



**Substitute House Bill No. 7141**

**Public Act No. 17-233**

**AN ACT CONCERNING SECURED AND UNSECURED LENDING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-3 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

Other definitions applying to this title or to specified parts thereof and the sections in which they appear are:

"Account". Sections 36a-155 and 36a-365.

"Additional proceeds". Section 36a-746e.

"Administrative expense". Section 36a-237.

"Advance fee". Sections 36a-485 as amended by this act, and 36a-615.

"Advertise", "advertisement" or "advertising". [Section] Sections 36a-485,

as amended by this act, 36a-535, as amended by this act, 36a-586, as

amended by this act, 36a-596, as amended by this act, 36a-655, as

amended by this act, 36a-671, as amended by this act, and 36a-846,

as amended by this act

"Agency bank". Section 36a-285.

"Agent". Section 36a-494.

"Alternative mortgage loan". Section 36a-265.

"Amount financed". Section 36a-690.

"Annual percentage rate". Section 36a-690.

"Annual percentage yield". Section 36a-316.

"Annuities". Section 36a-455a.

"Applicant". Section 36a-736.

"APR". Section 36a-746a.

"Assessment area". Section 36a-37.

"Assets". Section 36a-70.

"Associate". Section 36a-184.

"Associated member". Section 36a-458a.

"Authorized delegate". Section 36a-596, [as amended by this act](#).

"Bank". Section 36a-30.

"Bankers' bank". Section 36a-70.

"Banking business". Section 36a-425.

"Basic services". Section 36a-437a.

"Billing cycle". Section 36a-565.

"Bona fide nonprofit organization". Sections 36a-487

and 36a-655, [as amended by this act](#).

"Branch". Sections 36a-145, 36a-410 and 36a-435b.

"Branch office". Sections 36a-485, [as amended by this act](#), and 36a-715.

"Branch or agency net payment entitlement". Section 36a-428n.

"Branch or agency net payment obligation". Section 36a-428n.

"Broker". Section 36a-746a.

"Business and industrial development corporation". Section 36a-626.

"Business and property in this state". Section 36a-428n.

"Capital". Section 36a-435b.

"Cash advance". Section 36a-564.

"Cash price". Section 36a-770.

"Certificate of incorporation". Section 36a-435b.

"CHFA loan". Section 36a-760.

"Clerical or support duties". Section 36a-485, [as amended by this act](#).

"Closely related activities". Sections 36a-250 and 36a-455a.

"Collective managing agency account". Section 36a-365.

"Commercial vehicle". Section 36a-770.

"Community bank". Section 36a-70.

"Community credit union". Section 36a-37.

"Community development bank". Section 36a-70.

"Community reinvestment performance". Section 36a-37.

"Connecticut holding company". Sections 36a-53 and 36a-410.

"Consolidate". Section 36a-145.

"Construction loan". Section 36a-458a.

"Consumer". Sections 36a-155 and 36a-695.

"Consumer Credit Protection Act". Section 36a-676.

"Consumer debtor" and "debtor". Sections 36a-645 and 36a-800, [as](#)

[amended by this act.](#)

"Consumer collection agency". Section 36a-800, [as amended by this act.](#)

"Consummation". Section 36a-746a.

"Control person". [\[Section\]](#) [Sections](#) 36a-485, [as amended by this act,](#)

[36a-535, as amended by this act, 36a-580, as amended by this act, 36a-596,](#)

[as amended by this act, 36a-655, as amended by this act, 36a-671, as](#)

[amended by this act, and 36a-846, as amended by this act.](#)

"Controlling interest". Section 36a-276.

"Conventional mortgage rate". Section 36a-760.

"Corporate". Section 36a-435b.

"Credit". Section 36a-645.

"Credit manager". Section 36a-435b.

"Creditor". Sections 36a-676, 36a-695 and 36a-800, [as amended by this act.](#)

"Credit clinic". Section 36a-700.

"Credit rating agency". Section 36a-695.

"Credit report". Section 36a-695.

"Credit union service organization". Section 36a-435b.

"Credit union service organization services". Section 36a-435b.

"De novo branch". Section 36a-410.

"Debt". Section 36a-645.

"Debt adjustment". Section 36a-655, [as amended by this act](#).

"Debt mutual fund". Sections 36a-275 and 36a-459a.

["Debt negotiation". Section 36a-671, as amended by this act.](#)

"Debt securities". Sections 36a-275 and 36a-459a.

"Debtor". Section 36a-655, [as amended by this act](#),

[36a-671, as amended by this act.](#)

"Deliver". Section 36a-316.

"Deposit". Section 36a-316.

"Deposit account". Section 36a-316.

"Deposit account charge". Section 36a-316.

"Deposit account disclosures". Section 36a-316.

"Deposit contract". Section 36a-316.

"Deposit services". Section 36a-425.

"Depositor". Section 36a-316.

"Depository institution". Section 36a-485, [as amended by this act](#).

"Derivative transaction". Section 36a-262.

"Director". Section 36a-435b.

"Dwelling". Section 36a-485, [as amended by this act](#).

"Earning period". Section 36a-316.

"Electronic payment instrument". Section 36a-596, [as amended by this act](#).

"Eligible collateral". Section 36a-330.

"Eligible entity". Section 36a-34.

"Employee". Section 36a-485, [as amended by this act](#).

"Entity". Section 36a-380.

"Equity mutual fund". Sections 36a-276 and 36a-459a.

"Equity security". Sections 36a-276 and 36a-459a.

"Executive officer". Sections 36a-263 and 36a-469c.

"Expedited Connecticut bank". Section 36a-70.

"Experience in the mortgage business". Section 36a-488.

"Federal banking agency". Section 36a-485, [as amended by this act](#).

"Federal Credit Union Act". Section 36a-435b.

"Federal Home Mortgage Disclosure Act". Section 36a-736.

"FHA loan". Section 36a-760.

"Fiduciary". Section 36a-365.

"Filing fee". Section 36a-770.

"Finance charge". Sections 36a-690 and 36a-770.

"Financial institution". Sections 36a-41, 36a-44a, 36a-155,  
36a-316, 36a-330, 36a-435b, 36a-736 and 36a-755.

"Financial records". Section 36a-41.

"First mortgage loan". Sections 36a-485, [as amended by this act](#), 36a-705  
and 36a-725.

["Foreclosure rescue services". Section 36a-671, as amended by this act.](#)

"Foreign banking corporation". Section 36a-425.

"Fully indexed rate". Section 36a-760b.

"General facility". Section 36a-580, [as amended by this act](#).

"Global net payment entitlement". Section 36a-428n.

"Global net payment obligation". Section 36a-428n.

"Goods". Sections 36a-535, [as amended by this act](#), and 36a-770.

"Graduated payment mortgage loan". Section 36a-265.

"Guardian". Section 36a-365.

"High cost home loan". Section 36a-746a.

"Holder". Section 36a-596, [as amended by this act](#).

"Home improvement loan". Section 36a-736.

"Home purchase loan". Section 36a-736.

"Home state". Section 36a-410.

"Housing finance agency". Section 36a-487.

"Immediate family member". Sections 36a-435b and 36a-485, [as amended by this act](#).

"Independent contractor". Section 36a-485, [as amended by this act](#).

"Individual". Section 36a-485, [as amended by this act](#).

"Insider". Section 36a-454b.

"Installment loan contract". Sections 36a-535, [as amended by this act](#),  
and 36a-770.

"Insurance". Section 36a-455a.

"Insurance bank". Section 36a-285.

"Insurance department". Section 36a-285.

"Interest". Section 36a-316.

"Interest rate". Section 36a-316.

"Interim interest". Section 36a-746a.



"Investments". Section 36a-602.

"Lender". Sections 36a-746a, 36a-760 and 36a-770.

"Lessor". Section 36a-676.

"License". Section 36a-626.

"Licensee". Sections 36a-596, [as amended by this act](#),

36a-607, [as amended by this act](#), and 36a-626.

"Limited branch". Section 36a-145.

"Limited facility". Section 36a-580, [as amended by this act](#).

"Loan broker". Section 36a-615.

"Loan processor or underwriter". Section 36a-485, [as amended by this act](#).

"Loss". Section 36a-330.

"Made in this state". Section 36a-770.

"Main office". Section 36a-485, [as amended by this act](#).

"Managing agent". Section 36a-365.

"Manufactured home". Section 36a-457b.

**["Material litigation". Section 36a-598.]**

"Member". Section 36a-435b.

"Member business loan". Section 36a-458a.

"Member in good standing". Section 36a-435b.

"Membership share". Section 36a-435b.

"Mobile branch". Sections 36a-145 and 36a-435b.

"Monetary value". Section 36a-596, [as amended by this act](#).

"Money transmission". Section 36a-596, [as amended by this act](#).

"Mortgage". Section 36a-760g.

"Mortgage broker". Sections 36a-485, [as amended by this act](#), 36a-705 and 36a-760.

"Mortgage correspondent lender". Section 36a-485, [as amended by this act](#).

"Mortgage insurance". Section 36a-725.

"Mortgage lender". Sections 36a-485, [as amended by this act](#), 36a-705 and 36a-725.

"Mortgage loan". Sections 36a-261, 36a-265, 36a-457b and 36a-736.

"Mortgage loan originator". Section 36a-485, [as amended by this act](#).

"Mortgage rate lock-in". Section 36a-705.

"Mortgage servicer". Section 36a-715.

"Mortgagee". **[Section]** [Sections 36a-671, as amended by this act,](#)  
[and](#) 36a-715.

"Mortgagor". **[Section]** [Sections 36a-671, as amended by this act,](#)  
[and](#) 36a-715.

"Motor vehicle". Section 36a-770.

"Multiple common bond membership". Section 36a-435b.

"Municipality". Section 36a-800, [as amended by this act](#).

"Net outstanding member business loan balance". Section 36a-458a.

"Net worth". Sections 36a-441a and 36a-458a.

"Network". Section 36a-155.

"Nonprime home loan". Section 36a-760.

"Nonrefundable". Section 36a-498.

"Nontraditional mortgage product". Section

36a-489a, [as amended by this act](#).

"Note account". Sections 36a-301 and 36a-456b.

"Office". Sections 36a-23, 36a-316 and 36a-485, [as amended by this act](#).

"Officer". Section 36a-435b.

"Open-end line of credit". Section 36a-760.

"Open-end loan". Section 36a-565.

"Organization". Section 36a-800, [as amended by this act](#).

"Out-of-state holding company". Section 36a-410.

"Outstanding". Section 36a-596, [as amended by this act](#).

"Passbook savings account". Section 36a-316.

"Payment instrument". Section 36a-596, [as amended by this act](#).

"Periodic statement". Section 36a-316.

"Permissible investment". Section 36a-596, [as amended by this act](#).

"Person". Sections 36a-184 and 36a-485.

"Post". Section 36a-316.

"Prepaid finance charge". Section 36a-746a.

"Prime quality". Section 36a-596, [as amended by this act](#).

"Principal amount of the loan". Section 36a-485, [as amended by this act](#).

"Processor". Section 36a-155.

"Public deposit". Section 36a-330.

"Purchaser". Section 36a-596, [as amended by this act](#).

"Qualified financial contract". Section 36a-428n.

"Qualified public depository" and "depository". Section 36a-330.

"Real estate". Section 36a-457b.

"Real estate brokerage activity". Section 36a-485, [as amended by this act](#).

"Records". Section 36a-17.

"Registered mortgage loan originator". Section 36a-485, [as amended by this act](#).

"Related person". Section 36a-53.

"Relocate". Sections 36a-145 and 36a-462a.

"Residential mortgage loan". Section 36a-485, [as amended by this act](#).

["Residential property". Section 36a-671, as amended by this act.](#)

"Residential real estate". Section 36a-485, [as amended by this act](#).

"Resulting entity". Section 36a-34.

"Retail buyer". Sections 36a-535, [as amended by this act](#), and 36a-770.

"Retail credit transaction". Section 42-100b.

"Retail installment contract". Sections 36a-535, [as amended by this act](#),

and 36a-770.

"Retail installment sale". Sections 36a-535, [as amended by this act](#),

and 36a-770.

"Retail seller". Sections 36a-535, [as amended by this act](#), and 36a-770.

"Reverse annuity mortgage loan". Section 36a-265.

"Sales finance company". Sections 36a-535, [as amended by this act](#), and

36a-770.

"Savings department". Section 36a-285.

"Savings deposit". Section 36a-316.

"Secondary mortgage loan". Section 36a-485, [as amended by this act](#).

"Security convertible into a voting security". Section 36a-184.

"Senior management". Section 36a-435b.

["Servicing". Section 36a-846, as amended by this act.](#)

"Settlement agent". Section 36a-494.

"Share". Section 36a-435b.

["Short sale". Section 36a-671, as amended by this act.](#)

"Simulated check". Section 36a-485, [as amended by this act.](#)

"Single common bond membership". Section 36a-435b.

"Special mortgage". Section 36a-760c.

"Social purpose investment". Section 36a-277.

"Sponsored". Section 36a-485, [as amended by this act.](#)

"Standard mortgage loan". Section 36a-265.

"Stored value". Section 36a-596, [as amended by this act.](#)

["Student education loan". Section 36a-846, as amended by this act.](#)

["Student loan borrower". Section 36a-846, as amended by this act.](#)

["Student loan servicer". Section 36a-846, as amended by this act.](#)

"Table funding agreement". Section 36a-485, [as amended by this act.](#)

"Tax and loan account". Sections 36a-301 and 36a-456b.

"The Savings Bank Life Insurance Company". Section 36a-285.

"Time account". Section 36a-316.

"Travelers check". Section 36a-596, [as amended by this act](#).

"Troubled Connecticut credit union". Section 36a-448a.

"Unique identifier". Section 36a-485, [as amended by this act](#).

"Unsecured loan". Section 36a-615.

"Value". Section 36a-603, [as amended by this act](#).

"Virtual banking". Section 36a-170.

"Warehouse agreement". Section 36a-485, [as amended by this act](#).

Sec. 2. Section 36a-24b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) In addition to any other duties imposed upon the **[Banking Commissioner]** [commissioner](#) by law, the commissioner is authorized to require persons engaged in a financial services industry subject to the commissioner's jurisdiction to be licensed or registered through the system, as defined in section 36a-2.

(b) In the event the commissioner elects to require system-based licensure for persons engaged in a financial services industry subject to the commissioner's jurisdiction, the commissioner shall require all initial or renewal applications for such licenses or registrations in this state to be made and processed through the system in such form as the commissioner may prescribe, and the system shall be authorized to receive and maintain records related to such licenses or registrations to the same extent allowed or required to be maintained by the commissioner. For this purpose, the commissioner may establish requirements by order as necessary for participation in the system, including, but not limited to: (1) Background checks, including in the case of any form of business organization, checks on the individuals comprising the ownership or management of such organization, for criminal history through (A) fingerprint submission to the Federal Bureau of Investigation or other state, national or international criminal databases, (B) civil, criminal or administrative records from any governmental jurisdiction, (C) credit history, including an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, or (D) any other information as deemed necessary by the system; (2) the payment of fees to apply for or renew licenses or registrations through the system; (3) the setting or resetting of license expiration, renewal or transition dates or reporting dates or forms; **[and]** (4) the requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the system; [and \(5\) the use of electronic bonds](#). Such information may thereafter be used by the commissioner to determine an applicant's eligibility for licensing under applicable law and any order issued by the commissioner pursuant to this section. For the purpose of participating in the system, the commissioner may by order waive or modify, in whole or in part, any applicable requirement of this title and establish new requirements as reasonably necessary. For the purpose of implementing an orderly and efficient licensing process, the commissioner may adopt licensing regulations, in accordance with the provisions of chapter 54, and interim procedures for licensing and acceptance of applications.

(c) In the event the commissioner elects to require system-based licensure for persons engaged in financial services industries subject to the commissioner's jurisdiction, the commissioner may report regularly to the system violations of and enforcement actions under applicable law and other relevant information. The

commissioner may establish relationships or enter into contracts with the system or other entities designated by the system to collect and maintain records and process transaction fees or other fees related to licensees or other persons required or permitted to be licensed or registered on the system.

(d) To reduce the points of contact that the commissioner or the Federal Bureau of Investigation may have to maintain for purposes of this title, the commissioner may use the system as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency or any other source as directed by the commissioner.

(e) A person required or permitted to be licensed or registered on the system may challenge information entered into the system by the commissioner. Such challenge shall (1) be made in writing to the commissioner, (2) set forth the specific information being challenged, and (3) include any evidence which supports the challenge. A challenge shall be limited to the factual accuracy of information within the system. If the commissioner determines that the information entered into the system is factually inaccurate, the commissioner shall take prompt action to correct such information. Nothing in this subsection shall be construed to permit a challenge under this section to the merits or factual basis of any administrative action taken by the commissioner pursuant to this title.

(f) A person making any filing or submission of any information on the system shall do so in accordance with the procedures and requirements of the system and shall pay applicable fees or charges to the system. Each person required to obtain registration or licensure through the system shall timely submit to the system accurate reports that shall be in such form and contain such information as the system may require.

(g) All fees paid for any initial application for a license or registration or for a renewal application for a license or registration, including, but not limited to, fees paid in connection with an application that is denied or withdrawn prior to the issuance of the license or registration, shall be nonrefundable. No fee shall be prorated if the license or registration is surrendered, revoked or suspended prior to the expiration of the period for which it was approved.

(h) The commissioner may automatically suspend a license or registration of a person on the system if such person receives a deficiency on the system indicating that a required payment was Returned-ACH or returned pursuant to any other term as may be utilized by the system to indicate that payment was not accepted. After a license or registration has been automatically suspended pursuant to this subsection, the commissioner shall give such licensee or registrant notice of the automatic suspension, pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such action in accordance with section 36a-51, [as amended by this act](#), and require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this subsection.

(i) The commissioner may deem an application for a license or registration on the system abandoned if the applicant fails to respond to any request for required information. The commissioner shall notify the applicant on the system that if such information is not submitted within sixty days of the date of such request the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license or registration.

(j) The commissioner may issue a temporary order to cease business under a license or registration if the commissioner determines that such license or registration was issued erroneously. The commissioner shall give the licensee an opportunity for a hearing on such action in accordance with section 36a-52, [as amended by this act](#). Such temporary order shall become effective upon receipt by the licensee and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Sec. 3. Subdivision (1) of subsection (a) of section 36a-50 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):



(a) (1) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed by the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 6 of this act. The notice shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person in accordance with section 6 of this act. Any such notice shall include: (A) A statement of the time, place, and nature of the hearing; (B) a statement of the legal authority and jurisdiction under which the hearing is to be held; (C) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (D) a short and plain statement of the matters asserted; (E) the maximum penalty that may be imposed for such violation; and (F) a statement indicating that such person may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice.

Sec. 4. Subsection (a) of section 36a-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) The commissioner may suspend, revoke or refuse to renew any license issued by the commissioner under any provision of the general statutes by sending a notice to the licensee by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, or by personal delivery, as defined in section 4-166, in accordance with section 6 of this act. The notice shall be deemed received by the licensee on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the licensee in accordance with section 6 of this act. Any such notice shall include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statutes, regulations, rules or orders involved; (4) a short and plain statement of the matters asserted; and (5) a statement indicating that the licensee may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. If the commissioner finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in the notice, the commissioner may order summary suspension of a license in accordance with subsection (c) of section 4-182 and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section, pending proceedings for suspension, revocation or refusal to renew.

Sec. 5. Subsection (a) of section 36a-52 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule, or order adopted or issued thereunder, the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed by the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 6 of this act. The notice shall be deemed received by the person on the earlier of the date of actual receipt, or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person in accordance with section 6 of this act. Any such notice shall include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (4) a short and plain statement of the matters asserted; and (5) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice, unless the person fails to appear at the hearing. After the hearing, the commissioner shall determine whether an order to cease and desist should be issued against the person named in the notice. If the

person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner shall issue an order to cease and desist against the person. No such order shall be issued except in accordance with the provisions of chapter 54.

Sec. 6. (NEW) (*Effective October 1, 2017*) Notwithstanding the provisions of subsection (c) of section 4-182 of the general statutes, the Banking Commissioner may provide notice pursuant to section 4-182 of the general statutes or sections 36a-50 to 36a-52, inclusive, of the general statutes, as amended by this act, to any person licensed by the commissioner by personal delivery, as defined in section 4-166 of the general statutes. For licensed persons who are not natural persons, the electronic mail addresses of the natural persons designated as primary contacts by such licensed persons in the contact employee fields on the system shall constitute an acceptable means of communication for personal delivery, and a notice sent by electronic mail to such primary contacts at such electronic mail addresses shall constitute notice. For licensed persons who are natural persons, the electronic mail address identified by such licensed persons on the system shall constitute an acceptable means of communication for personal delivery within the meaning of section 4-166 of the general statutes, and a notice sent by electronic mail to such electronic mail address shall constitute notice. Any notice provided in accordance with this section shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person on the earlier of the date of actual receipt by any natural person to whom such notice was sent or seven days after such notice was sent.

Sec. 7. Subdivision (4) of section 36a-485 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(4) "Control person" means an individual that directly or indirectly exercises control over another person. Any person that (A) is a director, general partner or executive officer; (B) in the case of a corporation, directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital, is presumed to be a control person. For purposes of this subdivision, "control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

Sec. 8. Section 36a-489a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2019*):

(a) (1) In order to meet the prelicensing education and testing requirements referred to in sections 36a-488 and 36a-489, an individual shall complete: **[at]**

**(A) At least [twenty-one] twenty** hours of education approved in accordance with subdivision (2) of this subsection, which shall include at least **[(A)] (i)** three hours of instruction on relevant federal law and regulations; **[(B)] (ii)** three hours of ethics **training**, including instruction on fraud, consumer protection and fair lending issues; **[(C)] and (iii)** two hours of training related to lending standards for the nontraditional mortgage product marketplace. **]; and (D) one hour of relevant Connecticut law.]**

**(B) At least one hour of education approved in accordance with subdivision (2) of this subsection on relevant Connecticut law.**

(2) For purposes of subdivision (1) of this subsection, prelicensing education courses shall be reviewed and approved by the system based upon reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

(3) Nothing in this subsection shall preclude any prelicensing education course, as approved by the system, that is provided by the sponsor or employer of the individual or an entity which is affiliated with the individual by an agency contract, or any subsidiary or affiliate of such sponsor, employer or entity.

(4) Prelicensing education may be offered either in a classroom, online or by any other means approved by the system.

(5) When prelicensing education requirements described in subdivision (1) of this subsection are completed in another state, such out-of-state prelicensing education requirements shall be accepted as credit towards completion of the prelicensing education requirements of this state, provided such out-of-state prelicensing education requirements are approved by the system.

(6) (A) An individual previously licensed under section 36a-489, subsequent to the applicable effective date of the prelicensing and testing requirements referred to in section 36a-489, who is applying to be relicensed shall prove that such individual has completed all of the continuing education requirements for the year in which the license was last held, except that an individual required to retake prelicensing education pursuant to subparagraph (B) of subdivision (7) and subparagraph (B) of subdivision (8) of this subsection shall not be required to complete any outstanding continuing education requirements.

(B) An individual who previously held a position as a qualified individual or branch manager subsequent to the applicable effective date of the prelicensing and testing requirements referred to in section 36a-488, at a time when such individual was not required to be licensed as a mortgage loan originator, may not hold such position again until such individual has completed all of the continuing education requirements for the year in which such individual last held such position and, effective November 1, 2012, has obtained the required mortgage loan originator license.

(7) (A) If an individual has not obtained a mortgage loan originator license in any state or an active federal registration by the date that is three years from the date such individual completed twenty hours of prelicensing education pursuant to subparagraph (A) of subdivision (1) of this subsection, such individual shall be required to retake twenty hours of prelicensing education in accordance with subparagraph (A) of subdivision (1) of this subsection prior to being licensed as either a mortgage loan originator or a loan processor or underwriter.

(B) If an individual previously held but no longer holds an approved mortgage loan originator license in any state or an active federal registration, such individual shall obtain a mortgage loan originator license in any state or an active federal registration not later than three years from the date such individual last held such license or registration, or such individual shall retake twenty hours of prelicensing education in accordance with subparagraph (A) of subdivision (1) of this subsection prior to being licensed as a mortgage loan originator or loan processor or underwriter.

(8) (A) If an individual has not obtained a mortgage loan originator license or a loan processor or underwriter license in this state by the date that is three years from the date such individual completed one hour of Connecticut specific prelicensing education pursuant to subparagraph (B) of subdivision (1) of this subsection, such individual shall retake one hour of Connecticut specific prelicensing education prior to being licensed as a mortgage loan originator or loan processor or underwriter.

(B) If an individual previously held but no longer holds an approved mortgage loan originator license or loan processor or underwriter license in this state, such individual shall obtain a mortgage loan originator license or loan processor or underwriter license in this state not later than three years from the date such individual last held such license, or such individual shall be required to retake one hour of Connecticut specific prelicensing education in accordance with subparagraph (B) of subdivision (1) of this subsection prior to being licensed as a mortgage loan originator or loan processor or underwriter.

(b) (1) In order to meet the written test requirements referred to in sections 36a-488 and 36a-489, an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the system and administered by a test provider approved by the system based upon reasonable standards.

(2) A written test shall not be treated as a qualified written test for purposes of subdivision (1) of this subsection unless the test adequately measures the individual's knowledge and comprehension in appropriate subject areas, including ethics, federal law and regulation pertaining to mortgage origination, state law and regulation

pertaining to mortgage origination, and federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(3) Nothing in this subsection shall prohibit a test provider approved by the system from providing a test at the location of the sponsor or employer, any subsidiary or affiliate of the sponsor or employer or any entity with which the individual holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(4) (A) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five per cent correct answers to questions.

(B) An individual may retake a test three consecutive times with each consecutive taking occurring at least thirty days after the preceding test. After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(C) (i) An individual who was licensed subsequent to the applicable effective date of the prelicensing and testing requirements referred to in section 36a-489 who has not been licensed as a mortgage loan originator within the five-year period preceding the date of the filing of such individual's application for a mortgage loan originator license, not taking into account any time during which such individual is a registered mortgage loan originator, shall retake such test; and (ii) effective October 1, 2011, an individual licensed as a loan processor or underwriter who applies to be licensed again shall retake the test if such individual has not been licensed as a loan processor or underwriter within the five-year period preceding the date of the filing of such application, not taking into account any time during which such individual is engaged in loan processing or underwriting but not required to be licensed under subdivision (3) of subsection (b) of section 36a-486.

(c) (1) In order to meet the annual continuing education requirements referred to in subsections (a) and (b) of section 36a-489, a licensed mortgage loan originator, a qualified individual or branch manager and, effective October 1, 2011, a licensed loan processor or underwriter, shall complete at least eight hours of education approved in accordance with subdivision (2) of this subsection. Such courses shall include at least (A) three hours of instruction on relevant federal law and regulation; (B) two hours of ethics, including instruction on fraud, consumer protection and fair lending issues; (C) two hours of training related to lending standards for the nontraditional mortgage product marketplace; and (D) effective January 1, 2015, one hour of relevant Connecticut law.

(2) For purposes of subdivision (1) of this subsection, continuing education courses shall be reviewed and approved by the system based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(3) Nothing in this subsection shall preclude any education course approved by the system that is provided by the sponsor or employer or an entity that is affiliated with the mortgage loan originator, qualified individual or branch manager or, effective October 1, 2011, loan processor or underwriter by an agency contract, or by any subsidiary or affiliate of such sponsor, employer or entity.

(4) Continuing education may be offered either in a classroom, online or by any other means approved by the system.

(5) Except as provided in procedures adopted under subsections (a) and (b) of section 36a-489 or in regulations adopted under subdivision (9) of this subsection, a licensed mortgage loan originator, qualified individual or branch manager or, effective October 1, 2011, a licensed loan processor or underwriter, may only receive credit for a continuing education course in the year for which the course is taken, and may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(6) A licensed mortgage loan originator or a qualified individual or branch manager or, effective October 1, 2011, a licensed loan processor or underwriter who is an approved instructor of an approved continuing education course may receive credit for the licensee's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

- (7) When education requirements described in [subparagraphs \(A\)\(i\) to \(A\)\(iii\), inclusive, of](#) subdivision (1) of subsection (a) of this section are completed in another state, such out-of-state education requirements shall be accepted as credit towards completion of the education requirements of this state, provided such out-of-state education requirements are approved by the system.
- (8) A licensed mortgage loan originator and, effective October 1, 2011, a licensed loan processor or underwriter who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of an initial or renewed license. A qualified individual or branch manager who ceases to hold such position shall complete the continuing education requirements for the last year in which such individual or branch manager held such position prior to licensure as a mortgage loan originator.
- (9) A person who meets the requirements of subparagraphs (A)(i) and (A)(iii) of subdivision (2) of subsection (a) or (b) of section 36a-489 may compensate for any deficiency in an individual's continuing education requirements pursuant to regulations adopted by the commissioner.
- (d) For purposes of this section "nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.

Sec. 9. Section 36a-498e of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

[\(a\)](#) No person **[or individual]** who is required to be licensed and who is subject to sections 36a-485 to 36a-498f, inclusive, [as amended by this act](#), 36a-534a and 36a-534b, may, [directly or indirectly](#):

- (1) **[Directly or indirectly employ]** [Employ](#) any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice toward any person;
- (3) Obtain property by fraud or misrepresentation;
- (4) Solicit or enter into a contract with a borrower that provides in substance that such person or individual may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;
- (5) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;
- (6) Conduct any business as a mortgage lender, mortgage correspondent lender, mortgage broker, mortgage loan originator or loan processor or underwriter without holding a valid license as required under sections 36a-485 to 36a-498f, inclusive, [as amended by this act](#), 36a-534a and 36a-534b or assist or aide and abet any person in the conduct of business as a mortgage lender, mortgage correspondent lender, mortgage broker, mortgage loan originator or loan processor or underwriter without a valid license as required under said sections;
- (7) Fail to make disclosures as required by sections 36a-485 to 36a-498f, inclusive, [as amended by this act](#), 36a-534a and 36a-534b and any other applicable state or federal law including regulations thereunder;
- (8) Fail to comply with sections 36a-485 to 36a-498f, inclusive, [as amended by this act](#), 36a-534a and 36a-534b or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections;
- (9) Make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

- (10) Negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, as defined in section 36a-2, or in connection with any investigation conducted by the commissioner or another governmental agency;
- (11) Make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan as defined in section 36a-485, [as amended by this act](#), or make any payment, threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;
- (12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485 to 36a-498f, inclusive, [as amended by this act](#), 36a-534a and 36a-534b;
- (13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or
- (14) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction.

[\(b\) \(1\) No person, other than an individual, who is required to be licensed and is subject to sections 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and 36a-534b, and no qualifying individual or branch manager shall fail to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with subsection \(a\) of this section.](#)

[\(2\) No individual who \(A\) is required to be licensed as a mortgage loan originator, \(B\) is subject to sections 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a and 36a-534b, and \(C\) supervises loan processors or loan underwriters shall fail to enforce any policies and procedures established in accordance with subdivision \(1\) of this subsection.](#)

[\(3\) No violation of this subsection shall be found unless the failure to establish, enforce and maintain policies and procedures resulted in conduct in violation of sections 36a-485 to 36a-498f, inclusive, as amended by this act, 36a-534a to 36a-534b, inclusive, or section 16 of public act 17-38 or rules or regulations adopted under said sections or any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections.](#)

Sec. 10. Section 36a-535 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

As used in sections 36a-535 to 36a-546, inclusive, [as amended by this act](#), unless the context otherwise requires:

- (1) The terms "goods", "retail installment sale", "retail installment contract", "installment loan contract", "retail seller" and "retail buyer" have the same meanings as provided in section 36a-770;
- (2) "Sales finance company" means any person engaging in this state in the business, in whole or in part, of acquiring retail installment contracts from retail sellers, or installment loan contracts from the holders thereof, by purchase, discount or pledge, or by loan or advance to the holder of either on the security thereof, or otherwise, but does not include a bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union, if so engaged;

[\(3\) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act; and](#)

[\(4\) "Control person" has the same meaning as provided in section 36a-485, as amended by this act.](#)

Sec. 11. Section 36a-539 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Each person applying to the commissioner for a sales finance company license shall pay a license fee of eight hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, such person shall pay a license fee of four hundred dollars. Each license issued pursuant to sections 36a-535 to 36a-546, inclusive, [as amended by this act](#), shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed, provided any license that is renewed effective July 1, 2003, shall expire on September 30, 2005. Whenever an application for a license is filed under this section by any person who was a licensee under sections 36a-535 to 36a-546, inclusive, [as amended by this act](#), and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. Not more than one place of business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon receipt of an application and the payment of the appropriate license fee.

(b) If the commissioner determines that a check filed with the commissioner to pay a fee under subsection (a) of this section has been dishonored, the commissioner shall automatically suspend the license. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation and an opportunity for a hearing on such action in accordance with section 36a-51, [as amended by this act](#).

(c) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued. All fees required by this section and section 36a-542 shall be nonrefundable.

[\(d\) No person who is required to be licensed and who is subject to the provisions of sections 36a-535 to 36a-546, inclusive, as amended by this act, and no control person shall, directly or indirectly: \(1\) Employ any scheme, device or artifice to defraud or mislead any person in connection with a retail installment contract or a retail installment loan; \(2\) engage in any unfair or deceptive practice toward any person in connection with a retail installment contract or a retail installment loan; \(3\) obtain property by fraud or misrepresentation; \(4\) solicit, advertise or offer rates or other financing terms for a retail installment contract or a retail installment loan unless those rates or terms are actually available at the time of soliciting, advertising or offering such rates or terms; \(5\) fail to comply with the provisions of sections 36a-535 to 36a-546, inclusive, as amended by this act, or the rules or regulations adopted under said sections, or fail to comply with any other state or federal law, including the rules and regulations thereunder; \(6\) make, in any manner, any false or deceptive statement or representation, including with regard to rates or other financing terms or conditions or engage in bait and switch advertising; \(7\) negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency; \(8\) make any payment, threat or promise to any person for the purposes of influencing the independent judgment of the person in connection with the business of a sales finance company; \(9\) fail to truthfully account for moneys belonging to a party to a retail installment contract or retail installment loan; or \(10\) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable laws and regulations concerning sales finance companies.](#)

Sec. 12. Subdivision (8) of section 36a-555 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(8) "Main office" means the main address designated on the system; **[where the licensee, or any person on behalf of the licensee, will engage in activities that require a small loan license;]**

Sec. 13. Subsection (d) of section 36a-558 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(d) Small loans that are the subject of the activities set forth in subsections (a) and (b) of this section shall not contain:

- (1) For a small loan that is under five thousand dollars, an annual percentage rate that exceeds the maximum annual percentage rate for interest that is permitted with respect to the consumer credit extended under the Military Lending Act, 10 USC 987 et seq., as amended from time to time, or for a small loan that is between five thousand and fifteen thousand dollars, an annual percentage rate that exceeds twenty-five per cent; **[as calculated under the Military Lending Act, 10 USC 987, et seq., as amended from time to time;]**
- (2) For other than an open-end small loan, a provision that increases the interest rate due to payment default;
- (3) A payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance;
- (4) A payment schedule with regular periodic payments that cause the principal balance to increase;
- (5) A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;
- (6) A prepayment penalty;
- (7) An adjustable rate provision;
- (8) A waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (A) Utilizes principles that are inconsistent with the law as set forth in the general statutes or common law; or (B) limits any claim or defense the borrower may have;
- (9) A call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause;
- (10) A security interest, except as provided in subsection (e) of this section; or
- (11) Fees or charges of any kind, except as expressly permitted by subsection (e) of this section.

Sec. 14. Subdivision (1) of subsection (e) of section 36a-558 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

- (1) For late fees, if: (A) Such fees are assessed after an installment remains unpaid for ten or more consecutive days, including Sundays and holidays; (B) such fees do not exceed **[the lesser of]** five per cent of the outstanding installment payment, excluding any previously assessed late fees, or a total of twenty-five dollars per month, whichever is less; and (C) no interest is charged on such fees;

Sec. 15. Section 36a-561 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

No person licensed or required to be licensed and no control person shall, directly or indirectly:

- (1) Assist or aid and abet any person in conduct prohibited by sections 36a-555 to 36a-573, inclusive, as amended by this act;
- (2) Employ any scheme, device or artifice to defraud or mislead any person in connection with a small loan;
- (3) Make, in any manner, any false, misleading or deceptive statement or representation in connection with a small loan or engage in bait and switch advertising; **[or]**
- (4) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with a small loan; or



(5) Fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable laws and regulations concerning small loan lenders.

Sec. 16. Section 36a-580 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) For purposes of this chapter:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act.

(2) "Control person" has the same meaning as provided in section 36a-485, as amended by this act.

~~[(1)]~~ (3) "General facility" means a facility at a fixed location where a licensee may engage in the business of cashing checks, drafts or money orders and which is open to the general public for at least six hours per day four days per week.

~~[(2)]~~ (4) "Limited facility" means a mobile facility, where on no more than two days per week, on property occupied by an employer, a licensed operator of a general facility may, under written contract with such employer, engage in the business of cashing payroll checks for the employees of the employer.

(b) The provisions of this section and sections 36a-581 to 36a-589, inclusive, as amended by this act, shall not apply to: (1) Checks, drafts or money orders cashed without consideration or charge; (2) checks, drafts or money orders cashed as an incident to the conduct of any other lawful business where not more than fifty cents is charged for cashing such check, draft or money order; or (3) any institution subject to and under the general supervision of any agency of the United States or any Connecticut bank or Connecticut credit union.

Sec. 17. Section 36a-586 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) Each check cashing licensee shall use and maintain at a general facility in this state, in the form satisfactory to the commissioner, such books, records and accounts as will enable the commissioner to determine whether the licensee is complying with the provisions of sections 36a-580 to 36a-589, inclusive, as amended by this act. Each licensee shall retain such books, records and accounts for not less than the periods of time specified in regulations adopted by the commissioner in accordance with section 36a-588.

(b) Before a licensee deposits with any financial institution a check, draft or money order cashed by such licensee, the item shall be endorsed with the actual name under which the licensee is doing business and must have the words "licensed check cashing service" legibly written or stamped immediately after or below such name.

(c) Each check cashing licensee shall comply with the applicable provisions of the Currency and Foreign Transactions Reporting Act, 31 USC Section 5311 et seq., as from time to time amended, and any regulations adopted under such provisions, as from time to time amended.

(d) No person required to be licensed and who is subject to the provisions of sections 36a-580 to 36a-589, inclusive, as amended by this act, and no control person shall, directly or indirectly: (1) Employ any scheme, device or artifice to defraud or mislead any person in connection with a check cashing transaction; (2) engage in any unfair or deceptive practice toward any person in connection with a check cashing transaction; (3) obtain property by fraud or misrepresentation; (4) fail to comply with the provisions of sections 36a-580 to 36a-589, inclusive, as amended by this act, or the rules or regulations adopted under said sections, or fail to comply with any other state or federal law, including the rules and regulations thereunder; (5) make, in any manner, any false or deceptive statement or representation in connection with a check cashing transaction or engage in bait and switch advertising; (6) negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency; (7)

collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-580 to 36a-589, inclusive, as amended by this act; (8) fail to truthfully account for moneys belonging to a party to a check cashing transaction; (9) fail to comply with any demand or requirement made by the commissioner under and within the authority of sections 36a-580 to 36a-589, inclusive, as amended by this act; or (10) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable check cashing laws and regulations.

Sec. 18. Section 36a-596 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

As used in sections 36a-595 to 36a-612, inclusive:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act.

[(1)] (2) "Authorized delegate" means a person designated by a person licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide money transmission services on behalf of such licensed person.

(3) "Control person" has the same meaning as provided in section 36a-485, as amended by this act.

[(2)] (4) "Electronic payment instrument" means a card or other tangible object for the transmission of money or monetary value or payment of money which contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods or services.

[(3)] (5) "Holder" means a person, other than a purchaser, who is either in possession of a payment instrument and is the named payee thereon or in possession of a payment instrument issued or endorsed to such person or bearer or in blank. "Holder" does not include any person who is in possession of a lost, stolen or forged payment instrument.

[(4)] (6) "Licensee" means any person licensed or required to be licensed pursuant to sections 36a-595 to 36a-612, inclusive.

[(5)] (7) "Monetary value" means a medium of exchange, whether or not redeemable in money.

[(6)] (8) "Money transmission" means engaging in the business of issuing or selling payment instruments or stored value, receiving money or monetary value for current or future transmission or the business of transmitting money or monetary value within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer.

[(7)] (9) "Outstanding" means (A) in the case of a payment instrument or stored value, that: (i) It is sold or issued in the United States; (ii) a report of it has been received by a licensee from its authorized delegates; and (iii) it has not yet been paid by the issuer, and (B) for all other money transmissions, the value reported to the licensee for which the licensee or any authorized delegate has received money or its equivalent value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer.

[(8)] (10) "Payment instrument" means a check, draft, money order, travelers check or electronic payment instrument that evidences either an obligation for the transmission of money or monetary value or payment of money, or the purchase or the deposit of funds for the purchase of such check, draft, money order, travelers check or electronic payment instrument.

[(9)] (11) "Permissible investment" means: (A) Cash in United States currency; (B) time deposits, as defined in section 36a-2, or other debt instruments of a bank; (C) bills of exchange or bankers acceptances which are eligible for purchase by member banks of the Federal Reserve System; (D) commercial paper of prime quality; (E) interest-bearing bills, notes, bonds, debentures or other obligations issued or guaranteed by: (i) The United

States or any of its agencies or instrumentalities, or (ii) any state, or any agency, instrumentality, political subdivision, school district or legally constituted authority of any state if such investment is of prime quality; (F) interest-bearing bills or notes, or bonds, debentures or preferred stocks, traded on any national securities exchange or on a national over-the-counter market, if such debt or equity investments are of prime quality; (G) receivables due from authorized delegates consisting of the proceeds of the sale of payment instruments which are not past due or doubtful of collection; (H) gold; and (I) any other investments approved by the commissioner. Notwithstanding the provisions of this subdivision, if the commissioner at any time finds that an investment of a licensee is unsatisfactory for investment purposes, the investment shall not qualify as a permissible investment.

[(10)] (12) "Prime quality" of an investment means that it is within the top four rating categories in any rating service recognized by the commissioner unless the commissioner determines for any licensee that only those investments in the top three rating categories qualify as "prime quality".

[(11)] (13) "Purchaser" means a person who buys or has bought a payment instrument or who has given money or monetary value for current or future transmission.

[(12)] (14) "Stored value" means monetary value that is evidenced by an electronic record. For the purposes of this subdivision, "electronic record" means information that is stored in an electronic medium and is retrievable in perceivable form.

[(13)] (15) "Travelers check" means a payment instrument for the payment of money that contains a provision for a specimen signature of the purchaser to be completed at the time of a purchase of the instrument and a provision for a countersignature of the purchaser to be completed at the time of negotiation.

[(14)] (16) "Virtual currency" means any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology. Virtual currency shall be construed to include digital units of exchange that (A) have a centralized repository or administrator; (B) are decentralized and have no centralized repository or administrator; or (C) may be created or obtained by computing or manufacturing effort. Virtual currency shall not be construed to include digital units that are used (i) solely within online gaming platforms with no market or application outside such gaming platforms, or (ii) exclusively as part of a consumer affinity or rewards program, and can be applied solely as payment for purchases with the issuer or other designated merchants, but cannot be converted into or redeemed for fiat currency.

Sec. 19. Subsection (a) of section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Each application for an initial or renewal license required under sections 36a-595 to 36a-612, inclusive, shall be made in writing and under oath to the commissioner in such form as the commissioner may prescribe. The application shall include:

- (1) The exact name of the applicant and, if incorporated, the date of incorporation and the state where incorporated;
- (2) The complete address of the principal office from which the business is to be conducted and of the office where the books and records of the applicant are to be maintained;
- (3) The complete name and address of each of the applicant's locations and authorized delegates, if any, through which the applicant intends to engage in the business of money transmission in this state;
- (4) The name, title, address and telephone number of the person to whom notice of the commissioner's approval or disapproval of the application shall be sent and to whom any inquiries by the commissioner concerning the application shall be directed;

(5) The name and residence address of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers, and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or the members, if the applicant is a limited liability company;

(6) (A) A copy of the applicant's audited financial statements for the most recent fiscal year, (B) if the applicant is a wholly-owned subsidiary of another corporation, (i) the most recent audited consolidated annual financial statements of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and (ii) the most recent audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year, (C) if the applicant is publicly traded, a copy of the most recent 10-K report that such applicant filed with the Securities Exchange Commission or, if the applicant is a wholly-owned subsidiary of a publicly traded company, a copy of the parent company's most recent 10-K report that was filed with the Securities and Exchange Commission, and (D) if the applicant or parent company of a wholly-owned subsidiary applicant is publicly traded on a foreign exchange, a copy of documentation similar to the report filed pursuant to subparagraph (C) of this subdivision that was filed with the applicable securities regulator;

(7) A list of the applicant's permissible investments, the book and market values of such investments, and the dollar amount of the applicant's aggregate outstanding money transmissions (A) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (B) as of a date no earlier than thirty business days prior to the filing of the application;

[(8) The history of material litigation for the five-year period prior to the date of the application of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or the members, if the applicant is a limited liability company, and sufficient information pertaining to the history of material litigation, in a form acceptable to the commissioner, on such individual or the partners, directors, trustees, principal officers, members and any shareholder owning ten per cent or more of each class of the applicant's securities. For purposes of this section, "material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to a person's financial health and that such person is required to reference in an annual audited financial statement, a report to shareholders or a similar document;]

[(9) (8) (A) The history of criminal convictions of the individual, if the applicant is an individual; the partners, if the applicant is a partnership; the directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities if the applicant is a corporation or association; or the members, if the applicant is a limited liability company, and (B) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such individual or the partners, directors, trustees, principal officers, members and any shareholder owning ten per cent or more of each class of the applicant's securities;

[(10) (9) (A) The surety bond required by subsection (a) of section 36a-602, if applicable;

(B) A list of the investments maintained in accordance with subsection (d) of section 36a-602, if applicable, and the book and market values of any such investments (i) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (ii) as of a date no earlier than thirty business days prior to the filing of the application;

[(11) (10) A statement describing the type of money transmission business that will be conducted by the applicant in this state and whether such money transmission will include the transmission of monetary value in the form of virtual currency;

[(12) (11) The name and address of any financial institution used by the applicant for its money transmission business in this state;

~~[(13)]~~ ~~(12)~~ For each authorized delegate, a sample of the contract evidencing the proposed arrangement between the applicant and the authorized delegate; and

~~[(14)]~~ ~~(13)~~ Any other information the commissioner may require.

Sec. 20. Section 36a-603 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Each licensee shall at all times maintain permissible investments having a value, computed in accordance with generally accepted accounting principles, at least equal to the aggregate amount of its outstanding money transmissions in this state, provided the value of receivables due from authorized delegates consisting of the proceeds of the sale of payment instruments that are not past due or doubtful of collection shall not exceed thirty per cent of the permissible investments held by the licensee and receivables due from any one person shall not exceed ten per cent of the value of permissible investments held by the licensee.

(b) Each licensee that engages in the business of money transmission in this state by receiving, transmitting, storing or maintaining custody or control of virtual currency on behalf of another person shall at all times hold virtual currency of the same type and amount owed or obligated to such other person. As used in subsection (a) of this section, outstanding money transmissions does not include any virtual currency held pursuant to this subsection, and "value" means the lower of book or market value, except that with regard to debt obligations which the licensee as a matter of policy retains until maturity, "value" means the greater of book or market value unless the commissioner orders that for some or all investments of a particular licensee, "value" means the lower of book or market value.

(c) Permissible investments and virtual currency held pursuant to subsection (b) of this section, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful performance of the obligations of the licensee and the licensee's authorized delegates with respect to the licensee's money transmission business in this state in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors.

Sec. 21. Section 36a-607 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) A licensee may conduct its business at one or more locations within this state as follows:

(1) The business may be conducted by the licensee or through or by means of such authorized delegates as the licensee may periodically designate or appoint. The licensee shall notify the commissioner of all authorized delegates that act on its behalf. An authorized delegate may not engage in the business of money transmission in this state on behalf of a licensee through or by means of any person who is not an authorized delegate of the licensee.

(2) No license under sections 36a-595 to 36a-612, inclusive, shall be required of any authorized delegate.

(3) Each authorized delegate shall, from the moment of receipt, hold the proceeds of a sale or delivery of a licensee's money transmissions in this state in trust for the benefit of such licensee.

(4) A licensee shall be liable for the loss caused to any purchaser or holder of the licensee's payment instruments or stored value sold in this state by the failure of an authorized delegate to forward to the licensee the amount due from the proceeds of a sale or delivery of the licensee's payment instruments or stored value, or money or monetary value received for transmission.

(5) The licensee shall enter into a contract with each of its authorized delegates that requires the authorized delegate to operate in full compliance with sections 36a-595 to 36a-612, inclusive, and provides that appointment of the authorized delegate is not effective during any period when the license of the licensee has been

suspended. The licensee shall provide each authorized delegate with policies and procedures sufficient to ensure compliance with sections 36a-595 to 36a-612, inclusive.

(6) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(7) An authorized delegate shall not provide money transmission services in this state outside the scope of activity permissible under the contract between the authorized delegate and the licensee.

(b) For purposes of subsection (a) of this section, "licensee" means any person that has obtained a license from the commissioner as provided in section 36a-600.

(c) No person who is required to be licensed and who is subject to the provisions of sections 36a-595 to 36a-612, inclusive, and no control person shall, directly or indirectly: (1) Employ any scheme, device or artifice to defraud or mislead any person in connection with a money transmission; (2) engage in any unfair or deceptive practice toward any person in connection with a money transmission; (3) obtain property by fraud or misrepresentation; (4) fail to comply with the provisions of sections 36a-595 to 36a-612, inclusive, or the rules or regulations adopted under said sections, or fail to comply with any other state or federal law, including the rules and regulations thereunder; (5) make, in any manner, any false or deceptive statement or representation in connection with a money transmission or engage in bait and switch advertising; (6) negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency; (7) fail to truthfully account for moneys belonging to a party to a money transmission transaction; (8) fail to perform any written agreement with any party to a money transmission transaction; (9) fail to comply with any demand or requirement made by the commissioner under and within the authority of sections 36a-595 to 36a-612, inclusive; and (10) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable money transmission laws and regulations.

(d) Each licensee shall remit any money or monetary value received for transmission by the licensee or its authorized delegates to the person designated by the purchaser of such transmission not later than seven calendar days from the date of receipt of such money or monetary value from the purchaser unless otherwise directed by the purchaser.

Sec. 22. Section 36a-655 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

As used in sections 36a-655 to 36a-665, inclusive, as amended by this act:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act.

(2) ["**bona fide nonprofit organization**"] "**Bona fide nonprofit organization**" means any organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time. [**amended**];

(3) "Control person" has the same meaning as provided in section 36a-485, as amended by this act.

(4) ["**debt adjustment**"] "**Debt adjustment**" means, for or with the expectation of a fee, commission or other valuable consideration, receiving, as agent of a debtor, money or evidences thereof for the purpose of distributing such money or evidences thereof among creditors in full or partial payment of obligations of the debtor. [**and**]

(5) ["**debtor**"] "**Debtor**" means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes.

Sec. 23. Section 36a-661 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

No **[licensee shall]** person who is required to be licensed and who is subject to the provisions of sections 36a-655 to 36a-665, inclusive, as amended by this act, and no control person shall, directly or indirectly: (1) Purchase from a creditor any obligation of a debtor; (2) operate as a collection agent and as a licensee as to the same debtor's account; (3) execute any contract or agreement to be signed by the debtor unless the contract or agreement is fully and completely filled in and finished; (4) **[directly or indirectly]** require the debtor to purchase other services or materials as a condition to enter into a written agreement for services; (5) pay any bonus or other consideration to any person for the referral of a debtor to the licensee's business or accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason; **[ or]** (6) advertise, display, distribute, broadcast or televise or permit to be displayed, advertised, distributed, broadcast or televised the licensee's services, rates or terms in any manner whatsoever wherein any false, misleading or deceptive statement or representation is made with regard to the services to be performed by the licensee or the charges to be made therefor; **(7) employ any scheme, device or artifice to defraud or mislead any person in connection with a debt adjustment;** (8) engage in any unfair or deceptive practice toward any person in connection with debt adjustment activities; (9) obtain property by fraud or misrepresentation; (10) fail to comply with the provisions of sections 36a-655 to 36a-665, inclusive, as amended by this act, or regulations adopted under said sections, or any other state or federal law, including the rules and regulations thereunder; (11) negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency; (12) fail to truthfully account for moneys belonging to a debtor; (13) fail to comply with any demand or requirement made by the commissioner under and within the authority of sections 36a-655 to 36a-665, inclusive, as amended by this act; (14) collect any fee or charge or receive money or payment prohibited by section 36a-661a; or (15) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable debt adjustment laws and regulations.

Sec. 24. Section 36a-671 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) As used in this section and sections 36a-671a to 36a-671e, inclusive, and section 25 of this act:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act.

(2) "Control person" has the same meaning as provided in section 36a-485, as amended by this act.

**[(1) "debt negotiation"] (3) "Debt negotiation"** means, for or with the expectation of a fee, commission or other valuable consideration, assisting a debtor in negotiating or attempting to negotiate on behalf of a debtor the terms of a debtor's obligations with one or more mortgagees or creditors of the debtor, including the negotiation of short sales of residential property or foreclosure rescue services. **[:]**

**[(2) "debtor"] (4) "Debtor"** means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes. **[:]**

(5) "Foreclosure rescue services" means services related to or promising assistance in connection with (A) avoiding or delaying actual or anticipated foreclosure proceedings concerning residential property, or (B) curing or otherwise addressing a default or failure to timely pay with respect to a mortgage loan secured by residential property, and includes, but is not limited to, the offer, arrangement or placement of a mortgage loan secured by residential property or other extension of credit when those services are advertised, offered or promoted in the context of foreclosure related services.

**[(3) "mortgagee"] (6) "Mortgagee"** means the original lender under a mortgage loan secured by residential property or its agents, successors or assigns. **[:]**

[(4) "mortgagor"] (7) "Mortgagor" means a debtor who is an owner of residential property, including, but not limited to, a single-family unit in a common interest community, who is also the borrower under a mortgage encumbering such residential property. [;]

(8) "Residential property" means a one-to-four family owner-occupied real property.

[(5) "short sale"] (9) "Short sale" means the sale of residential property by a mortgagor for an amount less than the outstanding balance owed on the loan secured by such property where, prior to the sale, the mortgagee or an assignee of the mortgagee agrees to accept less than the outstanding loan balance in full or partial satisfaction of the mortgage debt and the proceeds of the sale are paid to the mortgagee or an assignee of the mortgagee. [; (6) "foreclosure rescue services" means services related to or promising assistance in connection with (A) avoiding or delaying actual or anticipated foreclosure proceedings concerning residential property, or (B) curing or otherwise addressing a default or failure to timely pay with respect to a mortgage loan secured by residential property, and includes, but is not limited to, the offer, arrangement or placement of a mortgage loan secured by residential property or other extension of credit when those services are advertised, offered or promoted in the context of foreclosure related services; and (7) "residential property" means one-to-four family owner-occupied real property.]

(b) No person shall engage or offer to engage in debt negotiation in this state without a license issued under this section for each location where debt negotiation will be conducted. Any person desiring to obtain such a license shall file with the commissioner an application under oath, setting forth such information as the commissioner may require. Each applicant for a license and each licensee shall notify the commissioner of any change in the applicant's business from that stated in the application for the license. A person is engaging in debt negotiation in this state if such person: (1) Has a place of business located within this state; (2) has a place of business located outside of this state and the debtor is a resident of this state who negotiates or agrees to the terms of the services in person, by mail, by telephone or via the Internet; or (3) has its place of business located outside of this state and the services concern a debt that is secured by property located within this state.

(c) An application for an original or renewal debt negotiation license shall be in writing on a form provided by the commissioner and shall include (1) the history of criminal convictions of the (A) applicant, (B) partners, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, or (D) officers, directors and principal employees, if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (d) of this section. The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the applicant and of each partner, member, officer, director and principal employee of the applicant. The commissioner may deem an application for a debt negotiation license abandoned if the applicant fails to respond to any request for information required under sections 36a-671 to 36a-671e, inclusive, [as amended by this act](#), or any regulations adopted pursuant to said sections 36a-671 to 36a-671e, inclusive, [as amended by this act](#). The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-671 to 36a-671e, inclusive, [as amended by this act](#).

(d) If the commissioner finds, upon the filing of an application for a debt negotiation license, that: (1) The financial responsibility, character, reputation, integrity and general fitness of the (A) applicant, (B) partners thereof, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, and (D) officers, directors and principal employees, if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-671 to 36a-671e, inclusive, [as amended by this act](#), and [section 25 of this act](#); and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a



debt negotiation license. Such debt negotiation license shall not be transferable. Any change of location of a licensee shall require prior written notice to the commissioner. No licensee shall use any name unless such name has been approved by the commissioner. If the commissioner fails to make such findings, the commissioner shall not issue a license and shall notify the applicant of the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted of any misdemeanor involving any aspect of the debt negotiation business or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) Each applicant for an original or renewal debt negotiation license shall, at the time of making such application, pay to the commissioner an application fee of one thousand six hundred dollars, provided, if such application is filed not earlier than one year before the date such license will expire, such person shall pay a license fee of eight hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed. Each licensee shall, on or before September first of the year in which the license expires, file such renewal application as the commissioner may require. Whenever an application for a license is filed under this section by any person who was a licensee under this section and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

(f) If the commissioner determines that a check filed with the commissioner to pay an application fee has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51, [as amended by this act](#).

(g) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued. The fee required by subsection (e) of this section shall be nonrefundable.

Sec. 25. (NEW) (*Effective October 1, 2017*) No person who is required to be licensed and who is subject to the provisions of this section and sections 36a-671 to 36a-671e, inclusive, of the general statutes, as amended by this act, and no control person, shall, directly or indirectly: (1) Employ any scheme, device or artifice to defraud or mislead any person in connection with a debt negotiation; (2) engage in any unfair or deceptive practice toward any person in connection with a debt negotiation; (3) obtain property by fraud or misrepresentation; (4) fail to comply with the provisions of sections 36a-671 to 36a-671e, inclusive, of the general statutes, as amended by this act, or regulations adopted under said sections, or any other state or federal law, including the rules and regulations thereunder; (5) negligently make any false statement or knowingly and wilfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the system, or in connection with any investigation conducted by the commissioner or another governmental agency; (6) fail to truthfully account for moneys belonging to a debtor or mortgagor; (7) fail to comply with any demand or requirement made by the commissioner under and within the authority of sections 36a-671 to 36a-671e, inclusive, of the general statutes, as amended by this act; (8) make, in any manner, any false or deceptive statement or representation in connection with a debt negotiation or engage in bait and switch advertising; or (9) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable debt negotiation laws and regulations.

Sec. 26. Subsection (f) of section 36a-719 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(f) **[At least annually, as]** **As** part of its application **and upon a change to such information**, a mortgage servicer shall file with the commissioner **[(1)]** a current schedule of the ranges of costs and fees it charges mortgagors for its servicing-related activities. **;** **and (2)]** **At least annually, a licensee shall file with the commissioner** a report in

a form and format acceptable to the commissioner detailing the mortgage servicer's activities in the state, including [(A)] (1) the number of residential mortgage loans the mortgage servicer is servicing, [(B)] (2) the type and characteristics of the residential mortgage loans in this state, [(C)] (3) the number of serviced residential mortgage loans in default, along with a breakdown of thirty-day, sixty-day and ninety-day delinquencies, [(D)] (4) information on loss mitigation activities, [including details on workout arrangements undertaken,] and [(E)] (5) information on foreclosures commenced in this state.

Sec. 27. Section 36a-719d of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) Each mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) or (5) of subsection (b) of section 36a-718 shall maintain adequate records of each residential mortgage loan transaction at the office named in the mortgage servicer or mortgage lender license, or, if requested by the commissioner, shall make such records available at such office or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a licensee additional time to make such records available or send them to the commissioner. Such records shall provide the following information: (1) A loan history for residential mortgage loans upon which payments are received or made by the mortgage servicer, itemizing the amount and date of each payment and the unpaid balance at all times; (2) the original or an exact copy of the note, residential mortgage or other evidence of indebtedness and mortgage deed; (3) the name and address of the mortgage lender, mortgage correspondent lender and mortgage broker, if any, involved in the residential mortgage loan transaction; (4) copies of any disclosures or notifications provided to the mortgagor required by state or federal law; (5) a copy of any bankruptcy plan approved in a proceeding filed by the mortgagor or a co-owner of the property subject to the residential mortgage loan; (6) a communications log that documents all verbal communications with the mortgagor or the mortgagor's representative; [and] (7) a copy of all notices sent to the mortgagor related to any foreclosure proceeding filed against the encumbered property; and (8) information on loss mitigation activities, included details on workout arrangements undertaken.

(b) Every mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) or (5) of subsection (b) of section 36a-718 shall retain the records of each residential mortgage loan serviced for not less than two years following the final payment on such residential mortgage loan, or the assignment of such residential mortgage loan, whichever occurs first, or such longer period as may be required by any other provision of law. Every mortgage servicer licensee and person exempt from licensure pursuant to subdivision (4) or (5) of subsection (b) of section 36a-718 shall keep and use in its business books, accounts and records that will enable the commissioner to determine whether such mortgage servicer is complying with the provisions of sections 36a-715 to 36a-719l, inclusive, and with any regulations adopted pursuant thereto.

Sec. 28. Section 36a-719h of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(a) No mortgage servicer shall, directly or indirectly:

(1) [**Directly or indirectly employ**] **Employ** any scheme, device or artifice to defraud or mislead mortgagors or mortgagees or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of the residential mortgage loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a residential mortgage loan, the terms and conditions of the servicing agreement or the mortgagor's obligations under the residential mortgage loan;

(3) Obtain property by fraud or misrepresentation;

- (4) Recklessly apply residential mortgage loan payments or knowingly misapply residential mortgage loan payments to the outstanding balance of a residential mortgage loan;
- (5) Recklessly apply payments or knowingly misapply payments to escrow accounts;
- (6) Place hazard, homeowners or flood insurance on the mortgaged property when the mortgage servicer knew or should have known that the mortgagor has an effective policy for such insurance;
- (7) Fail to comply with section 49-10a;
- (8) Knowingly or recklessly provide inaccurate information to a credit bureau that results in harm to a mortgagor's creditworthiness;
- (9) Fail to report both the favorable and unfavorable payment history of the mortgagor to a nationally recognized consumer credit bureau at least annually if the mortgage servicer regularly reports information to a credit bureau;
- (10) Collect private mortgage insurance beyond the date for which private mortgage insurance is required;
- (11) Fail to issue a release of mortgage in accordance with section 49-8;
- (12) Fail to provide written notice to a mortgagor upon taking action to place hazard, homeowners or flood insurance on the mortgaged property, including a clear and conspicuous statement of the procedures by which the mortgagor may demonstrate that he or she has the required insurance coverage and by which the mortgage servicer shall terminate the insurance coverage placed by it and refund or cancel any insurance premiums and related fees paid by or charged to the mortgagor;
- (13) Place hazard, homeowners or flood insurance on a mortgaged property, or require a mortgagor to obtain or maintain such insurance, in excess of the replacement cost of the improvements on the mortgaged property as established by the property insurer;
- (14) Fail to provide to the mortgagor a refund of unearned premiums paid by a mortgagor or charged to the mortgagor for hazard, homeowners or flood insurance placed by a mortgagee or the mortgage servicer if the mortgagor provides reasonable proof that the mortgagor has obtained coverage such that the forced placement insurance is no longer necessary and the property is insured. If the mortgagor provides reasonable proof that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage servicer shall promptly refund the entire premium;
- (15) Require any amount of funds to be remitted by means more costly to the mortgagor than a bank or certified check or attorney's check from an attorney's account to be paid by the mortgagor;
- (16) Refuse to communicate with an authorized representative of the mortgagor who provides a written authorization signed by the mortgagor, provided the mortgage servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the mortgagor;
- (17) Conduct any business covered by sections 36a-715 to 36a-719l, inclusive, without holding a valid license as required under said sections, or assist or aid and abet any person in the conduct of business without a valid license as required under this title;
- (18) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or the system or in connection with any investigation conducted by the **[Banking Commissioner]** [commissioner](#) or another governmental agency; or
- (19) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485, [as amended by this act](#), to 36a-498f, inclusive, 36a-534a and 36a-534b.

(b) No mortgage servicer shall fail to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with subsection (a) of this section, and no qualifying individual or branch manager for such mortgage servicer shall fail to enforce such policies and procedures. No violation of this subsection shall be found unless the mortgage servicer, qualifying individual or branch manager's failure to establish, enforce or maintain policies and procedures resulted in conduct in violation of sections 36a-715 to 36a-724, inclusive, as amended by this act, or rules or regulations adopted under said sections or any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections.

Sec. 29. Section 36a-800 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

As used in this section and sections 36a-801 to 36a-814, inclusive, as amended by this act, unless the context otherwise requires:

- (1) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a consumer collection agency;
- (2) "Consumer collection agency" means any person (A) engaged as a third party in the business of collecting or receiving payment for others on any account, bill or other indebtedness from a consumer debtor, (B) engaged **[directly or indirectly]** in the business of collecting on any account, bill or other indebtedness from a consumer debtor for such person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired, or (C) engaged in the business of collecting or receiving tax payments, including, but not limited to, property tax and federal income tax payments, from a property tax debtor or federal income tax debtor on behalf of a municipality or the United States Department of the Treasury, including, but not limited to, any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person, municipality or taxing authority of such indebtedness for the purpose of evading the provisions of this section and sections 36a-801 to 36a-812, inclusive, as amended by this act. "Consumer collection agency" includes persons who furnish collection systems carrying a name which simulates the name of a consumer collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the consumer debtor, property tax debtor or federal income tax debtor to make payments directly to the creditor rather than to such fictitious agency. "Consumer collection agency" further includes any person who, in attempting to collect or in collecting such person's own accounts or claims from a consumer debtor, uses a fictitious name or any name other than such person's own name which would indicate to the consumer debtor that a third person is collecting or attempting to collect such account or claim. "Consumer collection agency" does not include (i) an individual employed on the staff of a licensed consumer collection agency, or by a creditor who is exempt from licensing, when attempting to collect on behalf of such consumer collection agency, (ii) persons not primarily engaged in the collection of debts from consumer debtors who receive funds in escrow for subsequent distribution to others, including, but not limited to, real estate brokers and lenders holding funds of borrowers for payment of taxes or insurance, (iii) any public officer or a person acting under the order of any court, (iv) any member of the bar of this state, (v) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent, (vi) a bank or out-of-state bank, as defined in section 36a-2, and (vii) a subsidiary or affiliate of a bank or out-of-state bank, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent debt secured by real property. Any person not included in the definition contained in this subdivision is, for purposes of sections 36a-645 to 36a-647, inclusive, a "creditor", as defined in section 36a-645;
- (3) "Consumer debtor" means any natural person, not an organization, who has incurred indebtedness or owes a debt for personal, family or household purposes, including current or past due child support, who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a personal property tax or

who has incurred indebtedness or owes a debt to the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

(4) "Control person" has the same meaning as provided in section 36a-485, as amended by this act;

~~[(4)]~~ (5) "Creditor" means a person, including, but not limited to, a municipality or the United States Department of the Treasury, that retains, hires, or engages the services of a consumer collection agency;

~~[(5)]~~ (6) "Federal income tax" means all federal taxes levied on the income of a natural person or organization by the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

~~[(6)]~~ (7) "Federal income tax debtor" means any natural person or organization who owes a debt to the United States Department of the Treasury;

~~[(7)]~~ (8) "Main office" means the main address designated on the application;

~~[(8)]~~ (9) "Municipality" means any town, city or borough, consolidated town and city, consolidated town and borough, district as defined in section 7-324 or municipal special services district established under chapter 105a;

~~[(9)]~~ (10) "Organization" means a corporation, partnership, association, trust or any other legal entity or an individual operating under a trade name or a name having appended to it a commercial, occupational or professional designation;

~~[(10)]~~ (11) "Property tax" has the meaning given to the term in section 7-560; and

~~[(11)]~~ (12) "Property tax debtor" means any natural person or organization who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a property tax.

Sec. 30. Subsection (a) of section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) No person shall act within this state as a consumer collection agency, directly or indirectly, unless such person has first obtained a consumer collection agency license for such person's main office and each branch office where such person's business is conducted. A consumer collection agency is acting within this state if it (1) has its place of business located within this state; (2) has its place of business located outside this state and (A) collects from consumer debtors, property tax debtors or federal income tax debtors who reside within this state for creditors who are located within this state, or (B) collects from consumer debtors, property tax debtors or federal income tax debtors who reside within this state for such consumer collection agency's own account; (3) has its place of business located outside this state and regularly collects from consumer debtors, property tax debtors or federal income tax debtors who reside within this state for creditors who are located outside this state; or (4) has its place of business located outside this state and is engaged in the business of collecting child support for creditors located within this state from consumer debtors who are located outside this state.

Sec. 31. Section 36a-805 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) No consumer collection agency or control person shall: (1) Furnish legal advice or perform legal services or represent that it is competent to do so, or institute judicial proceedings on behalf of others; (2) communicate with consumer debtors, property tax debtors or federal income tax debtors in the name of an attorney or upon the stationery of an attorney, or prepare any forms or instruments which only attorneys are authorized to prepare; (3) receive assignments as a third party of claims for the purpose of collection or institute suit thereon in any court; (4) assume authority on behalf of a creditor to employ or terminate the services of an attorney unless such creditor has authorized such agency in writing to act as such creditor's agent in the selection of an attorney to collect the creditor's accounts; (5) demand or obtain in any manner a share of the proper

compensation for services performed by an attorney in collecting a claim, whether or not such agency has previously attempted collection thereof; (6) solicit claims for collection under an ambiguous or deceptive contract; (7) refuse to return any claim or claims upon written request of the creditor, claimant or forwarder, which claims are not in the process of collection after the tender of such amounts, if any, as may be due and owing to the agency; (8) advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors; (9) refuse or fail to account for and remit to its clients all money collected which is not in dispute within sixty days from the last day of the month in which said money is collected; (10) refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned; (11) refuse or fail to furnish at intervals of not less than ninety days, upon the written request of the creditor, claimant or forwarder, a written report upon claims received from such creditor, claimant or forwarder; (12) add any post charge-off charge or fee for cost of collection, unless such cost is a court cost, to the amount of any claim which it receives for collection or knowingly accept for collection any claim to which any such charge or fee has already been added to the amount of the claim unless (A) the consumer debtor is legally liable for such charge or fee as determined by the contract or other evidence of an agreement between the consumer debtor and creditor, a copy of which shall be obtained by or available to the consumer collection agency from the creditor and maintained as part of the records of the consumer collection agency or the creditor, or both, and (B) the total charge or fee for cost of collection does not exceed fifteen per cent of the total amount actually collected and accepted as payment in full satisfaction of the debt; (13) use or attempt to use or make reference to the term "bonded by the state of Connecticut", "bonded" or "bonded collection agency" or any combination of such terms or words, except the word "bonded" may be used on the stationery of any such agency in type not larger than twelve-point; (14) when the debt is beyond the statute of limitations, fail to provide the following disclosure in type not less than ten-point informing the consumer debtor in its initial communication with such consumer debtor that (A) when collecting on debt that is not past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the credit reporting agencies as unpaid"; and (B) when collecting on debt that is past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it and (INSERT OWNER NAME) will not report it to any credit reporting agencies."; **[or]** (15) engage in any activities prohibited by sections 36a-800 to 36a-812, inclusive, [as amended by this act](#); or (16) fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable consumer collection laws and regulations.

(b) No consumer collection agency shall impose a charge or fee for any child support payments collected through the efforts of a governmental agency. If the imposition of a charge or fee is permitted under section 36a-801b, no consumer collection agency shall impose a charge or fee for the collection of any child support overdue at the time of the contract in excess of twenty-five per cent of overdue support actually collected.

(c) (1) No consumer collection agency shall receive any property tax on behalf of a creditor that is a municipality, unless the consumer collection agency has procured from an insurer authorized to transact business in this state an insurance policy providing coverage against loss of money, securities or other property, including loss arising from any fraudulent or dishonest act of any employee, officer or director of the consumer collection agency, with limits of at least two million dollars. It shall be the obligation of the municipality to ensure compliance with the requirements of this subdivision.

(2) A municipality that enters into an agreement with a consumer collection agency to collect and receive for payment property tax on behalf of the municipality may also require such consumer collection agency to file a bond with the municipality in an amount not exceeding the total amount of the property tax to be collected on behalf of the municipality. Such bond, the form of which shall be approved by the municipality, shall be written by a surety authorized to write bonds in this state and shall contain a provision requiring the surety to provide the municipality with written notice of cancellation of such bond. Such notice shall be sent by certified mail to the municipality at least thirty days prior to the date of cancellation. The bond shall be conditioned that such

consumer collection agency shall well, truly and faithfully account for all funds collected and received by the consumer collection agency for the municipality pursuant to such agreement. If the municipality is damaged by the wrongful conversion of any property tax debtor funds received by the consumer collection agency, the municipality may proceed on such bond against the principal or surety on the bond, or both, to recover damages. The proceeds of the bond, even if commingled with the other assets of the consumer collection agency, shall be deemed by operation of law to be held in trust for the benefit of the municipality in the event of bankruptcy of the consumer collection agency and shall be immune from attachment by creditors and judgment creditors.

Sec. 32. Section 36a-846 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

As used in this section and sections 36a-847 to 36a-854:

(1) "Advertise" or "advertising" has the same meaning as provided in section 36a-485, as amended by this act;

(2) "Control person" has the same meaning as provided in section 36a-485, as amended by this act;

**[(1)] (3)** "Student loan borrower" means (A) any resident of this state who has received or agreed to pay a student education loan; or (B) any person who shares responsibility with such resident for repaying the student education loan; [.]

**[(2)] (4)** "Student loan servicer" means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower; [.]

**[(3)] (5)** "Servicing" means (A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; **[and] or** (C) performing other administrative services with respect to a student education loan; [.]

**[(4)] (6)** "Student education loan" means any loan primarily for personal use to finance education or other school-related expenses.

Sec. 33. Section 36a-850 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

**[No student loan servicer licensee shall]** No person who is required to be licensed and who is subject to the provisions of sections 36a-846 to 36a-854, inclusive, as amended by this act, and no control person shall, directly or indirectly:

(1) **[Directly or indirectly employ]** Employ any scheme, device or artifice to defraud or mislead student loan borrowers;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

(3) Obtain property by fraud or misrepresentation;

(4) Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;

(5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

- (6) Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer licensee regularly reports information to a credit bureau;
- (7) Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer licensee may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower; **[or]**
- (8) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the **[Banking Commissioner]** [commissioner](#) or another governmental agency; **or**
- [\(9\) Fail to establish, enforce and maintain policies and procedures for supervising employees, agents and office operations that are reasonably designed to achieve compliance with applicable student loan servicing laws and regulations.](#)

Sec. 34. Subsection (e) of section 36a-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(e) Upon the filing of the required application and the applicable license and location fees, the commissioner shall investigate the facts and may issue a license if the commissioner finds that (1) the applicant is in all respects properly qualified and of good character, (2) if the applicant is a firm or partnership, each member of the firm or partnership is in all respects properly qualified and of good character, (3) if the applicant is a corporation, each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation is in all respects properly qualified and of good character, (4) if the applicant is a limited liability company, each member and authorized agent is in all respects properly qualified and of good character, (5) granting such license would not be against the public interest, (6) the applicant has a feasible plan for conducting business, **[and]** (7) the applicant has available and shall continuously maintain liquid assets of at least ten thousand dollars for each general facility location and at least two thousand five hundred dollars for each limited facility location specified in the application, **and (8) [the name of the applicant is not likely to cause a consumer to reasonably believe that such applicant is in any way endorsed by or affiliated with this state.](#)** The commissioner may deny an application if the commissioner finds that the applicant or any member, officer, director or authorized agent or shareholder owning ten per cent or more of the outstanding stock of the applicant has been convicted of any misdemeanor involving any aspect of the check cashing services business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

Approved July 11, 2017