day the depository receives a public deposit. It further provides that deficiencies in the required collateral requirements must be cured by the close of business on the following business day.

### ***Procedure Upon Loss***

By law, the banking commissioner must pay public officers of public deposits, pursuant to specified procedures, when the commissioner determines that there has been an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository.

The bill adds to the list of insurance policies the commissioner must consider upon the failure of a public depository. Among other required procedures after such an event, each public depositor having funds on deposit in the depository must provide the banking commissioner with verified statements of such deposits disclosed by its records, plus information concerning letters of credit issued to the public depositor. The bill also requires such public depositors to provide the commissioner with information about private insurance policies used to secure public deposits.

By law, the commissioner must then determine the net amount of such public deposits after deducting deposit insurance and amounts received or to be received by the public depositor pursuant to a letter of credit. The bill also requires the commissioner to deduct amounts received pursuant to private insurance policies.

## **§§ 11, 12, AND 14 — CRIMINAL BACKGROUND CHECKS**

### ***Nonbank Corporations Authorized to Act as Trustees and Business and Industrial Development Corporations***

The bill permits the banking commissioner to require criminal background checks for the principals, executive officers, and directors of nonbank corporations authorized to act as trustees and business and industrial development corporations at any time, including when the corporations or organizations are applying for licenses. The commissioner may require fingerprinting or any other method of positive identification the State Police requires to conduct the background check. The background check must comply with existing law on procedures for background checks.

By law, a business and industrial development corporation is a person approved or seeking approval by the federal Small Business Administration (SBA) as a participating lender under the SBA's loan guarantee programs.

### ***Connecticut Credit Unions***

The bill allows the banking commissioner to require fingerprints from a Connecticut credit union's senior management, for use in criminal background checks. By law, the senior management includes the credit union's president or chief executive officer, vice president or vice CEO, chief financial officer, credit manager, and anyone occupying a similar status or performing a similar function (CGS § 36a-435b(18)). The law already authorizes the commissioner to require background checks of credit union organizers, directors, and appointed directors.

The law specifies that the commissioner may require the fingerprinting at any time, including in connection with an application to organize the credit union. The background check must comply with existing law on procedures for background checks.

## **§ 15 — MERGER OF BANK WITH NON-BANK AFFILIATE**

The bill allows a Connecticut bank to merge with one or more of its non-bank affiliates, as long as the result of the merger is a Connecticut bank. The bill provides that the merger must comply with current law on bank mergers, with the following exception: regarding corporate procedure, including the rights of dissenting members or shareholders asserting appraisal rights, the bill requires the merging affiliate to comply with the laws of its state or jurisdiction of organization. The merging affiliate must also comply with other applicable laws regarding mergers in the affiliate's state or jurisdiction of organization.

***PUBLIC ACT 11-50 EFFECTIVE DATE: Various***

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## **SB 1110: AN ACT CONCERNING CONSUMER CREDIT LICENSES AND THE CONNECTICUT UNIFORM SECURITIES ACT**

This bill makes numerous changes to the banking law.

The bill changes and expands licensing requirements for loan processors or underwriters. Under current law, loan processors or underwriters who are independent contractors need to be licensed as mortgage loan originators. The bill instead requires such independent contractors and certain other loan processors or underwriters to be licensed as processors or underwriters. It does not require licensing for loan processors or underwriters who work for a licensed mortgage lender, correspondent lender, or broker or federally insured banks or credit unions, as well as certain subsidiaries of such entities.

The mechanics of the bill's application and licensing requirements for loan processors or underwriters largely track existing requirements for originators. The bill also applies to loan processor or underwriter licensees several provisions that currently apply to originators as well as other mortgage licensees, such as the commissioner's authority to suspend, revoke, or refuse to renew licensees and the prohibition against residential mortgage fraud and other specified activities.

The bill makes several other changes affecting mortgage licensees. The bill adds to the list of those who are excluded from licensing requirements. It also allows individuals or entities who are exempt from licensing to register for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, without affecting the exempt status. It expands the reach of, and makes other modifications to, prelicensing education, testing, and continuing education requirements. It also increases the surety bond requirement, including setting a schedule for the required amount based on the value of mortgage loans the licensee or exempt sponsor originates.

It modifies exclusions from the definition of mortgage loan originator and makes other changes regarding the scope of the originator licensing requirement. It also makes changes regarding mortgage license abandonment and surrender.

The bill expands the current requirement for applicants for various banking department licenses to provide a history of their criminal convictions and those of certain individuals connected to the applicant. It:

- allows the banking commissioner to conduct state and national criminal background checks of such applicants and individuals,
- expands the commissioner's authority to deny such applications on the basis of criminal convictions, and
- allows the commissioner to deem such applications abandoned if the applicant fails to respond to information requests required by the banking law.

The bill modifies the attorney exemption to debt adjuster or negotiator licensing and makes other changes regarding debt adjusters and negotiators. For example, it sets specific requirements concerning debt negotiation of a residential mortgage loan on a borrower's behalf.

The bill makes several other changes, such as:

- expanding the existing prohibition on fraudulent conduct,
- changing the limit on the permissible number of certain bank transfers,
- specifying that the existing prohibition on increases of mortgage interest rates due to default only applies to residential loans,
- changing the definition of “nonprime home loan” for purposes of regulating of such loans,
- changing the definition of “influence residential real estate appraisals” for purposes of the prohibition on such activity, and
- eliminating specified requirements for certain investment advisers who are exempt from state registration.

The bill also makes minor, technical, and conforming changes.

**EFFECTIVE DATE: Various; see below**

#### **§ 1 — SCOPE OF BANKING LAWS**

The bill specifies that Connecticut's banking laws apply to loan processors or underwriters as well as people offering or engaging in debt negotiation. Current law specifies that the banking laws apply to several categories of businesses and persons, as well as to other people who subject themselves to its provisions or who, by violating any of its provisions, become subject to its penalties.

As detailed below, the bill provides for loan processor or underwriter licensing. The law already provides for licensing debt negotiators.

**EFFECTIVE DATE: October 1, 2011**

#### **§ 4 — FRAUDULENT CONDUCT**

Current law prohibits individuals licensed or registered with the banking commissioner, in connection with activities for which they are licensed or registered, from using methods to defraud, making a false statement or omitting a material fact, or engaging in any fraudulent activity. The bill extends these prohibitions to include any individuals, companies, or other legal entities in connection with any activity subject to the commissioner's jurisdiction.

By law, violators face fines of \$25 to \$1,000 per offense. If the violation is willful and deliberate, the penalty is up to a year's imprisonment, up to a \$1,000 fine, or both, for each offense.

**EFFECTIVE DATE: October 1, 2011**

## **§ 6 — LIMITATION ON BANK TRANSFERS**

Under current law, a Connecticut bank may permit transfers by negotiable withdrawal order from savings accounts in which a for-profit organization holds a beneficial interest, provided that under the terms of the deposit contract, the depositor may make no more than three transfers by negotiable withdrawal order or check during any month or statement cycle of at least four weeks. The bill applies the limitation to any types of transfers and thus eliminates the following exceptions:

- preauthorized or automatic transfers made by other means;
- telephone transfers;
- transfers to the bank at which the savings account is held to repay loans and associated expenses and to cover overdrafts; or
- transfers to another account the depositor has at the bank and withdrawals when the transfers or withdrawals are made by mail, messenger, automated teller machine, or in person.

The bill also changes the transfer limitation from the current three to the number permitted by the applicable Federal Reserve regulation. The Federal Reserve regulations currently allow up to six transfers or withdrawals per calendar month or four-week statement cycle (12 C. F. R § 204.2(d)(2)).

The bill provides that the transfer limitation may be in the bank's practice as well as the terms of the deposit contract.

**EFFECTIVE DATE: Upon passage**

## **§ 23 — INCREASE OF MORTGAGE INTEREST RATE DUE TO DEFAULT**

For mortgage applications received on or after October 1, 2009, current law prohibits mortgage lenders and correspondent lenders from including in a mortgage a provision that increases the interest rate as a result of default. The bill specifies that this prohibition applies only to residential mortgage loans.

By law, this prohibition does not apply if the default is a failure to comply with a provision to maintain an automatic electronic payment feature, the provision was provided in return for an interest rate reduction, and the increase is no greater than the reduction.

**EFFECTIVE DATE: Upon passage**

## **§ 45 — NONPRIME HOME LOANS**

The law sets criteria for what constitutes a nonprime home loan, imposes various requirements on making nonprime home loans, and restricts allowable provisions in such loans.

Among various other requirements, current law specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the loan's annual percentage rate (APR) and the conventional mortgage rate is at least 1.75% for a first mortgage or 3.75% for a second mortgage. The conventional mortgage rate is the contract interest rate on commitments for fixed-rate mortgages published by the Federal Reserve during the week before the week in which the loan's interest rate is set. The bill specifies that the conventional mortgage rate is the most recent contract rate as determined above. It also specifies that the first day of each such week is the effective date of the applicable prime offer rate, as of the date the interest rate is set.

The law also specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the APR and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than 1.5% if the loan is a first mortgage loan or 3.5% if the loan is a secondary mortgage loan.

The bill specifies that for these purposes, the date the loan's interest rate is set is the last date on which the rate is set, provided the rate is adjusted on or before consummation.

The bill reinstates the banking commissioner's authority to increase these interest rate parameters after considering relevant factors, which expired on August 31, 2010.

**EFFECTIVE DATE: Upon passage**

#### **§ 46 — INFLUENCING RESIDENTIAL REAL ESTATE APPRAISALS**

The law prohibits anyone from influencing residential real estate appraisals. The bill defines “influence residential real estate appraisals” as directly or indirectly coercing, influencing, or otherwise encouraging an appraiser to misstate or misrepresent the value of residential property.

**EFFECTIVE DATE: Upon passage**

#### **§ 49 — INVESTMENT ADVISERS**

State securities law requires investment advisers to register with the state banking commissioner, with certain exemptions. One exemption is for investment advisers who are excepted from the definition of investment adviser under Section 202(a)(11) of the federal Investment Advisers Act of 1940.

The bill eliminates certain requirements for investment advisers who fit within this exemption and are not otherwise excluded from the definition of investment adviser under state law. These requirements are that the advisers file with the commissioner a notice of exemption from state registration along with a consent to service of process and pay certain fees. The bill also eliminates the commissioner's authority to require full state registration if such advisers fail to pay these fees.

**EFFECTIVE DATE: Upon passage**

## **LOAN PROCESSORS OR UNDERWRITERS**

Except as noted, the following changes apply only to loan processors or underwriters. The section on mortgage licenses in general includes some provisions that affect processors or underwriters and other categories of mortgage licensees.

### ***§ 7 — Definition***

The bill broadens the definition of loan processor or underwriter. It also specifies that “loan processor or underwriter” is a single term for purposes of the banking law.

Under current law, a loan processor or underwriter is someone who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of someone licensed or exempt from licensure as a mortgage loan originator, broker, lender, or correspondent lender (although other provisions of law contemplate loan processors or underwriters who are independent contractors). Under the bill, anyone who performs clerical and support duties is a loan processor or underwriter.

**EFFECTIVE DATE: October 1, 2011**

### ***§ 10 — Licensing and Sponsorship***

Current law prohibits loan processors or underwriters who are independent contractors from engaging in loan processor or underwriter activities unless they are licensed as mortgage loan originators. The bill instead requires loan processors to obtain and maintain a license as a loan processor or underwriter if they are (1) independent contractors or (2) employed by anyone other than (a) licensed lenders, correspondent lenders, or brokers or (b) a federally insured state, federal, or out-of-state bank or credit union, an operating subsidiary of a federal bank or federally-chartered out-of-state bank, or a wholly-owned subsidiary of a Connecticut bank or credit union.

The bill requires licensed loan processors or underwriters to register with, and maintain a valid unique identifier issued by, the Nationwide Mortgage Licensing System (system).

The bill prohibits licensed mortgage lenders, correspondent lenders, or brokers from engaging the services of an unlicensed loan processor or underwriter who is required to be licensed.

Additionally, a loan processor or underwriter license is not effective during any period when the person is not sponsored by a licensed lender, correspondent lender, or broker or a person who is exempt from mortgage licensing requirements and registered on the system as an exempt registrant for sponsoring purposes. The processor or underwriter's license is also not effective when the sponsoring lender's or broker's license is suspended.

The bill allows loan processors or underwriters, or their sponsors, to file a notification of termination of sponsorship with the system. It specifies that exempt registrant sponsors may file such a notification.

By law, all of the above provisions apply for mortgage loan originator licensees.

**EFFECTIVE DATE: October 1, 2011**

**§ 13 — *Application Requirements***

The bill specifies that loan processor or underwriter or originator licensees must be individuals rather than “persons,” which include entities.

The bill outlines application requirements for loan processors or underwriters. The applicant must file a license application for a specified office or license renewal with the system in a form prescribed by the commissioner. The form must contain content as set forth by the commissioner, and the commissioner may change or update the form as necessary to carry out the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices.

At a minimum, the applicant must provide the system, in a form prescribed by the system, information concerning the applicant's identity, including personal history and experience and related to any government's administrative, civil, or criminal findings. Applicants must also provide the system with fingerprints for submission to the FBI and any governmental entity authorized to receive such information for a state, national, and international criminal background check. The foregoing application requirements are identical to the law's requirements for originator applicants.

The bill allows licensed mortgage loan originators to act also as loan processors or underwriters.

**EFFECTIVE DATE: October 1, 2011**

**§ 15 — *Standards for License Issuance and Renewal***

The following requirements are identical to the current law's requirements for mortgage originator licenses.

***Minimum Standards for License Issuance.*** Under the bill, the commissioner cannot issue an initial license for a loan processor or underwriter unless he, at a minimum, finds that the applicant has:

- never had an equivalent license revoked in any government jurisdiction, except that a subsequent formal vacating of such revocation is not deemed a revocation;
- regardless of the law on denial of employment based on prior convictions, has not been convicted of, or pled guilty or nolo contendere to, a felony in any court (a) during the seven years before the application or (b) any time before the application if the felony involved fraud, dishonesty, breach of trust, or money laundering (for these purposes, convictions that are pardoned do not count as convictions);

- demonstrated the financial responsibility, character, and general fitness to command community confidence and warrant a determination that the applicant will operate honestly, fairly, and efficiently within the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices;
- completed the prelicensing education requirement and passed a written test as required by the bill;
- met the surety bond requirement; and
- has not made a material misstatement in the application.

If the commissioner denies a license application, he must notify the applicant, and may notify the sponsor or anyone else the commissioner deems appropriate, of the denial and the reasons for it.

***Minimum Standards for License Renewal.*** The bill provides that in order to renew a loan processor or underwriter license, the licensee, at a minimum, must continue to meet the minimum standards for license issuance outlined above; have satisfied the annual continuing education requirements; and have paid all required license renewal fees.

If these standards are not met, the license expires. The commissioner may adopt procedures to reinstate expired licenses consistent with the system's standards.

**EFFECTIVE DATE: October 1, 2011**

***§ 24 — Unique Identifier on Documents***

The bill requires any licensed loan processor or underwriter to clearly show his or her unique identifier (a number or other identifier assigned by system-established protocols) on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as established by rule, regulation, or order of the commissioner. By law, the same requirement applies for mortgage loan originators.

**EFFECTIVE DATE: October 1, 2011**

***§ 19 — When Licenses Remain in Effect***

By law, mortgage lender, correspondent lender, broker, and originator licenses remain effective and in force until they have been surrendered, revoked, suspended, expire, or are no longer effective, in accordance with the banking law. The bill extends this provision to loan processor or underwriter licenses.

**EFFECTIVE DATE: Upon passage**

***§ 20 — License Expiration***

The bill extends to loan processor or underwriter licenses the current law on license expiration applicable to lenders, correspondent lenders, brokers, and originators. Unless renewed, a license expires on the close of business on December 31 of the year it was approved. Licenses approved

on or after November 1 expire at the end of December the following year. Applications for renewal licenses must be filed between November 1 and December 31 in the expiration year.

The bill also extends to applicants for a loan processor or underwriter license the \$300 fee that applies to originators, in addition to any system-required fees (by law, lenders, correspondent lenders, and brokers pay higher licensing fees).

**EFFECTIVE DATE: October 1, 2011**

***§ 22 — Commissioner's Authority to Suspend, Revoke, or Refuse to Renew License***

The bill extends to loan processor or underwriter licenses the same rules that already apply to originators regarding the commissioner's authority to suspend, revoke, or refuse to renew licenses. The commissioner may take such actions, or other actions in accordance with current law on his authority over such matters, for any reason which would give him sufficient grounds to deny a license application under the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices. He may also take such actions if he finds that the licensee has:

- committed fraud;
- misappropriated funds;
- misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any material particulars of a residential mortgage transaction; or
- violated any provision of the banking laws or regulations or other laws or regulations that apply to the licensee's business conduct.

**EFFECTIVE DATE: October 1, 2011**

***§ 25 — Prohibited Acts***

The law prohibits anyone subject to the mortgage licensing law from taking various actions. The bill extends these prohibitions to licensed processors or underwriters. One such prohibition concerns conducting any business as a lender, correspondent lender, broker, or originator without holding a valid license or assisting or aiding and abetting any person in the conduct of such businesses without a valid license.

**EFFECTIVE DATE: October 1, 2011**

***§§ 9, 26, 28 — System-Related Requirements***

Various provisions in the mortgage licensing statutes refer to the Nationwide Mortgage Licensing System. The bill amends the definition of system to include loan processors or underwriters as people who are licensed and registered with the system.

By law, the banking commissioner must participate in the system. The bill extends to loan processors or underwriters various system-related requirements that currently apply to mortgage lenders, correspondent lenders, brokers, and originators.

**EFFECTIVE DATE: October 1, 2011**

***§ 48 — Residential Mortgage Fraud***

The bill expands the reach of the criminal prohibition on residential mortgage fraud to include fraud committed by loan processors or underwriters. The law already applies the prohibition to mortgage brokers, lenders, correspondent lenders, or loan originators or anyone else who is a mortgagor on more than three mortgage loans or who purchases or sells more than three residential properties in a consecutive 12-month period.

**EFFECTIVE DATE: October 1, 2011**

***§ 2 — Confidentiality of Banking Department Records***

By law, certain Banking Department records are not generally disclosable or subject to public inspection or discovery. The bill provides that the banking law's confidentiality provisions do not apply to records relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan processors or underwriters that are included in the system for public access. The law already excludes such records relating to mortgage loan originators from the confidentiality provisions.

**EFFECTIVE DATE: October 1, 2011**

**MORTGAGE LICENSES IN GENERAL**

***§§ 3, 18 — License Surrender***

By law, anyone issued a license by the banking commissioner (other than licenses issued under the securities and business investment laws) may surrender the license to the commissioner, in person or by registered or certified mail. The surrender does not affect the licensee's civil or criminal liability or the commissioner's ability to impose administrative penalties for acts committed before the surrender.

The bill specifies that mortgage originators, brokers, lenders, correspondent lenders, and loan processors or underwriters seeking to surrender their licenses must file a request to surrender on the system in accordance with law. For purposes of the commissioner's authority regarding proceedings for license suspension, revocation, or refusal to renew, the bill treats a request to surrender by such mortgage licensees the same as a surrender by other licensees.

Current law requires mortgage lender, correspondent lender, and broker licensees who intend permanently to stop engaging in the business of making residential mortgage loans or acting as a mortgage broker for any cause, including bankruptcy, license revocation, or voluntary

dissolution, to file a license surrender request on the system for each office where the licensee intends to cease to do business. The bill deletes this requirement for licensees who intend to stop doing business due to a license revocation.

The bill also applies similar requirements to mortgage loan originators and, effective October 1, 2011, loan processors or underwriters. It requires such licensees who intend permanently to stop engaging in the business of a mortgage loan originator or the activities of a loan processor or underwriter, respectively, during a license period for any cause, including bankruptcy, to file a license surrender request on the system. As is the case under the law for lenders, correspondent lenders, and brokers, the bill requires the licensees to file the surrender request within 15 days after stopping business, provides that the requirement does not apply to those whose licenses have been suspended, and provides that a surrender is not effective until the commissioner accepts it.

**EFFECTIVE DATE: Upon passage**

### ***§ 8 — Mortgage Loan Originator Definition***

The banking law defines a mortgage loan originator as someone who for compensation or gain, or the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates residential mortgage loan terms. The bill narrows the definition in one respect and broadens it in another.

Under current law, the definition of mortgage loan originator does not include someone engaged solely as a loan processor or underwriter, except for those acting as independent contractors. The bill deletes the exception for independent contractors, thus providing that individuals engaged solely as loan processors or underwriters (including independent contractors) are not mortgage loan originators.

Current law also excludes from the definition of mortgage loan originator someone who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U. S. Department of Housing and Urban Development (HUD) or a court determines the individual needs to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. The bill narrows this exclusion, adding the requirement that the individual renegotiates existing mortgage terms on a mortgagee's behalf.

**EFFECTIVE DATE: October 1, 2011**

### ***§ 10 — Mortgage Loan Originator Licensing***

With certain exemptions, current law requires mortgage loan originators to be licensed. The bill specifies that this requirement applies to those engaging in the business of a mortgage loan originator on a sponsor's behalf (see below for sponsorship changes).

The bill also specifies that the originator licensing requirement applies to those engaging in the business of mortgage loan origination with respect to any loan primarily for personal, family, or

household use that is secured by a mortgage or other consensual security interest on a dwelling as defined in the federal Consumer Credit Protection Act (CCPA), or residential real estate upon which a dwelling, as defined in that act, is built or intended. Current law applies the licensing requirement to those engaging in the business of mortgage loan origination with respect to a dwelling as defined in the CCPA. The CCPA defines a dwelling as a residential structure or mobile home containing one to four family housing units or individual units of condominiums or cooperatives (15 U.S.C. § 1602).

Under current law, a mortgage loan originator license is not effective during any period when the originator is not sponsored by a licensed lender or broker. The bill also allows individuals or entities who are exempt from mortgage licensing requirements, and who register on the system as exempt registrants for sponsoring purposes, to serve as sponsors.

**EFFECTIVE DATE: October 1, 2011**

***§ 11 — Exemptions from Lender, Correspondent Lender, and Broker Licensing***

By law, various financial institutions are exempt from the mortgage licensing requirements. The exemption applies to any bank or out-of-state bank or Connecticut, federal, or out-of-state credit union, as long as the bank or credit union is federally insured, as well as to certain subsidiaries.

The bill specifies that this exemption applies to licensing as a mortgage lender, correspondent lender, or broker. It also extends the exemption to two new categories. The bill exempts debt negotiation licensees, or anyone exempt from such licensure, who are negotiating or offering to negotiate residential mortgage terms as authorized by law. It also exempts anyone engaged solely in providing loan processing or underwriting services to licensed lenders, correspondent lenders, brokers, or financial entities exempt from such licensure as mentioned above.

The bill also allows such exempt persons, as well as other individuals or entities that are exempt from lender or correspondent lender licensing requirements to register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or loan processor or underwriter without affecting the person's licensure exemption.

**EFFECTIVE DATE: October 1, 2011**

***§§ 12, 18 — Application or Name Change Requirements for Lenders, Correspondent Lenders, and Brokers***

In connection with an application for a mortgage lender, correspondent lender, or broker license, the bill limits the need to file a bond with the commissioner to only an initial license application for the licensee's main office.

The bill also specifies that when such licensees seek to change their name or address most recently filed in the system, they only need to provide the commissioner with a bond rider or endorsement to the surety bond on file if the change relates to a main or branch office. The bill also allows them to file an addendum to the surety bond. The bond rider, endorsement, or

addendum must reflect the new name or address of the main or branch office (see discussion of section 21 for more changes to the surety bond requirement).

Current law requires such applicants to submit information required by the commissioner pertaining to the background of the applicant as well as the applicant's principals, employees, and mortgage loan originators. The bill adds to this list background information pertaining to the applicant's loan processors or underwriters.

**EFFECTIVE DATE: Upon passage**

***§§ 14, 15 — Automatic License Suspension***

The bill allows the commissioner to automatically suspend the license of a mortgage lender, correspondent lender, broker, originator, or loan processor or underwriter if the licensee receives a deficiency on the system indicating that the required license renewal payment was returned or not accepted. The commissioner must notify the licensee of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to law and an opportunity for a hearing in accordance with law. After such a suspension, the commissioner must also require the licensee to take or refrain from taking actions that, in his opinion, would effectuate the law's purposes.

**EFFECTIVE DATE: October 1, 2011**

***§ 16 — License Abandonment***

By law, the commissioner may deem mortgage lender, correspondent lender, broker, and originator license applications abandoned and keep the application fee if the applicant fails to respond to any request for information under the mortgage licensing statutes or regulations. The bill extends this provision to applications for loan processor or underwriter licenses. It also extends it to requests for information under the law or regulations regarding participation in the system and notice of discriminatory lending practices.

The law requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. The bill specifies that the notice must be on the system.

By law, abandonment does not prevent the applicant from submitting a new application.

**EFFECTIVE DATE: Upon passage**

***§ 17 — Prelicensing Education, Testing, and Continuing Education***

By law, mortgage lenders, correspondent lenders, and brokers seeking licensure must have qualified individuals at the main office and branch managers at each branch office who meet certain experience requirements, have completed prelicensing education requirements, and have passed a written test developed by the system. Mortgage loan originator applicants must also

complete prelicensing education requirements and pass a written test to be licensed and meet continuing education requirements for license renewal.

The bill makes several changes related to these requirements.

***Extension of Requirements.*** The bill extends to loan processor or underwriter applicants and licensees the requirements described above that apply for originator applicants and licensees, respectively. It also extends the continuing education requirement to qualified individuals and branch managers.

***Course or Test Site.*** The bill specifies that prelicensing and education courses may be provided by the employer of the individual taking the test or the employer's subsidiary or affiliate, if such courses are approved by the system. It allows a system-approved test provider to provide a test at the tested individual's employer, a subsidiary or affiliate of the employer, or any entity where the tested individual acts as a qualified individual or branch manager.

***Retaking the Test.*** The bill increases, from three to four, the number of consecutive times an individual may retake a test, with each consecutive test occurring at least 30 days after the previous test, before the individual must wait at least six months to retake the test.

Current law requires a licensed mortgage lender, correspondent lender, broker, or originator who fails to maintain a valid license for five years or longer, not counting any time while the individual is a registered mortgage loan originator, to retake the test. The bill instead requires the following people to retake the test:

- someone who (a) was licensed after the prelicensing and testing requirements took effect and (b) has not been licensed as a mortgage loan originator within the five years before filing an application for an originator license, not counting any time he or she was a registered mortgage loan originator;
- a qualified individual or branch manager, who (a) held that position after the prelicensing education and testing requirements took effect, and (b) has not held that position within the five years before the filing on the system designating the individual as a qualified individual or branch manager, unless (c) he or she was a licensed mortgage loan originator during those five years, not counting time he or she was a registered mortgage loan originator; and
- someone licensed as a loan processor or underwriter who applies to be licensed again, if he or she was not licensed as a loan processor or underwriter within the five years before the application, not counting any time he or she is engaged in loan processing or underwriting but not required to be licensed by the bill.

***Course Credit.*** The bill allows qualified individuals, branch managers, and licensed loan processors or underwriters to receive credit for a continuing education course only in the year in which the course is taken and prohibits them from taking the same approved course in the same or successive years to meet the annual continuing education requirements. However, other provisions of law can provide otherwise. It also allows qualified individuals, branch managers, or licensed loan processors or underwriters who are approved instructors of an approved continuing

education course to receive credit for their own annual continuing education requirement at the rate of two hours credit per one hour taught. These provisions already apply to mortgage loan originators.

***Renewal Requirements.*** The bill requires previously licensed loan processors or underwriters to complete the continuing education requirements for the last year in which they held the license before they may receive a license or renewal license. This requirement already applies to mortgage loan originators.

The bill provides continuing education requirements for someone who was licensed under the mortgage licensing statutes after the preclicensing and testing requirements took effect, is no longer licensed, and is applying for relicensing. Such people must prove that they completed the continuing education requirements for the year in which they last held the license.

The bill requires a qualified individual or branch manager who no longer holds such a position to complete the continuing education requirements for the last year in which he or she held the position before the individual can hold such a position again. It also requires an individual who previously held a position as a qualified individual or branch manager after the effective date of the preclicensing and testing requirements to complete all continuing education requirements for the year in which the individual last held such a position, before the individual may hold such a position again.

**EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.**

***§ 19 — Filing with the System or Commissioner***

The law requires mortgage loan originator licensees to promptly file with the system or notify the commissioner in writing if certain things occur. The bill also requires such filing or notice for any change in the information most recently submitted in connection with the license. It also extends these requirements to loan processor or underwriter licensees.

By law, the filing or notification is required upon:

- the licensee's filing for bankruptcy;
- the filing of a criminal indictment against the licensee; or
- the licensee's receiving notice of the institution of license or registration denial, cease and desist, suspension, or revocation procedures, other formal or informal regulatory actions by a government agency, or actions by any state's attorney general against the licensee and the reasons for such proceedings.

**EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.**

## **§ 20 — Originator Licensing Fee Refunds**

Current law provides that originators may receive a refund for fees paid for a license that is not sponsored by a lender, correspondent lender, or broker. Otherwise, mortgage licensing fees are not refundable. The bill deletes the exception for unsponsored originators, thus making nonrefundable all licensing fees for originators, as well as lenders, correspondent lenders, brokers, and loan processors or underwriters.

**EFFECTIVE DATE: October 1, 2011**

## **§ 21 — Surety Bonds**

By law, mortgage lender, correspondent lender, and broker licensees must file surety bonds with the banking commissioner. Mortgage loan originators must also be covered by surety bonds, with the coverage provided through the sponsor's bond. The bonds must be written by a surety authorized to write bonds in the state, and the attorney general must approve the bonds' form.

The bill specifies that each licensed mortgage lender, correspondent lender, and broker must file a single surety bond covering its main office, as well as an addendum to the bond covering any branch office. It also requires such bonds to cover all originators the licensee sponsors. It specifies that the bond runs concurrently with the period of the license for the licensee's main office.

The bill allows originators to be covered by a surety bond through exempt registrant sponsors, as well as lender, correspondent lender, and broker sponsors. For all exempt registrants, the bill requires the bond to cover all originators they sponsor.

The bill requires the principal on a bond to confirm annually that it maintains the required penal sum as established by the bill. By September 1, 2011 for licensees, or September 1, 2012 for exempt registrant sponsors, and every September first after that, the principal must file information as the commissioner requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file a bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the bill's required surety bond coverage.

Under current law, the penal sum of the required bonds must be maintained in an amount that reflects the amount of loans originated by the licensee or originator, as determined by the commissioner. The bill changes the required bond penal sums, in the following amounts.

***Lender, Correspondent Lender, and Broker Applicants.*** For applicants for an initial mortgage lender or correspondent lender license, the required amount is \$100,000. For initial mortgage broker applicants, the required amount is \$50,000. For all such applicants, the amount is in connection with its application for its main office.

***Exempt Registrants Upon First Sponsorship.*** Effective October 1, 2011, individuals or entities who are exempt from licensure, and who register on the system as an exempt registrant for

purposes of sponsoring a mortgage loan originator or loan processor or underwriter, must file bonds in the following penal sums:

- federally insured banks or credit unions, as well as certain subsidiaries of such entities, that are exempt from mortgage lender, correspondent lender, or broker licensing requirements (see discussion of section 11 above): \$100,000, required the first time the registrant sponsors a mortgage loan originator; and
- various individuals or entities that are exempt from mortgage lender or correspondent lender licensing requirements, such as anyone making five or fewer residential mortgage loans in a year and various entities that make mortgages for specified and limited purposes : \$50,000, required the first time the registrant sponsors a mortgage loan originator.

**All Sponsors.** For mortgage lender, correspondent lender, and broker licensees and effective October 1, 2011, the exempt registrants described above who are sponsoring and bonding at least one originator, the bill ties the required bond amount to the aggregate dollar amount of the residential mortgage loans the licensee or exempt registrant originated in the preceding 12-month period ending July 31 of the current year, as shown in Tables 1 and 2. The bill specifies that for licensees, the aggregate amount includes all loans originated by the licensee at all licensed locations.

**Table 1: Required Bond Amounts for Mortgage Lender Licensees, Correspondent Lender Licensees, and After October 1, 2011, Financial Entity Exempt Registrants**

<i>Aggregate Amount of Residential Mortgage Loans Originated in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$100,000
\$30 million but less than \$100 million	\$200,000
\$100 million but less than \$250 million	\$300,000
\$250 million or more	\$500,000

**Table 2: Bond Amounts for Mortgage Broker Licensees and After October 1, 2011, Specified Other Exempt Registrants**

<i>Aggregate Amount of Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million but less than \$50 million	\$100,000
\$50 million or more	\$150,000

(See discussion of section 44, below, for bond requirements applying to licensed debt negotiators, or those exempt from such licensure, who negotiate or offer to negotiate residential mortgage terms and are exempt from mortgage lender, correspondent lender, or broker licensing requirements.)

The bill specifies that the aggregate amount of all residential mortgage loans originated by a licensee, or, after October 1, 2011, by an exempt registrant, includes the aggregate amount of all closed residential mortgage loans that the licensee or exempt registrant originated, brokered, or made, as applicable.

The bill requires principals to file with the commissioner, as he requires, financial information needed to verify the aggregate amount of residential mortgage loans originated. This information must also be reported on the system at the time and in a form the system requires.

The bill allows the commissioner to require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans originated warrants such a change.

***Bond Cancellation.*** By law, a surety company can cancel a bond. The bill makes a conforming change to reflect that the company must notify the principal on the bond before cancelling, whether the principal is a licensee or exempt registrant. Before cancelling, the surety company must also notify the commissioner, who must then provide written notice of the cancellation date to the principal. The bill specifies that this notice counts as notification to each originator licensee that the principal sponsors.

Under current law, the commissioner must automatically suspend a lender, correspondent lender, or broker's license on the bond cancellation date unless the licensee, before that date, submits either a letter of bond reinstatement from the surety company or a new bond or the licensee has stopped business and surrendered its license in accordance with law. The bill provides that on the bond cancellation date, the commissioner must also inactivate the licenses of the mortgage originators that the licensee or exempt registrant sponsors. The inactivation does not occur if the principal complies with above or the licensee sponsor complies with above by surrendering all licenses.

The license of a mortgage loan originator who was sponsored by a licensee that was automatically suspended or an exempt registrant who failed to provide the required bond, is not inactivated if the sponsorship has ended and a new sponsor had been requested and approved.

The bill allows the commissioner to provide information to the exempt registrant about actions he takes related to a bond cancellation against an originator licensee for which the exempt registrant has provided sponsorship and a bond.

**EFFECTIVE DATE: July 1, 2011, except the requirements apply to exempt registrants on October 1, 2011.**

### ***§ 27 — Challenges to System Information***

Current law requires the commissioner to establish a process for mortgage lenders, correspondent lenders, brokers, and originators to challenge information the commissioner enters into the system. The bill deletes the reference to a commissioner-established process, and instead

provides that such mortgage professionals, as well as loan processors or underwriters, may challenge information the commissioner enters into the system.

The bill provides that the challenge must be in writing, to the commissioner. The challenge must include the specific challenged information and evidence supporting the challenge. The bill limits the challenge to the factual accuracy of information within the system. It requires the commissioner to promptly correct information entered into the system that he determines is factually inaccurate.

The bill specifies that these provisions do not allow someone to challenge the merits or factual basis of an administrative action the commissioner takes pursuant to the banking laws.

**EFFECTIVE DATE: Upon passage, except the provision is effective for loan processors or underwriters on October 1, 2011.**

#### **OTHER LICENSEES**

##### **§§ 29, 32, 34, 35, 38, 40, 47 — *License Abandonment for Failure to Provide Information***

The bill allows the banking commissioner to deem an application for specified licenses abandoned if the applicant fails to respond to any request for information under the applicable statutes or regulations adopted under those statutes. The licenses are for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agencies.

The bill requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. It allows the Banking Department to keep the application fee for abandoned applications but provides that abandonment does not prevent the applicant from submitting a new application.

**EFFECTIVE DATE: October 1, 2011**

##### **§§ 29, 32, 34, 35, 38, 40, 47 — *Criminal History Information and Background Checks***

The bill requires applicants for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses to include a complete history of criminal convictions for the applicant and specified individuals connected with the applicant. Current law requires applicants to submit a history of criminal convictions for only the 10-year period preceding the application.

The bill also authorizes the banking commissioner to conduct state and national criminal background checks on applicants for these licenses and certain other individuals connected to the applicants. The criminal background check must comply with current requirements for background checks.

By law, state background checks are conducted by the State Police Bureau of Identification. National background checks are conducted by the Federal Bureau of Investigation.

**EFFECTIVE DATE: October 1, 2011**

**§§ 30, 31, 34, 36, 38, 40, 47 — *Banking Commissioner's Authority to Deny Application Based on Criminal Convictions***

By law, the banking commissioner may deny applications for sales finance companies, small loan lenders, check cashing businesses, money transmission or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses if the commissioner finds that the applicant or specified individuals connected with the applicant have been convicted of a misdemeanor involving any aspect of the business for which the applicant seeks licensure or a felony. The bill extends this to any such conviction, not just those falling within the 10 years preceding the application. Any such license denial must comply with current law on license denials due to criminal convictions.

**EFFECTIVE DATE: October 1, 2011**

**§ 36 — *Money Transmission or Connecticut Payment Instrument Issuer Applicant Misdemeanor Convictions***

The bill expands the type of misdemeanor that could lead to denial of a license for money transmission or payment instrument issuer applicants. Current law specifies that the misdemeanor must involve an aspect of the money transmission business or the business of issuing Connecticut payment instruments. The bill allows a misdemeanor involving the business of issuing any payment instrument, not just a Connecticut instrument, to serve as the basis to deny the application.

**EFFECTIVE DATE: October 1, 2011**

**§ 47 — *Consumer Collection Agency Applicants Criminal History Information***

The bill adds to the list of people required to submit criminal history information in connection with an application for a consumer collection agency license. Depending on the form of the proposed business, partners, members, officers, directors, and principal employees, as well as applicants, must submit a history of their criminal convictions and sufficient information about that history in a form acceptable to the banking commissioner. The bill also requires the commissioner to inquire into such individuals' qualifications, and allows him to deny an application due to any such individual's criminal conviction. Current law imposes these requirements only for applicants.

The bill also allows the commissioner to require all such individuals to submit to criminal background checks, as outlined above.

**EFFECTIVE DATE: October 1, 2011**

**§ 5 — Debt Negotiation – Examination Costs**

The bill adds debt negotiators to the list of licensees who must pay to the banking commissioner the actual cost of any examination of the licensee, as the commissioner determines the cost. As with other licensees specified by law, the bill allows the commissioner to suspend a debt negotiation license for failure to pay the cost of any examination within 60 days of receiving the commissioner's demand for payment.

**EFFECTIVE DATE: Upon passage**

**§ 15, 40, 41 — Debt Negotiation – Scope and Mortgage Origination**

The law requires someone who is engaging or offering to engage in debt negotiation in the state to be licensed.

Under current law, someone whose place of business is located outside of Connecticut is considered to be engaging in debt negotiation in Connecticut if the debtor is a Connecticut resident who negotiates or agrees to the terms of the services contract in person, by mail, by telephone, or via the Internet while physically present in this state; or the contract concerns a debt that is secured by property located in Connecticut. The bill deletes the requirement that the debtor be physically present in Connecticut when negotiating or agreeing to terms. The bill also deletes the requirement of a contract, referring to services instead.

The bill prohibits anyone who is not a licensed mortgage loan originator, or exempt from such licensure, from engaging or offering to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain. The bill also prohibits debt negotiation licensees, or those exempt from licensure, from allowing anyone who is not a licensed originator or exempt from such licensure to engage or offer to engage in such activity, for or with the expectation of compensation or gain.

The bill provides that anyone who engages in debt negotiation as specified above and who is required to be licensed as a mortgage loan originator must comply with all of the law's requirements for originator licensees. Such individuals must also meet the surety bond requirements that apply to originators and debt negotiators.

**EFFECTIVE DATE: October 1, 2011**

**§ 37, 43 — Debt Adjustment and Negotiation – Modification of Attorney Exemption**

Current law exempts attorneys admitted to practice in Connecticut from debt adjustment or negotiation licensing when engaged in such activities. The bill narrows this exemption by specifying that it only applies if the attorney engages in debt adjustment or negotiation as an ancillary matter to the attorney's representation of a client.

**EFFECTIVE DATE: October 1, 2011**

## **§ 42 — Debt Negotiation – Commissioner Enforcement**

By law, the commissioner may suspend, revoke, or refuse to renew a debt negotiation license or take any other action, in accordance with the applicable banking statutes, in specified circumstances. These include any reason that would be sufficient grounds for the commissioner to deny a license application under the debt negotiation laws. The bill adds to this the provisions above concerning mortgage loan originators (or those exempt from such licensure) who engage or offer to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain.

Additionally, the commissioner may take action against the person or licensee in accordance with his general powers under the banking statutes whenever it appears (among other reasons) that a person has violated, is violating, or is about to violate the debt negotiation laws. The bill adds to this list the provisions on originators referenced in the previous paragraph. It also specifies that for purposes of those provisions as well as other provisions of the debt negotiation laws, each engagement and offer to engage in debt negotiation constitutes a separate violation.

Current law allows the commissioner, upon complaint, to review fees or charges assessed by a person offering debt negotiation services and order a reduction or repayment of the amount that the commissioner deems excessive, taking into consideration the fees that others performing similar debt negotiation services charge for such services and the benefit of the services to the consumer. He can do this under his general power to conduct investigations. The bill allows the commissioner to review any fees or charges assessed by a person engaging or offering to engage in debt negotiation services (rather than just offering such services).

### **EFFECTIVE DATE: Upon passage**

## **§ 44 — Debt Negotiation – Surety Bond**

Current law requires applicants for a debt negotiation license or renewal license to file with the commissioner a surety bond in the aggregate amount of \$40,000 for all licensed locations in order for a license or renewal to be granted. The bill instead requires the surety bond in connection with the license application or licensing of the main office, and requires applicants and licensees to identify branch offices as bonded locations by addendum to the required main office surety bond.

The bill also raises the required amount of the bond. Initial applicants for a debt negotiation license must file a bond in a penal sum of at least \$50,000.

Debt negotiation licensees who are sponsoring and bonding at least one mortgage loan originator; are exempt from licensing as a mortgage lender, correspondent lender, or broker; and are registered as exempt registrants for sponsoring purposes, must file a bond in the amounts shown in Table 3. The amounts are tied to the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding 12-month period ending July 31. The bill specifies that the aggregate amount of all residential mortgage loans negotiated or offered to be negotiated is the aggregate

underlying dollar amount of all residential mortgage loans for which a sponsored mortgage loan originator provides debt negotiation services.

**Table 3: Bond Amounts for Debt Negotiation Exempt Registrant Sponsors**

<i>Aggregate Amount of Negotiated Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million but less than \$50 million	\$100,000
\$50 million or more	\$150,000

The bond principal must annually confirm that it maintains the required penal sum in the required amount. Annually, beginning September 1, 2012, a licensee must file with the commissioner such information as the commissioner requires to confirm that the penal sum of the bond remains consistent with the amount required by the bill. By September 1 of the applicable year, or another date the commissioner requires, the principal must file any bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the required bond coverage.

Current law specifies that any filed surety bond must be conditioned upon the debt negotiation licensee faithfully performing any and all written agreements with debtors and conducting such business consistent with the debt negotiation laws. The bill extends these requirements to originator licensees that the debt negotiation licensee sponsors. It also extends these requirements to the faithful performance of all written agreements and commitments with or for the benefit of debtors and mortgagors, as applicable. This includes truly and faithfully accounting for funds the bond principal or sponsored originator receives from a debtor or mortgagor. It also extends these requirements to conducting business consistent with the law regarding mortgage licensing, participation in the system, and notice of discriminatory lending practices.

The bill extends to mortgagors the current law allowing debtors to proceed on any such surety bond against the principal or surety, or both, to recover damages for the failure to meet the requirements of the previous paragraph. It also allows debtors or mortgagors to take such actions to recover damages for the wrongful conversion of funds that a debtor or mortgagor paid to a debt negotiation or originator licensee.

By law, the commissioner can proceed on any such surety bond against the principal or surety, or both, to collect any civil penalty imposed on the licensee pursuant to the banking statutes. The bill also allows him to do this to collect any unpaid examination costs of a licensee as determined by the banking statutes.

The bill requires the principal to notify the commissioner of the commencement of an action on the bond. When an action is begun, the commissioner may require the principal to file a new bond. The principal must file a new bond immediately on recovery on any action on the bond. The bill allows any mortgagor or prospective mortgagor damaged by a debt negotiation or originator licensee's failure to satisfy a judgment against the licensee arising from the negotiation

of or offer to negotiate a nonprime home loan to proceed on the bond against the principal or surety, or both, to recover the judgment amount.

Current law allows a surety to cancel the bond at any time by a written notice to the licensee stating the effective date of the cancellation. It also requires the commissioner, after the surety notifies him of the effective date of a bond cancellation at least 30 days before the cancellation, to give written notice to the licensee of the cancellation date. The bill specifies that these notifications must be given to debt negotiation licensee.

Current law requires the commissioner to automatically suspend the license on the cancellation date, unless before then the licensee submits a new bond or a letter of bond reinstatement from the surety or surrenders the license. The bill requires the commissioner to suspend the licenses of the debt negotiation licensee, and inactivate the sponsored originator's license, unless the debt negotiation licensee takes actions (1) or (2) above (including surrendering all licenses), or for sponsored originators, the sponsorship has ended and a new sponsor has been requested and approved. The bill also specifies that the commissioner's required actions after an automatic suspension concern the debt negotiation licensee.

The bill requires financial information needed to verify the aggregate amount of residential mortgage loans negotiated or offered to be negotiated to be filed with the commissioner as he requires and to be reported on the system when and in the form the system requires. The commissioner may require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated warrants such a change.

The bill also allows the commissioner to adopt regulations with respect to the law's requirements for debt negotiation surety bonds.

**EFFECTIVE DATE: October 1, 2011**

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**SB 1212: AN ACT CONCERNING PROTECTIONS FOR RENTERS AFTER THE FORECLOSURE OF A BUILDING IN WHICH THEY ARE LIVING**

This bill, which died on the Senate Calendar, allows certain tenants who live in multi-family buildings that have been foreclosed upon to continue to live there unless the foreclosing party has entered into an agreement to sell the building in which the buyer requires the building to be vacant as a condition of sale or there is good cause to evict the tenant (e.g., nonpayment of rent). The bill applies in addition to existing law's protections for tenants of foreclosed properties.

The bill provides that disputes about the rental amount when such a tenant is occupying a property after foreclosure may be resolved by a fair rent commission, where available, or a Superior Court.

The bill specifies that the bill, existing law's protections for tenants of foreclosed properties, and the federal Protecting Tenants at Foreclosure Act do not limit or supersede a tenant's rights under any law (including existing protections for certain tenants who are at least age 62, blind, or disabled) to continue to occupy a foreclosed property.

It also specifies that it does not prevent a foreclosing party from negotiating an incentive agreement (i.e., "cash for keys") for the tenant to vacate the property, as long as the foreclosing party clearly informs the tenant that, under the bill, the tenant cannot be evicted without cause.

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**SB 1239: AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING  
JUNE 30, 2013, AND OTHER PROVISIONS RELATING TO REVENUE**

This bill appropriates funds for state agencies and programs for FY 12 and FY 13. It also increases taxes and makes other revenue changes.

A full summary of the bill's budget provisions (§§ 1-74) may be found in the Office of Fiscal Analysis Fiscal Note. An analysis of the bill's revenue provisions (§§ 75-156) appears below.

**EFFECTIVE DATE: Various, see below.**

**§§ 1-74 — BUDGET PROVISIONS**

Please refer to the OFA Fiscal Note for an explanation of these sections.

**§ 75 — INSURANCE PREMIUM TAX**

The bill for 2011 and 2012, lowers, from 70% to 30%, the amount by which an insurer can reduce its insurance premium tax liability in any year through tax credits; exempts insurance reinvestment fund tax credits from this cap; and allows an insurer to offset additional tax liability for 2011 and 2012 if it adds employees. The bill makes the credit limit apply to calendar years, rather than income years.

Under the bill, for the calendar years 2011 and 2012, an insurer may offset additional tax liability by an amount equal to \$6,000 times its average net monthly increase in employees, up to 100% of its total tax liability. The average net employee gain must be calculated by adding the insurer's total increase in employees for the applicable year and dividing by 12. In order for an employee to count, he or she must be required to work at least a 35-hour week and not have been employed in Connecticut by the insurer's "related person" within 12 months before the applicable calendar year. A company may not exceed the 30% credit limit if its average net employee gain is zero or less than zero.

**EFFECTIVE DATE: Upon passage, and applicable to calendar years beginning January 1, 2011.**

## **CORPORATION TAX**

### **§§ 76 & 79 — Corporation Tax Surcharge**

The bill imposes a 20% corporation tax surcharge for the 2012 and 2013 income years. Under current law and the bill, a 10% corporation tax surcharge expires at the end of the 2011 income year. As under current law, the surcharge for 2012 and 2013 applies to companies that have at least \$100 million in annual gross income in those years and a tax liability that exceeds \$250. The exemption for companies with less than \$100 million in annual gross income does not apply to companies filing combined or unitary returns.

### **§ 78 — Credit Limit**

By law, companies are barred from using tax credits to reduce their annual corporation tax liability by more than 70%. Under the bill, for the 2011 and 2012 income years, a company may offset additional tax liability beyond 70% by adding employees.

The additional offset equals \$6,000 times the company's average net monthly increase in employees, up to 100% of its total tax liability. The average net monthly employee gain must be calculated by dividing the company's total new employees for the applicable year by 12. In order for an employee to count, he or she must be required to work at least a 35-hour week and not have been employed in Connecticut by an entity who is a "related person" to the corporation within 12 months before the start of the applicable income year. A company may not exceed the 70% credit limit if its average net employee gain is zero or less than zero.

**EFFECTIVE DATE: Corporation tax changes are effective upon passage, and applicable to income years starting on or after January 1, 2011.**

### **§ 77 — FILM PRODUCTION TAX CREDIT**

The law allows film production companies to sell, assign, or transfer film production tax credits to other taxpayers with tax liabilities. The bill limits these tax credits allowed in 2011 to 50% of the credit in any one income year and in 2012 and beyond to 25% of the credit in any one income year. Entities subject to the corporation or insurance premium tax are not bound by the transfer restrictions.

It exempts from these limitations credits issued for any production that the Department of Economic and Community Development (DECD) commissioner determines is created in whole or significant part in a "qualified production facility." Under the bill, a "qualified production facility" is a facility in the state that is intended for film, television, or digital media production and has a minimum investment of \$3 million, or less if the DECD commissioner determines it otherwise qualifies.

The bill also increases, from 25% to 50%, the minimum share of principal photography days a production company must spend in the state in order to qualify for a film production tax credit.

**EFFECTIVE DATE: Upon passage, and applicable to income years beginning on or after January 1, 2011.**

**§§ 84-87 & 119 — ESTATE AND GIFT TAXES**

*Tax Threshold*

The bill lowers the estate and gift tax threshold from \$3.5 million to \$2 million and extends the existing 7.2% rate to estates and gifts valued at between \$2 million and \$3.5 million. Table 1 shows the current and proposed tax rates.

**TABLE 1: CURRENT AND PROPOSED ESTATE AND GIFT TAXES**

<b>VALUE OF TAXABLE ESTATE OR GIFT</b>		<b>CURRENT TAX (Add cols. C &amp; D)</b>		<b>PROPOSED TAX (Add cols. E &amp; F)</b>	
<b><u>Col A:</u> Over</b>	<b><u>Col. B:</u> But not over</b>	<b><u>Col. C</u> Tax on Col. A</b>	<b><u>Col D:</u> Tax rate on excess over Col A</b>	<b><u>Col E:</u> Tax on Col. A</b>	<b><u>Col F:</u> Tax rate on excess over Col A</b>
0	\$2,000,000	NO TAX		NO TAX	
2,000,000	3,500,000	NO TAX		7.2% of the excess over \$2,000,000	
3,500,000	3,600,000	7.2% of the excess over \$3,500,000		7.2% of the excess over \$2,000,000	
3,600,000	4,100,000	\$7,200	7.8%	\$115,200	7.8%
4,100,000	5,100,000	46,200	8.4%	154,200	8.4%
5,100,000	6,100,000	130,200	9.0%	238,200	9.0%
6,100,000	7,100,000	220,200	9.6%	328,200	9.6%
7,100,000	8,100,000	316,200	10.2%	424,200	10.2%
8,100,000	9,100,000	418,200	10.8%	526,200	10.8%
9,100,000	10,100,000	526,200	11.4%	634,200	11.4%
Over \$10,100,000		640,200	12.0%	748,200	12.0%

***Filing Estate Tax Returns***

The bill makes a conforming change in requirements for filing tax returns with the probate court. By law, all estates, regardless of their gross value, must file an estate tax return. If the estate's value is more than the taxable threshold, the executor must file the return with DRS, with a copy to the probate court for the district where the decedent lived or, if the decedent was not a Connecticut resident, where the Connecticut property is located. If the estate's value is below the tax threshold, the return must be filed only with the appropriate probate court. The probate judge must review the return and issue a written opinion to the estate's representative if the judge determines it is not subject to the estate tax.

Under current law, the threshold for filing an estate tax return only with the probate court from someone who dies on or after January 1, 2010 is \$3.5 million. Starting with deaths on or after January 1, 2011, this bill reduces that threshold to \$2 million.

### ***Release of Estate Tax Liens***

The bill makes a conforming change in requirements for releasing estate tax liens.

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his or her interest in real property in the estate. The probate court is required to issue all lien release certificates for estates below the estate tax threshold. Current law requires probate courts to issue all lien release certificates for estates of \$3.5 million or less, starting with deaths on or after January 1, 2010. The bill reduces the threshold to \$2 million for deaths occurring on or after January 1, 2011.

**EFFECTIVE DATE: Upon passage, and applicable to deaths occurring and gifts made on or after January 1, 2011.**

### **SALES AND USE TAX**

#### ***§§ 93-94, 97,126-127 — TAX RATE INCREASES***

The bill increases the general sales and use tax rate from 6% to 6.35% and the hotel tax rate from 12% to 15%. It does not change existing lower rates for sales of motor vehicles to active duty U.S. military members stationed in Connecticut (4.5%) or computer and data processing services (1%).

#### ***§§ 93 & 97 — Luxury Goods Tax***

The bill imposes a 7% sales and use tax on the full sales price of motor vehicles, boats, jewelry, clothing, and footwear costing more than:

- \$50,000 for motor vehicles, with certain exceptions (see below);
- \$100,000 for boats;
- \$5,000 for jewelry (real or imitation); and
- \$1,000 for clothing or footwear (including handbags, luggage, umbrellas, wallets, and watches).

The bill excludes from the type of motor vehicles subject to the luxury tax any motor vehicle purchased by an active duty U.S. military member stationed in Connecticut, weighing over 12,500 pounds, or weighing 12,500 pounds or less that is designed or used for commercial purposes and issued a commercial or more specific type of registration from the Department of Motor Vehicles.

#### **§§ 102 & 103 — REAL ESTATE CONVEYANCE TAX**

The bill increases state real estate conveyance tax rates by 0.25%, and makes permanent the 0.25% base municipal real estate conveyance tax, currently scheduled to expire on July 1, 2011.

The real estate conveyance tax has two parts: a state tax and a municipal tax. The applicable state and municipal rates are added together to get the total tax rate for a particular transaction. The combined rate is applied to the sale price.

The current state tax is 0.5% of the first \$800,000 of the sale price of a residential property and the full sale price of unimproved land and certain bank foreclosures for mortgage delinquencies. A 1% rate applies to sales of nonresidential property other than unimproved land and any portion of the sale price of a residential dwelling that exceeds \$800,000 (the so-called “mansion tax”). The bill increases these rates to 0.75% and 1.25%, respectively.

In addition to the state tax, a seller must pay a state-specified conveyance tax to the municipality where the property is located. The current municipal tax rate is 0.25% for all towns plus an additional tax of up to 0.25% in 18 eligible towns that choose to impose the increased rate. Thus, under current law, the municipal tax rate can range from 0.25% to 0.5%, depending on where the property is located.

Under current law, the base tax rate of 0.25% for all towns is scheduled to expire on June 30, 2011. The bill makes that rate permanent.

It requires the DRS Commissioner to deposit the revenue attributable to the increase in the state tax rate into the municipal revenue sharing account.

**EFFECTIVE DATE: July 1, 2011, and applicable to conveyances occurring on or after that date.**

## **§§ 107-111 — INCOME TAX CHANGES**

### **§ 107 — *Marginal Rate Increases***

The bill increases marginal income tax rates for those with taxable incomes over \$100,000 for joint filers, \$50,000 for single filers and married people filing separately, and \$80,000 for heads of household. It does so by increasing the number of tax brackets from three to six, splitting the existing 5% bracket into four brackets and adding three higher marginal rates to that taxable income, increasing the top marginal income tax rate from 6.5% to 6.7%, and lowering the taxable income for the 6.7% rate bracket by half. The bill also increases the flat income tax rate for trusts and estates from 6.5% to 6.7%. Table 5 shows marginal tax rates and brackets under current law and the bill.

**TABLE 5: CURRENT AND PROPOSED TAX RATES AND BRACKETS**

TAX RATES		CT TAXABLE INCOME			
		<i>Married Filing Jointly</i>		<i>Single</i>	
<i>Current</i>	<i>Bill</i>	<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>
3.0%	3.0%	\$0	\$20,000	\$0	\$10,000
5.0%	5.0%	20,000	100,000	10,000	50,000
	5.5%	100,000	200,000	50,000	100,000
	6.0%	200,000	400,000	100,000	200,000
	6.5%	400,000	500,000	200,000	250,000
	6.7%	500,000	1,000,000	250,000	500,000
6.5%	6.7%	Over \$1,000,000		Over \$500,000	
TAX RATES		CT TAXABLE INCOME			
		<i>Head of Household</i>		<i>Married Filing Separately</i>	
<i>Current</i>	<i>Bill</i>	<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>
3.0%	3.0%	\$0	\$16,000	\$0	\$10,000
5.0%	5.0%	16,000	80,000	10,000	50,000
	5.5%	80,000	160,000	50,000	100,000
	6.0%	160,000	320,000	100,000	200,000
	6.5%	320,000	400,000	200,000	250,000
	6.7%	400,000	800,000	250,000	500,000
6.5%	6.7%	Over \$800,000		Over \$500,000	

**§ 107 — Phase-Out of 3% Tax Bracket**

The bill phases out the lowest (3%) income tax bracket starting with taxpayers with Connecticut adjusted gross incomes (CT AGI) over \$100,500 for joint filers, \$56,500 for singles, \$78,500 for heads of household, and \$50,250 for married couples filing separately. It does so by subjecting increasingly less taxable income to the 3% income tax rate as CT AGI increases and moving the phased-out taxable income to the 5% bracket. Table 6 shows the phase-out of the 3% bracket for each type of filer.

**TABLE 6: 3.0% BRACKET PHASE-OUT**

<i><b>SINGLE</b></i>			<i><b>MARRIED FILING JOINTLY</b></i>		
<b>CT AGI</b>		<b>3% Rate Applies to Taxable Income Up to</b>	<b>CT AGI</b>		<b>3% Rate Applies to Taxable Income Up to</b>
<i><b>Over</b></i>	<i><b>But Not Over</b></i>		<i><b>Over</b></i>	<i><b>But Not Over</b></i>	
0	56,500	\$10,000	0	\$100,500	\$20,000
56,500	61,500	9,000	100,500	105,500	18,000
61,500	66,500	8,000	105,500	110,500	16,000
66,500	71,500	7,000	110,500	115,500	14,000
71,500	76,500	6,000	115,500	120,500	12,000
76,500	81,500	5,000	120,500	125,500	10,000
81,500	86,500	4,000	125,500	130,500	8,000
86,500	91,500	3,000	130,500	135,500	6,000
91,500	96,500	2,000	135,500	140,500	4,000
96,500	101,500	1,000	140,500	145,500	2,000
Over \$101,500		None	Over \$145,500		None
<i><b>HEAD OF HOUSEHOLD</b></i>			<i><b>MARRIED FILING SEPARATELY</b></i>		
<b>CT AGI</b>		<b>3% Rate Applies to Taxable Income Up to</b>	<b>CT AGI</b>		<b>3% Rate Applies to Taxable Income Up to</b>
<i><b>Over</b></i>	<i><b>But Not Over</b></i>		<i><b>Over</b></i>	<i><b>But Not Over</b></i>	
0	\$78,500	\$16,000	0	\$50,250	\$10,000
78,500	82,500	14,400	50,250	52,750	9,000
82,500	86,500	12,800	52,750	55,250	8,000
86,500	90,500	11,200	55,250	57,750	7,000
90,500	94,500	9,600	57,750	60,250	6,000
94,500	98,500	8,000	60,250	62,750	5,000
98,500	102,500	6,400	62,750	65,250	4,000
102,500	106,500	4,800	65,250	67,750	3,000
106,500	110,500	3,200	67,750	70,250	2,000
110,500	114,500	1,600	70,250	72,750	1,000
Over \$114,500		None	Over \$72,250		None

**§ 107 — Recapture of Benefits**

For taxpayers whose annual CT AGI exceeds specified thresholds, the bill imposes a “recapture” provision to eliminate the benefits they receive from having a portion of their taxable income

taxed at lower marginal rates. It does so by requiring taxpayers with higher incomes to add specified amounts to their tax liability figured using the marginal rates specified in Table 5 above. The bill phases in the recapture requirement until, once a taxpayer's CT AGI is high enough to require him or her to add the maximum recapture amount, 100% of his or her taxable income is effectively taxed at the highest marginal rate (6.7% under the bill).

Table 7 shows, for each type of filer, the CT AGI starting point for the recapture phase-in, the AGI phase-in intervals and the recapture amount to be added at each interval, and the maximum total recapture amount to be added once CT AGI reaches the fully phased-in level.

**TABLE 7: BENEFIT RECAPTURE PHASE-IN**

	<i>Married Filing Jointly</i>	<i>Single/ Married Filing Separately</i>	<i>Head of Household</i>
Phase-In Starting Point: CT AGI over	\$400,000	\$200,000	\$320,000
Recapture Amount	\$150 per \$10,000 of CT AGI over starting point	\$75 per \$5,000 of CT AGI over starting point	\$120 per \$8,000 of CT AGI over starting point
Maximum Total Recapture Amount	\$4,500	\$2,250	\$3,600

***§ 111 — Property Tax Credit Reduced***

The bill reduces, from \$500 to \$300, the maximum property tax credit against the personal income tax and phases out the credit at a steeper rate than under current law. Current law reduces the maximum credit by 10% for every \$10,000 in additional CT AGI (every \$5,000 for married people filing separately). The bill increases these percentage reductions by 15%.

The combination of a lower maximum credit and the steeper phase-out reduces the number of taxpayers eligible for a credit. For example, under the bill, joint filers receive no credit once their CT AGI reaches \$160,500 compared to \$190,500 under current law.

Table 8 shows the maximum property tax credits by income level and filing status under current law and the bill.

**TABLE 8: CURRENT AND PROPOSED MAXIMUM PROPERTY TAX CREDITS**

CT AGI				MAXIMUM PROPERTY TAX CREDIT	
<i>Married Filing Jointly</i>		<i>Single (for 2011-2012)</i>		<i>Current</i>	<i>Bill</i>
<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>		
0	\$100,500	0	\$56,500	\$500	\$300
100,500	110,500	56,500	66,500	450	255
110,500	120,500	66,500	76,500	400	210
120,500	130,500	76,500	86,500	350	165
130,500	140,500	86,500	96,500	300	120
140,500	150,500	96,500	106,500	250	75
150,500	160,500	106,500	116,500	200	30
160,500	170,500	116,500	126,500	150	0
170,500	180,500	126,500	136,500	100	
180,500	190,500	136,500	146,500	50	
Over \$190,500		Over \$146,500		0	
CT AGI				MAXIMUM PROPERTY TAX CREDIT	
<i>Head of Household</i>		<i>Married Filing Separately</i>		<i>Current</i>	<i>Bill</i>
<i>Over</i>	<i>But Not Over</i>	<i>Over</i>	<i>But Not Over</i>		
0	\$78,500	0	50,250	\$500	\$300
78,500	88,500	50,250	55,250	450	255
88,500	98,500	55,250	60,250	400	210
98,500	108,500	60,250	65,250	350	165
108,500	118,500	65,250	70,250	300	120
118,500	128,500	70,250	75,250	250	75
128,500	138,500	75,250	80,250	200	30
138,500	148,500	80,250	85,250	150	0
148,500	158,500	85,250	90,250	100	
158,500	168,500	90,250	95,250	50	
Over \$168,500		Over \$95,250		0	

Under current law, the AGI threshold at which a single filer's maximum property tax credit starts to be reduced is scheduled to increase annually from \$56,500 to \$58,500 for 2012, \$60,500 for 2013, \$62,500 for 2014, and \$64,500 for 2015 and thereafter. The bill instead maintains the current \$56,500 threshold through the 2012 tax year and then increases it to \$60,500 for 2013, \$62,500 for 2014, \$64,500 for 2015 and thereafter.

## **§ 110 — *Earned Income Tax Credit***

The bill establishes a refundable state earned income tax credit (EITC) equal to 30% of the federal credit and, to the extent allowed under federal law, specifies that the refund is not counted in determining eligibility for or the amount of aid under any need-based state or federal program.

The bill gives people who qualify for, and claim, the federal EITC a credit against their state income tax liability equal to 30% of their federal credit for the same tax year. Under the bill, if the state credit exceeds the taxpayer's state income tax liability, the DRS commissioner must refund the difference to the taxpayer. Refunds must be treated the same as other income tax refunds, except that they are not subject to the 0.66% monthly interest payable on late tax refunds.

Under federal law and this bill, people who work and earn incomes below certain levels qualify for credits. Credit amounts vary according to a taxpayer's income and the number of children he or she has. Income limits and credit amounts are adjusted annually for inflation (26 USCA § 32).

For 2010, a person qualifies for a federal EITC if he or she has at least \$1 of earned income, investment income (with certain exceptions) of \$3,100 or less, and a maximum federal AGI of:

- \$13,460 (\$18,470 if married and filing jointly) with no children,
- \$35,535 (\$40,545 if married and filing jointly) with one child,
- \$40,363 (\$45,373 if married and filing jointly) with two children, and
- \$43,352 (\$48,362 if married and filing jointly) with three or more children.

Based on the federal EITC for 2010, the maximum state credit under the bill for the 2010 tax year would have been:

- \$137 for filers with no children,
- \$915 for filers with one child,
- \$1,511 for filers with two children, and
- \$1,700 for filers with three or more children

Table 9 shows proposed state EITCs at selected income levels, also based on federal EITCs for 2010.

**TABLE 9: EXAMPLES OF STATE EITC AT SELECTED INCOME LEVELS, 2010**

2010 FEDERAL AGI		SINGLE/HEAD OF HOUSEHOLD			
<i>Over</i>	<i>But Not Over</i>	<i>No Children</i>	<i>One Child</i>	<i>2 Children</i>	<i>3+ Children</i>
\$5,500	\$5,550	\$127	\$564	\$663	\$746
10,500	10,550	68	915	1,263	1,421
14,500	14,550	0	915	1,511	1,700
18,500	18,550	0	815	1,380	1,569
25,500	25,550	0	480	938	1,127
35,500	35,550	0	1	306	494
40,500	45,550	0	0	0	179
2010 FEDERAL AGI		MARRIED FILING JOINTLY			
<i>Over</i>	<i>But Not Over</i>	<i>No Children</i>	<i>One Child</i>	<i>2 Children</i>	<i>3+ Children</i>
\$5,500	\$5,550	\$127	\$564	\$663	\$746
10,500	10,550	137	915	1,263	1,421
14,500	14,550	91	915	1,511	1,700
18,500	18,550	0	915	1,511	1,700
25,500	25,550	0	720	1,254	1,443
35,500	35,550	0	241	622	811
40,500	45,550	0	1	306	495

If a taxpayer eligible for a state EITC files a joint income tax return for federal tax purposes but has to file a separate state income tax return for the same year, his or her state EITC is calculated by multiplying 30% of the taxpayer's federal EITC by the ratio of the taxpayer's CT AGI to federal AGI, as reported on the taxpayer's state and federal income tax returns, respectively.

**§§ 108 & 109 — Withholding and Estimated Tax Payments**

The bill requires the DRS commissioner to issue new withholding tables applicable for the 2011 tax year as soon as possible. It also requires those paying estimated taxes to adjust their September 2011 payment to reflect the bill's income tax changes.

**EFFECTIVE DATE:** The income tax provisions are effective on passage, and applicable to tax years starting on or after January 1, 2011.

**§ 128 — SALES AND USE TAX COLLECTION BY REMOTE SELLERS**

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have “nexus” here.

The bill requires certain remote sellers who have no physical presence in Connecticut to collect sales tax on their taxable sales in the state. It presumes a seller is a retailer with sales tax nexus in the state if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident referring potential customers to the retailer, he or she will receive a commission or other compensation from that retailer.

Under the bill, the referrals can be direct or indirect and can be made by any means, including a link on an Internet website. By extending Connecticut sales tax nexus to retailers that have such agreements, the bill requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The bill applies to any retailer that annually earned more than \$2,000 in gross receipts from sales in the state under such referral agreements in the preceding four quarters ending on the last days of March, June, September, and December. It establishes a presumption that such a retailer is soliciting business in Connecticut through the independent contractors or representatives. The retailer can rebut the presumption by proving that the resident with whom it has an agreement did not solicit business in Connecticut in a manner that would satisfy the federal constitutional nexus requirement

By law, if a retailer does not collect and remit to (DRS) the sales tax due on a taxable item or service, a person who buys it for use in Connecticut must pay the equivalent use tax on that purchase directly to DRS.

**EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.**

#### **§ 134 — TRANSFERS FROM BANKING FUND TO GENERAL FUND**

The bill shifts, from the Banking Fund to the General Fund, revenue from fines, civil penalties, or restitution imposed by the banking commissioner or ordered by a court stemming from violations of the banking laws. The bill does not increase the amount of any such fines.

#### ***PUBLIC ACT 11-6***

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#### **HB 5003: AN ACT REQUIRING BANKS TO NOTIFY HOLDERS OF INACTIVE ACCOUNTS BY CERTIFIED MAIL THAT ACCOUNT FUNDS WILL BE TRANSFERRED TO THE TREASURER AND SUBJECT TO ESCHEAT TO THE STATE**

To protect inactive account holders by requiring banks to notify them by certified mail within one year of presuming an account has been abandoned that account funds will be subject to escheat to the state.

This bill died in Committee.

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**HB 5106: AN ACT PROHIBITING CONNECTICUT BANKS FROM REQUIRING A THUMBPRINT FOR CHECK CASHING**

To prohibit Connecticut banks from requiring customers to provide their thumbprint as a prerequisite to check cashing.

This bill died in Committee.

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**HB 5351: AN ACT CONCERNING PAYMENT OF FINANCE CHARGES INCURRED AS A RESULT OF FRAUDULENT USE OF A CREDIT CARD ACCOUNT BY A THIRD PARTY**

To prevent banks from forcing customers whose credit card accounts have been fraudulently used from paying finance charges incurred as a result of such fraudulent use pending the outcome of a fraud investigation.

This bill died in Committee.

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**HB 5352: AN ACT PROHIBITING THE ASSESSMENT OF TITLE INSURANCE FEES UPON THE REFINANCING A MORTGAGE LOAN**

To reduce additional title insurance costs incurred by homeowners by allowing the assessment of a title insurance fee only once at the time the original mortgage loan is made.

This bill died in Committee.

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**HB 5354: AN ACT ENSURING CUSTOMER ACCESS TO ACCOUNT FUNDS PENDING AN INVESTIGATION INTO IDENTITY THEFT**

To ensure that credit and debit card account holders have access to their money.

This bill died in Committee.

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### **HB 5355: AN ACT CONCERNING MORTGAGE ESCROW PAYMENTS**

To reduce the amount that mortgage servicing companies may require mortgagors to pay into an escrow account for the purpose of maintaining a reserve for the payment of real estate taxes or insurance premiums.

This bill died in Committee.

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### **HB 5406: AN ACT CONCERNING PUBLIC ACCESS TO INFORMATION ON TAX INCENTIVES RECEIVED BY BUSINESSES**

To provide necessary information for lawmakers to evaluate the effectiveness of and necessity for tax incentives, to determine their efficacy in job creation, and to encourage public awareness of such incentives.

This bill died in Committee.

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### **HB 5460: AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS**

This bill, which passed the House but died in the Senate, would have prohibited employers from requiring employees to attend meetings primarily about the employer's position on religious or political matters. The bill defines political matters as including political party affiliation or the decision to join or not join any lawful political, social, or community group or activity, or a labor organization. A labor organization is any organization that exists, wholly or partly for the purpose of collective bargaining or dealing with employers about grievances, employment terms or conditions, or mutual aid or protection connected with employment.

The bill covers all private-sector employers and the state and its political subdivisions. It defines an employee as anyone working for an employer.

It also provides protection for employees who make a good-faith report of a violation.

An aggrieved employee may enforce the bill's provisions through a Superior Court civil action brought within 90 days of the alleged violation. The court may award a prevailing employee all appropriate relief, including rehiring or reinstatement, and it must award a prevailing employee triple damages and reasonable attorney's fees and costs.

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**HB 6284: AN ACT CONCERNING REVISIONS TO THE BANKING  
STATUTES TO REFLECT CHANGES MADE PURSUANT TO THE DODD-FRANK  
WALL STREET REFORM AND CONSUMER PROTECTION ACT**

This bill adds references to the federal Bureau of Consumer Financial Protection to various provisions of the banking laws and Uniform Commercial Code, as well as certain other sections of the general statutes concerning consumer credit transactions. For example, it specifies that the bureau is a supervisory agency for purposes of the banking laws. The addition of these references reflects the transfer of consumer financial protection functions from several federal entities to the bureau, which is scheduled to take place on July 21, 2011 (the bill's effective date). The bureau was created as part of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

The bill also allows the banking commissioner to exempt any person or class of people from registration requirements and related provisions of the Uniform Securities Act, upon finding that the exemption is in the public interest and consistent with investor protection and the act.

***PUBLIC ACT 11-110 EFFECTIVE DATE: July 21, 2011***

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**HB 6350: AN ACT CONCERNING THE ATTORNEY GENERAL'S AUTHORITY TO  
ENFORCE PROVISIONS OF THE DODD-FRANK WALL STREET REFORM AND  
CONSUMER PROTECTION ACT**

This bill explicitly authorizes the attorney general to bring a civil action in a court of competent jurisdiction to enforce the provisions of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that the act gives state attorneys general the authority to enforce. The bill also allows the attorney general to seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

**ATTORNEY GENERAL RESPONSIBILITIES**

Under the bill, the state attorney general is responsible for duties included in the 2010 federal financial services law. Specifically, the federal act authorizes a state attorney general to bring civil actions to enforce its consumer protection provisions or implementing regulations. Concerning suits against national banks or federal savings associations, the act permits the attorney general to bring suit to enforce regulations prescribed by the Bureau of Consumer Financial Protection (Bureau) under the act's consumer protection provisions, but not suits to enforce the act's provisions themselves (§ 1042). The act also places limits and conditions on the ability of a state to enforce the act's consumer protection provisions against a merchant, retailer, or seller of nonfinancial goods or services (§ 1027). The act permits a wide range of relief for proceedings under federal consumer financial law, but does not allow punitive damages (§ 1055).

The Dodd-Frank Act requires states, before bringing suit to enforce its consumer protection provisions or attendant regulations, to notify the Bureau and the applicable federal regulator. If

prior notice is not practicable, the state must notify them immediately after bringing the action. The act authorizes the Bureau to intervene (§ 1042).

***PUBLIC ACT 11-119 EFFECTIVE DATE: July 1, 2011***

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**HB 6351: AN ACT CONCERNING FORECLOSURE MEDIATION AND ASSISTANCE PROGRAMS, THE HIGHLY COMPENSATED EMPLOYEE EXEMPTION FOR MORTGAGE LOAN ORIGINATORS, GENERAL-USE PREPAID CARDS AND NEIGHBORHOOD PROTECTION**

This bill makes changes in several programs and laws related to foreclosure as well as other banking- and housing-related issues.

The bill makes various changes in the judicial branch's foreclosure mediation program, including extending the program's sunset date by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009; extending the program to properties owned by religious organizations; generally prohibiting the parties from making motions, other than those related to the mediation, for the eight months following the return date; and increasing documentation requirements (§§ 1-4).

The bill creates a task force to study the Connecticut Housing Finance Authority's loss mitigation programs (§ 5).

The bill excludes from the state's overtime pay requirements mortgage loan originators designated as highly compensated employees under federal regulations, other than originators who work solely from an employer's office (§ 6).

The bill codifies into state law the federal Protecting Tenants at Foreclosure Act, with a sunset date of December 31, 2017, that extends its protections beyond the federal act's December 31, 2014 expiration (§§ 7-8).

The bill prohibits a general-use prepaid card from including an expiration date for the underlying funds redeemable through its use, but it allows an expiration date for the card itself if certain requirements are met. It also explicitly excludes general-use prepaid cards from the definition of "gift certificate," but it applies to them the same prohibition on inactivity charges, fees, or penalties and exemption from state escheat provisions as apply to gift certificates (§§ 9-12).

PA 09-144 created a registration system for tracking the owners of uninhabited one-to-four family residential property obtained through foreclosure. The bill establishes a new registration requirement that applies to a broader class of buildings when the foreclosure process begins, and expands the scope of the existing registration requirement. It provides civil penalties for violations. It also makes other changes to the mechanics of the registration process (§§ 13-15).

The bill also makes minor, technical, and conforming changes.

**EFFECTIVE DATE: Various; see below.**

## §§ 1-4 — FORECLOSURE MEDIATION PROGRAM

### *Extension of Program Sunset Date*

The bill extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009. It retains the current program end date (July 1, 2012) for foreclosure actions with return dates from July 1, 2008 to June 30, 2009.

### *Extension to Religious Organizations*

The bill extends the foreclosure mediation program to religious organizations that own real property, starting with foreclosures with return dates on or after October 1, 2011. It defines “religious organizations” as organizations that meet the religious purposes test to be tax exempt under the Internal Revenue Code.

To be eligible for the program, as is the case with current requirements for residential owners, the religious organization must be the borrower on a mortgage encumbering the property, and the property must be located in Connecticut. By law, to participate in the program, a residential owner must be the owner-occupant of a one-to-four family property that is his or her primary residence.

Current law requires the loan that is the subject of the foreclosure action to be primarily for personal, family, or household purposes. The bill specifies that the loan may also be primarily for religious purposes.

### *Changes to Mediation Process: Actions on or After July 1, 2009*

Except as specified below, the following changes apply to residential foreclosures with return dates on or after July 1, 2009 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

***Mediation Information Form and Other Documents.*** By law, when bringing a foreclosure action, the mortgagee (i.e., the lender, servicer, or successor or assignee) must provide the mortgagor (i.e., borrower) with a notice of foreclosure mediation; foreclosure mediation certificate; and blank appearance form. The bill adds to the required information that a mortgagee must provide a residential mortgagor for foreclosures with return dates on or after October 1, 2011. For such foreclosure actions, the bill requires mortgagees to provide the mortgagor with a mediation information form and notice containing contact information for consumer credit counseling agencies that the Connecticut Housing Finance Authority (CHFA) approves. As is the case with the documents described above, these must be attached to the front of the foreclosure writ, summons, and complaint and must be in a chief court administrator-prescribed form.

The mediation information form must be designed to elicit current financial information and other nonfinancial information from the mortgagor that will be useful in mediation, as the chief court administrator determines in consultation with banking industry representatives and consumer advocates. The form's instructions must explain that the completed form, plus any accompanying documents reasonably requested in the instructions, must be delivered to the mortgagee's counsel within 15 business days before the first mediation session. The bill specifies

that the mediation information form and accompanying documentation must not be made publicly available, unless the mortgagor explicitly agrees in writing to make them public.

By law, the court must issue a notice of foreclosure mediation to the mortgagor within three business days of the mortgagee returning the writ to the court. Under the bill, the notice must remind the mortgagor to deliver the completed mediation information form and the accompanying documents. The notice must also encourage the mortgagor to deliver the form and accompanying documents earlier than the law requires him or her to do so.

The bill requires the notice to be accompanied by chief court administrator-prescribed materials from the banking department, which describe community-based resources available to the mortgagor. These resources must include CHFA-approved housing counseling agencies that may help the mortgagor prepare the mediation information form and apply for mortgage assistance programs.

***First Mediation Session.*** The bill provides that on or after October 1, 2011, the first mediation session must be held within 35 calendar days, rather than 15 business days, of the court sending the notice to each appearing party scheduling the first mediation session.

***Account History and Contact Information.*** Under the bill, on and after October 1, 2011, the mortgagee must deliver to the mortgagor an account history identifying all credits and debits assessed to the mortgagor's loan account in the immediately preceding 12 months. The mortgagee must do so within 15 business days of the first session.

During this same time frame, the mortgagee must also provide the mortgagor with specified contact information for an individual able to process requests to refinance or modify the mortgage or take other action to avoid foreclosure. The required contact information is the person's name, business mailing address, electronic mail address, facsimile number, and direct telephone number. The bill requires mortgagees, with reasonable promptness, to provide the mortgagors or their counsel with updates to this contact information.

***Prohibition on Motions and Judgments.*** Under existing law, when the mediation period is required and available, a court cannot enter a judgment of strict foreclosure or foreclosure by sale until the mediation period has expired or otherwise ends, whichever is earlier. The bill extends this restriction to 15 days after the mediation period has ended, if it ends fewer than eight months after the action's return date.

The bill further limits what can transpire during the litigation for a period up to eight months from the return date. During this time frame, the parties cannot make a motion, request, or demand with request to each other, other than those relating to the mediation. The bill specifies that this restriction does not apply to a mortgagor's motion to dismiss that challenges the court's jurisdiction, or to a mortgagee's response to such a motion. The bill also specifies that if the mortgagor makes any other type of motion, request, or demand with respect to the mortgagee within the eight-month period, the restriction during this period no longer applies to either party.

The bill specifies that these provisions do not affect any motions made on or before June 30, 2011, or defaults or judgments entered on or before that date.

Under the bill, in foreclosure actions with return dates on or after July 1, 2011, after the eight-month or 15-day periods described above, mortgagees may file simultaneously a motion for default and a motion for judgment of strict foreclosure or for judgment of foreclosure by sale with respect to the mortgagor. This applies despite any contrary law.

***Failure Regarding Documents.*** The bill specifies that either party's failure to comply with any of the law's documentation requirements for the foreclosure mediation program is not grounds for ending the mediation period before a second session has been conducted.

***Changes to Mediation Process: All Eligible Actions***

These changes apply to all foreclosure actions eligible for the mediation program – i.e., residential foreclosures with return dates on or after July 1, 2008 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

***Parties' Appearance at Mediation.*** By law, the mortgagor and mortgagee must appear in person at each mediation session and must have authority to agree to a proposed settlement. Under current law, the mortgagee's attorney can appear instead if he or she has the authority to agree to a proposed settlement and the mortgagee is available by telephone. Under the bill, if a mortgagee's attorney is appearing on behalf of the mortgagee, the mortgagee must also be available to participate in the mediation session by speakerphone, as long as there is an opportunity for the mortgagee and its counsel to engage in confidential discussions.

The bill also provides that when there are multiple mortgagors, only one must appear at mediation sessions after the first session, unless there is good cause for all to appear. If only one mortgagor appears, the others must be available during the session to participate by speakerphone, as long as they and their attorney have the opportunity to engage in confidential discussions.

By law, a court may not award attorney's fees to a mortgagee for time spent in a mediation session if it does not comply with the requirements for personal appearance or attorney appearance as specified above, unless the court finds reasonable cause for the failure.

***Referral to CHFA Mortgage Assistance Programs.*** By law, the mediator can refer the mortgagor to certain CHFA mortgage assistance programs at any time during the mediation. The bill specifies that this only applies to residential mortgagors, not religious organizations.

**EFFECTIVE DATE: July 1, 2011, except a conforming change is effective October 1, 2011.**

**§ 5 — TASK FORCE ON CHFA LOSS MITIGATION PROGRAMS**

The bill establishes a task force to review and evaluate the loss mitigation programs that CHFA administers. The members are the following, or their designees:

- the governor,
- the six legislative leaders,
- the chairpersons of the banks and housing committees,
- the banking commissioner, and
- CHFA's chief housing officer.

Under the bill, the task force must elect a chairperson from among its members. The chairperson must schedule the first meeting, which must be within 60 days of the bill's passage. The bill requires the Banks Committee's administrative staff to also serve in that capacity for the task force.

The bill requires the task force to submit a report on its findings and recommendations by January 1, 2012 to the Banks Committee. The task force terminates when it submits its report or on January 1, 2012, whichever is later.

**EFFECTIVE DATE: Upon passage**

#### **§ 6 — MORTGAGE LOAN ORIGINATORS – EXCLUSION FROM OVERTIME REQUIREMENTS**

The bill excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) mortgage loan originators considered to be highly compensated employees under federal regulations, except for people who perform the functions of an originator solely from their employer's office. It specifies that for this purpose, an originator's home office is not considered an employer's office.

The bill applies the banking statute's existing definition of mortgage loan originator.

Under federal regulations, someone with total annual compensation of at least \$100,000, whose primary duty includes office or non-manual work, and who customarily and regularly performs exempt duties or responsibilities of an executive, administrative, or professional employee as identified by regulation, is exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act (29 C. F. R. § 541. 601). The bill specifies that starting on October 1, 2012, the total annual compensation of a mortgage loan originator for this purpose must be increased annually, effective each October 1. The increase must be based on the year-to-year percentage increase in the average of all workers' weekly earnings as the labor commissioner determines under law.

**EFFECTIVE DATE: Upon passage**

#### **§§ 7-8 — PROTECTIONS FOR TENANTS OF FORECLOSED HOMES**

The bill provides protections for certain tenants of foreclosed homes. These provisions are nearly identical to those in the federal Protecting Tenants at Foreclosure Act. The federal act is set to expire on December 31, 2014. The bill's provisions regarding tenants of foreclosed homes will sunset on December 31, 2017.

### ***Tenants of Foreclosed Homes***

The following provisions apply to foreclosures with return dates on or after passage through December 31, 2017. The foreclosure must be on a federally related mortgage loan or on any dwelling or residential property. Under the bill, a “federally related mortgage loan” has the same meaning as in the federal Real Estate Settlement Procedures Act of 1974.

Under the bill, an immediate successor in interest to any such foreclosed property takes the property subject to the rights of bona fide tenants, as specified below, as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective.

Generally, the bill provides that tenants with a lease entered into before the successor takes absolute title must be allowed to remain until the end of the lease term. Despite a lease, tenants can be evicted on 90 days' notice as provided above if the successor in interest sells the unit to a buyer who will occupy it as his or her primary residence or the lease was terminable at will. Tenants who did not have leases can also be evicted on 90 days' notice.

These protections apply only to “bona fide” leases or tenancies. These are those in which the mortgagor or the mortgagor's child, spouse, or parent is not the tenant; that were the result of an arms-length transaction; and that require rent that is not substantially less than fair market rent for the property or is reduced or subsidized due to a federal, state, or local subsidy. The bill specifies that these provisions do not affect the termination requirements for any federal- or state-subsidized tenancy (see below for changes regarding section 8 tenancies). They also do not affect any state or local laws that provide tenants with longer time periods or additional protections.

The bill specifies that for these purposes, the date of a notice of foreclosure is the date when complete title to a property is transferred to a successor entity or person under a court order or under the provisions in a mortgage, deed of trust, or security deed.

### ***Section 8 Tenants***

The bill also provides protections for tenants who are receiving assistance under the federal Housing Choice Voucher Program (i.e., section 8 tenants).

The bill limits the circumstances in which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a section 8 tenant. On or before December 31, 2017, the bill allows the owner to terminate the tenancy on the date of taking ownership if the owner will occupy the unit as his or her primary residence and has provided the tenant a notice to vacate at least 90 days before the notice's effective date. Otherwise, the bill specifies that vacating the property before sale cannot be considered good cause for terminating the tenant's lease.

Under the bill, on or before December 31, 2007, for foreclosures involving federally-related mortgage loans (as specified above) or any residential property occupied by a section 8 tenant, the immediate successor in interest takes the property subject to the lease between the tenant and prior owner and housing assistance payments contract between the prior owner and the public housing agency.

The bill specifies that all of these provisions related to section 8 tenants do not affect any state or local law that provide tenants with longer time periods or other protections.

**EFFECTIVE DATE: Upon passage**

## **§§ 9-12 — GENERAL-USE PREPAID CARDS**

### ***Definition***

The bill specifically excludes general-use prepaid cards from the definition of gift certificate. A “general-use prepaid card” is a card, code, or other device issued to a consumer in exchange for payment, on a prepaid basis and in a specific amount, primarily for personal, family, or household purposes. It is redeemable when presented at multiple, unaffiliated merchants for goods or services, and can be used at automated teller machines.

By law, a “gift certificate” is a record evidencing a promise, made for consideration, by the seller or issuer of the record that goods or services will be provided to the owner of the record to the value shown in the record, including a prefunded record containing a microprocessor chip, magnetic strip, or other means to store information and for which an amount is deducted from the stored value upon each use; a gift card or electronic gift card; and a stored-value card or certificate, among others. It does not include prepaid calling cards or prepaid commercial mobile radio services (CGS § 3-56a(5)).

Current law prohibits gift certificates from having a dormancy, abandoned property, unclaimed property, escheat, or inactivity fee or charge or any similar charge, fee, or penalty for inactivity. Suggestive language on them or in any agreement relating to them that there is a charge, fee, or penalty for inactivity, is also prohibited. Gift certificates are exempted from state escheat provisions. The bill explicitly applies these fee, charge, and penalty prohibitions and the escheat exemption to general-use prepaid cards.

### ***Expiration Date Requirements***

Under the bill, a general-use prepaid card can include an expiration date if it provides the following information:

- that the underlying funds do not expire and a consumer can obtain a replacement general-use prepaid card from the issuer and
- a toll-free telephone number and an Internet website address, if one is available, that a holder of a general-use prepaid card can use to replace it after it expires.

This information must be in writing. An issuer can satisfy this disclosure requirement by providing disclosures consistent with federal regulation. The disclosure that the underlying funds do not expire and a replacement general-use prepaid card can be obtained must be made with equal prominence and in close proximity to the expiration date on the general-use prepaid card.

The bill also prohibits a general-use prepaid card from including an expiration date if a fee or charge is imposed on the holder for replacing it or providing the holder with its remaining

balance, so long as it has not been lost or stolen. It requires the seller of a general-use prepaid card with an expiration date to have policies and procedures that give consumers a reasonable opportunity to purchase a card with at least five years remaining until it expires.

**EFFECTIVE DATE: October 1, 2011**

## **§§ 13-15 — REGISTRATION REQUIREMENTS FOR FORECLOSURES**

### ***Properties Subject to Registration Requirement***

Under current law, the registration requirement applies only to one-to-four family residential properties. The bill requires registration of all buildings containing at least one dwelling unit, including commercial buildings. Under the bill, a dwelling unit is a house, building, or portion of either that is occupied or designed to be occupied, or is rented, leased, or hired out to be occupied, exclusively as a home or residence for at least one person.

The bill excludes properties where the mortgage being foreclosed is held by an individual. It also specifies that any individual or entity, including a government entity, that meets the bill's requirements must register subject properties.

As explained further below, the registration requirement applies when such properties are in foreclosure or someone takes title to such properties after foreclosure.

### ***Registration Requirement***

***Registration by Plaintiffs in Foreclosure Action.*** The bill requires registration by people or entities who, on or after October 1, 2011, bring a foreclosure action concerning a subject property.

The required registration information at this stage is generally similar to that required under current law and the bill for registration by those who take title to foreclosed properties (see below).

Anyone subject to this requirement must register the property with the town clerk in the municipality where the property is located. They must do so at the time and place that the notice of *lis pendens* regarding the property is recorded, according to the law's requirements for such a notice. The bill specifies that the municipality must maintain the registration separate from the land records.

The bill requires the registration to contain the name, address, telephone number, and electronic mail address (“contact information”) of the plaintiff in the foreclosure action. Plaintiffs must indicate on the registration whether they prefer to be contacted by first class or electronic mail and the preferred addresses for such communications.

If the plaintiff is an individual or entity residing out of state, it must provide contact information for a direct contact in Connecticut, if such a contact is available.

The bill requires plaintiffs to also provide contact information for the local property maintenance company or other person or entity serving as the plaintiff's contact with the municipality for matters concerning the property.

The registration must contain the following heading, in at least 10-point, boldface capital letters: **NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING FORECLOSED.**

Under the bill, plaintiffs must report to the town clerk any change in the information provided on the registration within 30 days following the change. They may do so by mail or other form of delivery.

The bill also requires plaintiffs, when registering, to pay a land record filing fee to the municipality as specified in existing law.

***Registration by Owners After Title Vests.*** Current law requires anyone in whom title to a subject property has vested after October 1, 2009, through a foreclosure action (whether strict foreclosure or foreclosure by sale) to register the property with the town clerk of the municipality where the property is located or with the Mortgage Electronic Registration Systems (MERS), an online system the real estate finance industry created for originating, selling, and servicing rights.

The bill modifies the registration requirement on anyone taking title to such a property following foreclosure on or after October 1, 2011, but the mechanics of the registration differ in some respects. Under the bill, registration must be with the municipality, not MERS. The registration must be mailed or delivered to the town clerk. Under current law, the registration deadline is ten days after the property becomes vacant. The bill instead requires registration within 15 days of absolute title vesting in the person.

If the registering owner was also the plaintiff in the foreclosure action, rather than registering anew, the person must update its prior registration with any change needed to comply with the bill's requirements for other registrants who take title to foreclosed property, as specified below. This update must occur within 15 days of absolute title vesting in the person. The updated registration must include, in at least 10-point boldface capital letters, the following heading: **NOTICE TO MUNICIPALITY: UPDATED REGISTRATION FOR PROPERTY ACQUIRED THROUGH FORECLOSURE.**

Current law requires a corporation or individual residing out of state who registers with a municipality (but not with MERS) to provide contact information for a direct contact in Connecticut. The bill extends this requirement to any out-of-state registrant (not just individuals or corporations), as long as an in-state direct contact is available.

Current law requires registrants to also provide contact information for the local property maintenance company responsible for the property's security and maintenance (or maintenance only if registration is with MERS), if there is one. The bill requires such information, and specifies that the responsible person or entity need not be a property maintenance company.

The registration must indicate the date when absolute title vested in the registrant. It must also contain the following heading, in the same form as the headings described above: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY ACQUIRED THROUGH FORECLOSURE.

Current law requires those who register with a municipality, but not with MERS, to pay a \$100 fee to the municipality. The bill instead requires all registrants (including those who were plaintiffs in the foreclosure action and are updating their prior registration) to pay to the municipality a land record filing fee as specified by law.

The bill also requires registrants, by mail or other delivery form, to report to the town clerk any change in registration information within 30 days of the change. Current law requires those who register with municipalities to update their information within 10 days.

Current law requires those registering with municipalities to indicate their preferred contact method and address. The bill eliminates this requirement (but as described above, it imposes the requirement on registering plaintiffs to foreclosure actions).

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### **HB 6382: AN ACT CONCERNING THE BANKING FUND**

This bill shifts the following funds from the Banking Fund to the General Fund: the \$200 fee that Connecticut banks and credit unions must pay if they do not pay their annual assessment for the Banking Department's expenses in a timely fashion and fines, civil penalties, or restitution imposed by the banking commissioner or ordered by a court stemming from violations of the banking laws. The bill does not increase the amount of any such fees or fines. The bill also makes technical changes.

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### **HB 6407: AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS**

This bill, which died, would have allowed employers to pay their employees via payroll cards and sets numerous conditions for their use, such as notice requirements, allowing one free withdrawal per pay period, and limiting fees.

The bill allows employers to require that employees hired after October 1, 2011 be paid via either direct deposit or a payroll card, provided they meet certain notice requirements. Employees hired before that date must provide written or electronic consent to be paid in either form; withholding consent presumably allows them to continue receiving cash or check payments. Current law requires employers to pay their employees in cash or by negotiable check and allows them to pay via direct deposit if the employee submits a written request.

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**HB 6454: AN ACT ADOPTING THE FEDERAL HIGHLY COMPENSATED  
EMPLOYEE EXEMPTION FOR MORTGAGE LOAN ORIGINATORS**

This bill, which was incorporated into HB6351, excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) mortgage loan originators who are designated as highly compensated employees under federal regulations. It applies the banking statute's current definition of mortgage loan originator and specifies that this includes anyone whose primary duty is to assist his or her employer's customers or prospective customers in identifying and securing a mortgage loan.

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**HB 6497: AN ACT CREATING JOBS BY ENHANCING CONNECTICUT'S  
CORPORATE AND SECURITIES LAWS**

This bill creates a mechanism for specified business entities to change their entity type through mergers, conversions, and interest exchanges. It also allows domestications, through which a business entity becomes an entity of the same type in another jurisdiction. Subject to various conditions, the bill allows these transactions to involve both domestic and foreign entities. The bill is based on the Model Entity Transactions Act.

The bill does not affect existing law for transactions involving the same entity types (for example, a share exchange between two corporations or the merger of two partnerships). However, it replaces current law's provisions for changing from one entity type to another (for example, provisions allowing a partnership to convert into a limited liability company (LLC)). Current law authorizes some, but not all, of the transactions covered by the bill. Thus, the bill both expands the available transactions and standardizes procedures for transactions involving different entity types.

To enter into one of these transactions, specified parties must approve a transaction plan. The bill sets the plan's contents as well as which entities must approve it and how they must do so. The approval method is largely tied to existing law for approval of such transactions. The bill also provides how parties may amend or abandon a plan.

For the transaction to take effect, the bill requires specified parties to the transaction to file documents with the secretary of the state and outlines procedures and contents for them. The bill also outlines the various consequences of the transactions, including how the parties succeed to the rights and liabilities of the entities involved in the transaction.

The bill's procedural requirements are generally similar to those for transactions already permitted by law (for example, mergers or share exchanges of business corporations). In many cases the bill's requirements are more detailed than those under existing law.

***EFFECTIVE DATE: January 1, 2014***

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**HB 6628: AN ACT CONCERNING TAX FAIRNESS**

This bill, which died in Committee, would have instituted a combined unitary tax for corporations.

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**HB 6644: AN ACT CONCERNING PRIORITY OF MECHANIC'S LIENS**

To establish a process for the holder of a mechanic's lien to establish priority for the lien effective upon the filing of a "Notice of Commencement of Work" with the town clerk for recording with deeds of land.

This bill died in Committee.

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**HB 6651: AN ACT IMPLEMENTING PROVISIONS OF THE BUDGET CONCERNING  
GENERAL GOVERNMENT**

This budget implementation bill was signed into law by the Governor on June 13<sup>th</sup>. Among other things, it amends Section 7-34a of the General Statutes to make permanent the ten dollar surcharge on recordings that was first established in 2009. The surcharge was set to expire on July 1, 2011. Revenue raised by the surcharge is to be dedicated to the uses set forth in Connecticut General Statutes Section 4-66aa, as amended by Section 133 of the bill.

***PUBLIC ACT 11-48 EFFECTIVE DATE: July 1, 2011***

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