

Legislative History for Connecticut Act

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Bill Number: 231
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2002

VOL. 45
PART 4
1055-1404

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Senate

Tuesday, April 23, 2002

Please proceed.

SEN. CRISCO:

The Appropriations Committee meeting scheduled for 10:00 o'clock tomorrow will be at 9:30 a.m. Thank you, Madam.

THE CHAIR:

Thank you, Sir. Are there other announcements. Seeing none, Mr. Clerk, would you begin with the Call of the Calendar.

THE CLERK:

Calendar Page 22, Calendar 92, File 80, Substitute for S.B. 231 An Act Concerning Consumer Credit And Money Transmitter Licensees. Favorable Report of the Committee on Banks and Finance, Revenue and Bonding. The Clerk is in possession of an amendment.

THE CHAIR:

Senator McDermott.

SEN. MCDERMOTT:

Thank you very much, Madam President. I move the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

The question is on passage. Will you remark?

SEN. MCDERMOTT:

Thank you very much, Madam President. If the Clerk

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would please call LC03692.

THE CLERK:

LC03692 which will be designated Senate Amendment
Schedule "A". It's offered by Senator McDermott of the
34th District.

THE CHAIR:

Senator McDermott.

SEN. MCDERMOTT:

Thank you, Madam President. I move its adoption
and seek leave to summarize.

THE CHAIR:

The question is on adoption. Will you remark?

SEN. MCDERMOTT:

Thank you, Madam President. This is a very
technical amendment that's cleaning up some of the
language to further clarify what the intent of the bill
is and it really involves a lot of technical changes,
nothing of much substance, but more technical in nature.

I move its passage.

THE CHAIR:

The question is on adoption --

SEN. MCDERMOTT:

Adoption.

THE CHAIR:

-- of Senate Amendment "A". Will you remark

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further? If not, I will try your minds. All those in favor indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? The ayes have it. The amendment is adopted. Will you remark further on the bill as amended? Senator McDermott.

SEN. MCDERMOTT:

Thank you, Madam President. This is a bill that the Banking Commissioner is looking to put into state law that further expands the issuances of licensing for people involved in consumer credit and money transmitting.

I think it's a very good bill for the consumers of the State of Connecticut and I would urge my colleagues to support it.

THE CHAIR:

The question is on passage of the bill as amended. Will you remark further? Senator Genuario.

SEN. GENUARIO:

Yes, Madam President. I rise to support this bill primarily because I've had an opportunity to review the fiscal note and it indicates that it will increase our revenue by \$5,250 next year and I want you to know from

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what I've seen tonight, we're going to need it.

THE CHAIR:

Thank you, Sir. Will you remark further on the bill as amended? Will you remark further? Senator McDermott.

SEN. MCDERMOTT:

Anything I could do to help, I'm very happy to do it in the State of Connecticut, so I appreciate the remarks of my colleague.

If there's no objection, Madam President, I'd like to move this to the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent Calendar. Without objection, so ordered.

THE CLERK:

Calendar Page 25, Calendar 176, File 252, S.B. 203
An Act Concerning Nondisclosure of Information Of
Employees Of The Commission on Human Rights And
Opportunities. Favorable Report of the Committee on
Judiciary and Government Administration and Elections.
The Clerk is in possession of an amendment.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

Thank you very much, Madam President. I move

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Mr. Clerk, would you announce a roll call vote first.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Second Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Second Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the Second Consent Calendar begins on Calendar Page 22, Calendar 92, Substitute for S.B. 231.

Calendar Page 25, Calendar 176, S.B. 203.

Calendar Page 26, Calendar 188, Substitute for S.B. 592.

And Calendar Page 29, Calendar 233, Substitute for S.B. 334.

Madam President, that completes those items previously placed on the Second Consent Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Second Consent Calendar. Will all Senators please return to

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the Chamber.

The Senate is now voting by roll call on the Second Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 2.

Total number voting 35; necessary for passage, 18.

Those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. I would ask that we turn to Senate Agenda No. 3, the second item on that Agenda. Bill vetoed by the Governor, H.B. 5346. I move reconsideration for this item.

THE CHAIR:

Without objection, so ordered.

Senator Smith.

SEN. SMITH:

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application.

Now, how else were the rules broken? Well, the Department of Environmental Protection allowed for their own rules and procedures to be broken. What I've just recited from Cross Sound's own application represents their standard position on in-water construction, which is to say, it's not supposed to happen between February 1st and July 15th, at minimum and there are some provisions that would extend that ban through October 1st.

So DEP broke their own rules and broke their own procedures to allow this to go forward.

What about the Siting Council hearings for the second application? The Siting Council must rely on the information in the parties that's brought before it. That's how they base their decision. It is an administrative proceeding where those who are interested come before the Siting Council. Hearings are held. Testimony is taken. That information is processed and the Siting Council arrives at its decision.

What if the most important adversaries in a particular action decided not to attempt, or as in this case, decided to withdraw, the Siting Council would not have a complete record before it. And yet, that's exactly what happened.

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2002

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2445-2776

SEN. JEPSEN:

Page 13, Calendar 159, I move this item to the Foot of the Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 14, Calendar 226, should be marked Go.

Page 16, Calendar 92, SB231, I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 17, Calendar 233, SB334, I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 17, Calendar 389, HB5166, I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Madam President, the Clerk, this concludes our current markings. I would ask the Clerk to call the Consent Calendar in one moment. But I also believe he is

And then from Page 11, Calendar 460. This item was previously passed temporarily, and I would move this item, Calendar 460, HB5715 to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

If the Clerk would call the Consent Calendar at this time.

THE CHAIR:

Mr. Clerk, would you first announce a roll call vote on the Consent Calendar.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar . Will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber.

Madam President, the first Consent Calendar begins on Calendar Page 5, Calendar 401, Substitute for HB5653..

Calendar 403, Substitute for HB5154.

Calendar Page 8, Calendar 439, Substitute for HB5527.

Calendar 441, Substitute for HB5735..

Calendar 444, Substitute for HB5153.

Calendar Page 9, Calendar 451, Substitute for

HB5627.

Calendar Page 11, Calendar 460, Substitute for

HB5715.

Calendar 461, Substitute for HB5748.

Calendar 463, Substitute for HB5708.

Calendar Page 16, Calendar 92, Substitute for

SB231.

Calendar Page 17, Calendar 233, Substitute for

SB334.

Calendar 389, Substitute for HB5166.

Madam President, that completes those items previously placed on the first Consent Calendar.

THE CHAIR:

Thank you, sir. Would you once again announce a roll call vote on the Consent Calendar. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to the Chamber. The Senate is now voting by roll on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted the machine will be locked. Clerk, please announce the

tally. For the members voting, that is the Consent Calendar.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar is adopted.

THE CLERK:

Turning to the Calendar. Calendar Page 5, Calendar 421, File No. 379 and 607, Substitute for HB5425, AN ACT CONCERNING BULLYING BEHAVIOR IN SCHOOLS AND CONCERNING THE PLEDGE OF ALLEGIANCE. As amended by House Amendment Schedules B, C, and D. Favorable report of the Committees on Children, Education, and Appropriations. Clerk is in possession of Senate Amendments.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I move adoption of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

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House of Representatives

Monday, May 6, 2002

Representative Godfrey.

REP. GODFREY: (110TH)

Thank you, Madam Speaker. I would move that all items acted upon today needing further action by the other body be immediately transmitted.

SPEAKER LYONS:

Hearing no objection, so ordered. And would the Clerk please call Calendar 395.

CLERK:

On Page 11, Calendar 395, Substitute for S.B. 231
AN ACT CONCERNING CONSUMER CREDIT AND MONEY TRANSMITTER
LICENSES, as amended by Senate Amendment Schedule "A".
Favorable Report of the Committee on Finance.

SPEAKER LYONS:

Representative Paul Doyle, you have the floor, Sir.

REP. DOYLE: (28TH)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill on accordance with the Senate.

SPEAKER LYONS:

The question before the Chamber is on acceptance and passage. Will you remark?

REP. DOYLE: (28TH)

Yes, Madam Speaker, this bill is an important bill that basically expends the licensing requirements for

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mortgage lenders. It's a current problem for out of state lenders that we have no authority to supervise them and basically police them for their bad practices.

The Clerk has an amendment, LCO3692 previously designated Senate "A". May the Clerk please call and I be allowed to summarize.

SPEAKER LYONS:

The Clerk is in possession of LCO3692 designated Senate "A". Would the Clerk please call. The gentleman has asked leave to summarize.

CLERK:

LCO3692, Senate "A" offered by Senator McDermott.

SPEAKER LYONS:

Representative Doyle, you have the floor.

REP. DOYLE: (28TH)

Thank you, Madam Speaker. Because the House has a new and improved version of this amendment, I hereby move to reject Senate "A", Madam Speaker.

SPEAKER LYONS:

The question before the Chamber is on rejection. Will you remark? If not, let me try your minds.

All in favor please signify by saying "aye".

REPRESENTATIVES:

Aye.

SPEAKER LYONS:

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Those opposed, "nay"? The ayes have it. The amendment is rejected.

Please proceed.

REP. DOYLE: (28TH)

Thank you, Madam Speaker. The Clerk has an amendment, LCO5032. Would the Clerk please call and may I be allowed to summarize.

SPEAKER LYONS:

The Clerk has in his position LCO5032 designated House "A". Would the Clerk please call. The gentleman has asked leave to summarize.

CLERK:

LCO5032, House "A", offered by Representative Doyle.

SPEAKER LYONS:

Representative Doyle.

REP. DOYLE: (28TH)

Thank you, Madam Speaker. This amendment improves the file copy. It cleans up a few technical matters. I move its adoption, Madam Speaker.

SPEAKER LYONS:

The question before the Chamber is on adoption. Will you remark? Will you remark on the amendment that is before us?

If not, let me try your minds. All those in favor,

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please -- Representative Prelli, got to move fast.

Representative Prelli.

REP. PRELLI: (63RD)

Thank you, Madam Speaker. And I heard the gentleman say there were a few technical corrections from the Senate amendment. We just received this amendment. I was wondering if the gentleman could tell us what the technical corrections from the Senate amendment were, so we know what we are voting on.

SPEAKER LYONS:

Representative Doyle.

REP. DOYLE: (28TH)

Yes, Madam Speaker. The amendment simply makes some corrections in terms of defining what the loan originators are. It makes some more grammatical corrections.

It also endorses and puts certain other tax collection entities in here to be approved by and supervised by the Department of Banking.

Through you, Madam Speaker.

SPEAKER LYONS:

Representative Prelli.

REP. PRELLI: (63rd)

Thank you, Madam Speaker. And as I said, we just received that amendment so I wanted to hear what was in

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it. Thank you.

SPEAKER LYONS:

Will you remark further on the amendment that is before us? If not, let me try your minds.

All those in favor please signify by saying "aye".

REPRESENTATIVES:

Aye.

SPEAKER LYONS:

Those opposed, "nay"? The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Will you remark further? Representative Stripp.

REP. STRIPP: (135TH)

Thank you, Madam Speaker. Madam Speaker, there a number of provisions in this bill that tighten up controls over various activities like loan collection. But the one that I'm the most pleased with is the one that I've gotten the most calls about and that is basically mortgage brokers.

Mortgage brokers perform an important task in the financial field but unfortunately number one, they're not very well regulated in the state and number two, the requirements to have a net worth value have not existed up until this time.

At this point, this bill would require a net worth.

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of first mortgage lenders of \$250,000 and mortgage brokers who have required no net worth, now to move up to \$25,000 and this allows the Banking Commissioner, should a violation occur, to go after these mortgage brokers and make sure they in fact agree with the laws of the State of Connecticut.

Madam Speaker, it also requires expert experienced supervision of every mortgage broker location to make sure that the laws aren't inadvertently violated and Madam Speaker, I think it's going to help eliminate an issue that has been a major problem in this particular area.

Not to say there aren't many, many good mortgage brokers, but there have been some rogues in the field and this will help us eliminate that.

Madam Speaker, I hope my colleagues can join me in supporting the bill. Thank you, Madam Speaker.

SPEAKER LYONS:

Will you remark further on the bill as amended?
Will you remark further on the bill as amended? If not, staff and guests come to the well. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber.

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House of Representatives

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The House is voting by roll call. Members to the Chamber, please.

SPEAKER LYONS:

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

CLERK:

S.B. 231 as amended by House "A".

Total Number Voting	145
Necessary for Passage	73
Those voting Yea	145
Those voting nay	0
Those absent and not voting	6

SPEAKER LYONS:

The bill as amended passes.

Representative Pudlin.

REP. PUDLIN: (24TH)

For the purpose of an announcement, Madam Speaker.

REP. PUDLIN: (24TH)

Legislative Management will be meeting 15 minutes before session tomorrow morning, outside of the Hall of the House.

SPEAKER LYONS:

Thank you, Sir. Would the Clerk please call

JOINT STANDING COMMITTEE HEARINGS

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BANKS COMMITTEE

February 19, 2002
1:30 P.M

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PRESIDING CHAIRMEN: Representative Doyle

COMMITTEE MEMBERS PRESENT

SENATORS: McDermott, Bozek, Smith,

REPRESENTATIVES: Doyle, Green, Strip,
Demarinis, Graziani,
Janowski, Duff,
Pawelkiewicz, Prelli,
Scriber, Serra

REPRESENTATIVE PAUL DOYLE: I'd like to call the public hearing to order. The first individual signed up on our Sgency and Legislators list is Commissioner Burke from the Department of Banking. He is going to speak on a number of the bills. Commissioner?

COMMISSIONER JOHN BURKE: Thank you Mr. Chairman, it's a pleasure again for me to appear. I apologize for the size of our offering, but unfortunately it was required for what we planned to do. I will briefly, you have all had, I hope, have received the write-ups that we provide for each of our bills, there are six of them. I will discuss them in the order that they are on the agenda, and will try not to be redundant, I'll be brief. You have them in front of you, so I'll try not to read from that, just comment briefly on each bill, and then, however you prefer, Mr. Chairman, either I will go through all of the bills and then answer questions or do it at the time that I finish commenting. Whichever you prefer.

REPRESENTATIVE DOYLE: Why don't you go through all of them first, and then try to answer questions.

COMMISSIONER JOHN BURKE: The first bill, S.B. BILL 88 AN ACT CONCERNING THE COMMISSIONER OF BANKING AND DEPARTMENT OF BANKING EMPLOYEES. Not too complicated in that employees of the banking department have been restricted in investing in the

SB 93

SB 231

HB 5073

HB 5074

HB 5316

Unfortunately, we found our law, if you cancel your FDIC insurance, you must go into receivership, and there is no need to do this, so we are trying to clarify that that this is not a necessary step. This is also contained in this bill.

The provision in the bill which permits the state chartered banks the same powers as national banks needed to be clarified. What we have added in here, and you will see the term out-of-state state bank, so it adds, in addition to having equivalent powers to out of state national or federal banks, it also permits our state chartered banks the same powers as an out-of-state state bank.

For example, Chase or J.P. Morgan is, Chase Manhattan, I'm sorry, is a state chartered bank, so if they had some power that our banks would want to use, it would cover that. This is really something that we intended to do initially, and we just kind of missed it the first time around.

Another thing that we have added is the Office of Thrift Supervision, which regulates federal savings institutions, has permitted a corporate structure which is a three tier corporate structure. It is done really for tax reasons and ownership. It is not a problem. We had a request from one of our institutions to do that. Our law just doesn't allow it to happen. It doesn't preclude it, it just doesn't allow it to happen. This will permit that to happen and make us again equivalent to what our federal regulators are proving to their institutions.

Those are pretty much the highlights of that bill.

The next bill is S.B. 231 AN ACT CONCERNING CONSUMER CREDIT AND MONEY TRANSMITTER LICENSEES. Just to remind the Committee, particularly the newer members, one of the major roles that the Department plays is really to serve as the interface between the consumer and the people who we regulate with the eye to be sure that the consumer is treated fairly and that of course that the institution that we regulate is operating according to regulations.

The consumer credit side of it we are now particularly in the area of the mortgage, when you talk about mortgage lenders, mortgage bankers and mortgage brokers, we are kind of upping the ante a little bit to formalize the structure and are requiring certain licenses and requiring a network requirement for certain elements based on the exposure that we think they might have.

So we are adding that network requirement which we think is kind of important to the consumer in the event that there is more difficulty. Difficulty with a particular loan that if there was some availability, if you will, a network to go after, then this is a help to the consumer so we are adding this situation.

In addition, one of the things we have run into, particularly as we went through this past year of rapidly declining interest rates and refinancing, the mortgage banking industry the mortgage brokers particularly were dealing with some out of state providers of funds who are not licensed to do business in this state and with a period of rapidly declining rates there were a number of cases where those providers were kind of backing away from their original commitment to the broker. No fault of the broker.

We had no authority to do anything about this. What this does, what this bill does requires that those lenders to be licensed by us, so that in the event, and therefore they take a first position, a mortgage position, they would be subject to our regulation and in the event that they in essence renege on a commitment to a mortgage broker, we will be able to go after the individual that did that. So it does clarify that situation.

Another area that we are dealing with are debt adjusters. With the recession, debt adjusters, who are licensed to operate in the State of Connecticut essentially must be non-profit. We did discover in the view that we were seeing more and more of those people appear on the horizon that their license is for life, which gives us not a chance to review

them based on what is happening. So, number one, we are changing that to be a term license, and are requiring bonding for those people, bonding, of course and licensing under the new agreement.

The other thing that we are doing you'll see it, and it doesn't add significantly to income, doesn't add at all to income, is we are changing the licensing requirement to two years, so it is a two year license instead of one which is a help to us because it just levels the work load a little better as you can see. We didn't change the fees it's just that you are paying double what you are paying now but for two years instead of one. Essentially those are the particular terms in that bill.

The next bill, is H.B. 5073 AN ACT CONCERNING PREPAID FINANCE CHARGES. I had alluded to earlier the work that was done last year on abusive lending. It needs some clarification. Keep in mind that the majority of the lenders, the lenders, mortgage bankers are legitimate but what we were trying to do with the abusive lending bill was catch those few people who were really taking advantage of the situation.

What we discovered, going through the year, particularly with the extent of the refinancing this past year with the interest rate drops, we've seen that there were items included in the limit, the cap that we put on last year, if you recall, of five points, and in a period of two years, our intention was to avoid someone profiting by charging excessive points, however that may be done.

A number of government programs require points be paid to the government, not in this case to the broker or the lender. We had no intention to include those, so what we have done is clarify what was included in the federal regulations, and what is not included, so as to not preclude legitimate lenders from moving forward on this by, and what was happening is because of the preceding limit of 5% and the need to pay FHA or Fannie Mae certain points, the lenders were saying I can't make a loan

JOHN READ: Thank you. Good afternoon, it is our pleasure to be here with you this afternoon, and we thank you very much for taking the time to listen to us as representatives of the Connecticut Society of Mortgage Brokers. By way of introduction, my name is John Read, I serve as Co-chair of the Connecticut Society. I own Atlantic Financial, the mortgage matchmaker located in Groton, Connecticut. We are about to celebrate our tenth anniversary of being in business, and we are in business that long because we rely upon the satisfaction of our customers. Tony, do you want to introduce yourself?

TONY FIORENZI: My name is Tony Fiorenzi, I operate a statewide mortgage company in Naugatuck Connecticut.

REP. DOYLE: Excuse me sir, if you could speak into the microphone, you are on the record.

TONY FIORENZI: My name is Tony Fiorenzi, I operate a statewide mortgage company in Naugatuck, Connecticut. I Co-chair the Society of Mortgage Brokers. Sorry I'm a little nervous, this is the first time

REP. DOYLE: Okay, no problem.

TONY FIORENZI: I also serve as the Vice President of the Connecticut Society of Mortgage Brokers.

MEL KOSHAR: Good afternoon, my name is Mel Koshar. I'm President of the Connecticut Society of Mortgage Brokers. I also own a mortgage broker company called Wethersfield Mortgage Company. And we are proud to be here and we are looking forward to a good working relationship with the banking department and Commissioner and his representatives.

JOHN READ: Just to elaborate a little bit upon the excellent presentations provided by the Commissioner, we are here today to discuss two of the proposed pieces of legislation. One is H.B. 5073 AN ACT CONCERNING PREPAID FINANCE CHARGES and SB 231

the other is S.B. 231 AN ACT CONCERNING CONSUMER CREDIT AND MONEY TRANSMITTER LICENSEES.

From our perspective, these bills carry a number of provisions that I think go a little bit beyond what the Commissioner provided you in his summary from our perspective.

First and foremost, it defines and requires licenses for correspondent lenders. A key element from our perspective is that it does the registration of loan originators for non depository lenders. Primarily, that's mortgage brokers. This is a key element because most of the time the issues that the Commissioner has when he has complaints from consumers originate when the loan officer has perhaps, misunderstood, or misconstrued or provided some inaccurate information to the consumer at the time of application. So requiring this type of registration, we think, is a good step.

Licenses every two years is a good thing. Notarized financial statements, I think, helps raise the bar, within the industry as a whole, and will help the consumer because it will ensure that we have in fact a viable business that the consumer is doing business with.

The issue of experience at the licensee's location I think is also very critical to ensure that the consumer does in fact receive the quality of services to which they are entitled. It also as I understand it will align the State of Connecticut with many other states in the union to require such an experienced level.

By not having something like this, it is my understanding that the Commissioner's office does have some issues with lenders who might be from out of state, get licensed here in Connecticut without having the requisite experience, and that of course opens the door to the possibility of issues.

Reading from our prepared commentary, I think it is important to understand that in the ten years that I have been a mortgage broker, and I started out

ten years ago, the mortgage broker industry originated some 35-40% of the mortgages in the United States of America. Today that number is in excess of 60%. The mortgage broker is the originator of choice for the vast majority of consumers.

The Connecticut Society of Mortgage Brokers represents the majority of the broker industries in our state. We have 108 member firms. The typical firm is very similar to my organization, which ranges from three to six people associated with that company. We are small businesses serving our local areas, providing high quality service.

We have fifty-eight wholesale lenders, often times these are the correspondent lenders, which are referred to in the Commissioner's legislation and plus forty-one affiliate members.

The success of our industry and our society and of our individual businesses rests entirely upon the satisfaction of our customers. If they are not satisfied we don't get paid. It's just that simple.

The Connecticut Society of Mortgage Brokers has reviewed these two proposed bills and has met with their proposal with the Department of Banking. We had a very informative very helpful meeting last week.

In general CSMB is most supportive of these bills, as we believe they will enable more effective oversight of our industry, they will provide additional consumer safeguards, and will enhance the professionalism of our industry. These are all very worthwhile objectives.

However, we have identified a number of concerns which we believe are technical in nature, and we are in the process of defining those. Our intent is to clarify certain points, it's not to make any substantive changes, but rather to clarify certain elements of these proposed pieces of legislation so when they are in fact executed, it's our belief that these clarifications will provide for more

effective implementation.

We have promised the Commissioner of the Department of Banking with these findings in the very near future, in fact, we are meeting tomorrow morning to do just that.

We thank you very much for your consideration. Tony or Mel, do you have anything further that you would like to add at this point?

MEL KOSHAR: All set.

TONY FIORENZI: Nothing.

REP. DOYLE: Are there any questions? Senator McDermott.

SEN. MCDERMOTT: John, thank you very much for coming here this afternoon. We appreciate seeing you here and we want to be able to take all sides into consideration as we are going through any piece of legislation that, such as this is, that could have changes on your industry.

I would encourage you though to get your exact text changes that you are taking about to the Committee as soon as possible as well as the Commissioner so that we are not left in the dark. We want to be able to if we can address your concerns we want to be able to take those into account as we are going through the process.

This is a very short legislative process. I think it's going to start moving fast, so you are going to need to get your technical points or changes done line by line as soon as possible and get those to us, the Banking Committee immediately or as soon as you can so that we can set up a meeting with you and be able to discuss with the Commissioner's office and yourself and whoever the other parties are in this. But we need to get those comments as soon as possible.

REP. DOYLE: John, I have a quick question for you. What was the impact on you and your members of the abusive lending bill last session? How did you

think it worked? Any comments on the general bill of the last session?

JOHN READ: It caught us by surprise would be my reaction to it. We, although we did have as an organization an opportunity to discuss it out of meeting with the Commissioner, I think the full extent and the nuts and bolts if you will of what impact that would have on our daily basis, we didn't really appreciate what that would mean. I think the jury is still out on that.

We as an organization wholeheartedly support the concept of eliminating predatory lending. Our concern is that we don't throw out the baby with the bath water. We do as in any organization, there are those entities that, shall we say, conduct their business in a more forthright manner than others. If we have a couple of bad apples, let's go after the bad apples not the industry as a whole. We are working with the Commissioner in this regard, and those were some of the technical corrections that we were going to propose to him which I think he already has a good idea of what we are thinking of already.

REP. DOYLE: Are there any other questions from Committee Members?

SEN. MCDERMOTT: I just want to encourage you to get that information to us as well as the legislative body that is going to implement those new laws and changes. We need to have those as well as the Commissioners office. You need to work with the Commissioners office to make changes in that bill and come to an agreement but we need to get some of that information as well.

JOHN READ: Should I coordinate that with the Commissioner's office first and then provide the results to you or just on an on-going basis provide you copies of what we are doing?

SEN. MCDERMOTT: Our offices are always open to you to be able to come and talk to us directly. We have the power here to legislate and change the laws. We want to be able to hear from you before things

are going on. I've gotten a lot of calls, I'm sure other Members of the Committee have, from mortgage brokers who were upset last year and were upset about some of the things this year. We want you to be able to communicate directly with us before. That's what we are here for. We're here as your voice to be able to do things so talk to us during the process so that we know what's coming up, we have a heads up, and be able to work with you.

I'm not saying that you are going to be able to get everything you want but we want to be able to know before we pass new legislation what your point of views are on it so the doors are always open.

JOHN READ: And that is vise versa as well.

REP. DOYLE: Any other questions? Thank you.

JOHN READ: Thank you very much.

REP. DOYLE: Next up, Ray Dowling, Stamford Credit Union, Fran Proto, Dutch Point. Right now it's Ray Dowling, Stamford Credit Union.

RAY DOWLING: Thank you Mr. Chairman. Senator McDermott, Representative Doyle and Members of the Bank Committee. My name is Raymond Dowling and I'm the President and Chief Executive Officer of Stamford Credit Union. This is a state chartered credit union that serves 4,300 members. Our offices are located in the Stamford municipal building and our membership primarily consists of people who are employed by the City of Stamford and their family members.

I'm here today to support the passage of H.B. 5316 AN ACT CONCERNING CREDIT UNION MODERNIZATION. Passing of H.B. 5316 AN ACT CONCERNING CREDIT UNION MODERNIZATION is important to my credit union and other Connecticut credit unions because it will enable us to better serve our members and provide them with financial products and services that they want and need from that credit union.

On behalf of my members and the nine hundred and thirty one thousand eight hundred and twenty-two



STATE OF CONNECTICUT
DEPARTMENT OF BANKING

260 CONSTITUTION PLAZA • HARTFORD, CT 06103-1800



John P. Burke
Commissioner

BANKS COMMITTEE PUBLIC HEARING, FEBRUARY 19, 2002

MEMORANDUM RE: An Act Concerning Consumer Credit and Money Transmitter Licensees (S.B. 231)

STATEMENT OF PURPOSE: To revise and update the licensing scheme for mortgage lenders and brokers, sales finance companies, small loan lenders, debt adjusters and consumer collection agencies to provide greater protection to consumers and streamline the licensing process; and to amend the bond provisions for first mortgage lenders and brokers, money transmitters, and consumer collection agencies to allow the Commissioner of Banking to proceed on the bond to collect any civil penalty imposed on such licensees.

FROM: John P. Burke, Commissioner of Banking

PRESENT LAW:

- Section 36a-3 sets forth the cross-references to the definitions in Title 36a.
- Section 36a-485 sets forth the definitions for the statutes governing first mortgage lenders and brokers.
- Section 36a-486 prohibits persons from engaging in the business of making first mortgage loans or engaging in the first mortgage loan business as a mortgage broker in Connecticut without obtaining a license.
- Section 36a-487 sets forth the exemptions from the licensing requirement for first mortgage lenders and brokers.
- Section 36a-488 sets forth the contents of the application for a first mortgage lender or broker license and renewal of such license.
- Section 36a-489 provides that the Commissioner must make certain findings prior to issuing a first mortgage lender or broker license.

Section 36a-490 requires, among other things, that a first mortgage lender or broker license be prominently posted in each place of business of the licensee; the Commissioner's prior approval for a change of location of a licensee; and that the licensee provide the Commissioner with information concerning new officers, partners, directors and certain shareholders.

Section 36a-491 sets a license fee of \$400 for a first mortgage lender license and \$200 for a first mortgage broker license, provides that such licenses shall expire on September thirtieth of each year, and sets forth the requirements for renewal of such licenses.

Section 36a-492 addresses the bond requirements for first mortgage lender and broker licensees.

Section 36a-493 sets forth the record keeping requirements for first mortgage lender and broker licensees.

Section 36a-494(a) provides that the Commissioner may suspend, revoke or refuse to renew a first mortgage lender or broker license for certain specified grounds.

Section 36a-496 prohibits persons engaged in the business of making first mortgage loans in Connecticut from accepting applications or referral of applicants from, or paying a fee to, any unlicensed first mortgage broker.

Section 36a-497 places certain limitations on advertising by first mortgage lender and broker licensees.

Section 36a-498 requires that every advance fee paid to a first mortgage lender or broker required to be licensed be refundable, except where the person providing the advance fee has entered into a written agreement that provides otherwise and that meets certain requirements.

Section 36a-510 sets forth the definitions for the statutes governing secondary mortgage lenders and brokers.

Section 36a-511 prohibits persons from engaging in the secondary mortgage loan business in Connecticut as a lender or broker without obtaining a license, and specifies certain activities that constitute engaging in such business and others that do not.

Section 36a-512 sets forth the exemptions from the licensing requirement for secondary mortgage lenders and brokers.

Section 36a-513 sets forth the contents of the application for a secondary mortgage lender or broker license and provides that the Commissioner may issue such license upon making certain findings.

Section 36a-514 sets a license fee of \$400 for a secondary mortgage lender license and \$200 for a secondary mortgage broker license, provides that such licenses shall expire on June thirtieth of each year, and sets forth the requirements for renewal of such licenses.

Section 36a-515 requires, among other things, that a secondary mortgage lender or broker license be prominently posted in the place of business for which it was issued, and that the licensee notify the Commissioner if any change occurs in certain personnel.

Section 36a-516 sets forth the record keeping requirements for secondary mortgage lender and broker licensees.

Section 36a-517(a) provides that the Commissioner may suspend, revoke or refuse to renew a secondary mortgage lender or broker license for certain specified grounds.

Section 36a-519 limits the prepayment penalty for second mortgage loans to five percent and prohibits the imposition of any penalty for prepayments occurring more than three years after the date of such loans.

Section 36a-520 imposes requirements on secondary mortgage lender licensees regarding release of second mortgages and provision of the amount of the outstanding balance of second mortgage loans upon the mortgagor's request.

Section 36a-521 limits the prepaid finance charges that may be imposed by secondary mortgage loan lenders and brokers, prohibits the inclusion, in a loan agreement in which prepaid finance charges have been assessed, of any provision which permits the lender to demand payment of the entire loan balance prior to maturity, except in the event of default, and provides for civil liability for failure to comply with these provisions. It also requires that every advance fee paid to a secondary mortgage lender or broker required to be licensed be refundable except where the person providing the advance fee has entered into a written agreement that provides otherwise and that meets certain requirements.

Section 36a-523 prohibits persons engaged in the secondary mortgage loan business in Connecticut from accepting applications or referral of applicants from, or paying a fee to, any unlicensed broker.

Section 36a-524 places certain limitations on advertising by secondary mortgage lender and broker licensees.

Section 36a-534a requires persons licensed as first or secondary mortgage lenders or brokers to notify the Commissioner of certain discriminatory lending practices and requires the Commissioner to notify the Commission on Human Rights and Opportunities if the Commissioner finds that there is a reasonable basis for such notification.

Section 36a-539(a) sets a license fee of \$400 for a sales finance company license, provides that such license shall expire on June thirtieth of each year, and sets forth the requirements for renewal of such license.

Section 36a-540 provides that each sales finance company license shall be conspicuously displayed at the location specified in the license.

Section 36a-541 sets forth the grounds upon which the Commissioner may refuse to issue a sales finance company license and provides that such license issued by the Commissioner shall expire on June thirtieth following the date of its issuance.

Section 36a-542 sets forth the requirements for renewal of a sales finance company license.

Section 36a-543 governs the suspension and revocation of, and refusal to renew a sales finance company license.

Section 36a-555 prohibits, with certain exceptions, persons from engaging in the business of making loans of \$15,000 or less for loans made under Section 36a-563 or 36a-565 and charging more than 12 percent per annum for such loans, with certain specified exceptions, unless licensed to so by the Commissioner.

Section 36a-556 sets forth the licensing requirements for a small loan lender license.

Section 36a-557 set forth the contents of an application for a small loan lender license.

Section 36a-558(a) sets a license fee of \$400 for a small loan lender license, provides that such license shall expire on June thirtieth of each year, and sets forth the requirements for renewal of such license.

Section 36a-572 governs the revocation of a small loan lender license.

Section 36a-602(a) addresses the bond requirements for persons applying or licensed to engage in the business of issuing Connecticut payment instruments and money transmission.

Section 36a-655 sets forth the definitions for the provisions governing debt adjusters.

Section 36a-656 prohibits any person, other than a bona fide nonprofit organization that has obtained a license, from engaging in the business of debt adjustment in Connecticut, sets forth the application requirements, and provides that the license shall be effective as long as the licensee remains in the debt adjustment business.

Section 36a-657 provides that the Commissioner may deny an application for a debt adjuster license or revoke or suspend such license for certain specified causes.

Section 36a-658 requires that debt adjuster licenses be conspicuously posted in each office, provides that such licenses are not transferable or assignable, and limits any other business that may be conducted by licensees.

Section 36a-659 addresses the record keeping requirements of debt adjuster licensees and requires licensees to maintain a separate bank account in which payments received from debtors must be deposited.

Section 36a-664 prohibits debt adjuster licensees from making any reference to bonding or approval.

Section 36a-801, among other things, prohibits persons from acting as a consumer collection agency in Connecticut without obtaining a license, sets forth the application requirements and standards for approval of a license, sets a license fee of \$400, provides that the license shall expire on April thirtieth of each year, and sets forth the renewal requirements.

Section 36a-802 addresses the bond requirements for consumer collection agency licensees.

Section 36a-804 authorizes the Commissioner to suspend or revoke a consumer collection agency license for cause but does not specify the grounds for such action.

Section 36a-495 authorizes the Commissioner to adopt such regulations as may be necessary to carry out the provisions concerning first mortgage lenders and brokers.

Section 36a-518 authorizes the Commissioner to adopt such regulations as may be necessary to carry out the provisions concerning secondary mortgage lenders and brokers.

Section 36a-571 authorizes the Commissioner, at any time during an investigation of a small loan lender licensee, to suspend a license for up to 15 days without notice or hearing.

Section 36a-803 prohibits any person from engaging in the business of a consumer collection agency in Connecticut if such person or certain related individuals have been convicted of any crime which shows them to be of unsuitable moral character or have violated any of the provisions concerning consumer collection agencies.

EFFECT OF S.B. 231:

- Section 1. This section amends Section 36a-3 to add and delete cross-references to various definitions.
- Section 2. This section amends Section 36a-485 to add definitions of "first mortgage broker", "first mortgage correspondent lender", "first mortgage lender", "originator", "table funding agreement" and "warehouse agreement", and amend and delete certain existing definitions.
- Section 3. This section amends Section 36a-486 to: (1) provide that a first mortgage correspondent lender shall not be deemed to be acting as a first mortgage lender by virtue of utilizing its own funds to make a loan where another person who had made a commitment to fund the loan fails to do so; (2) prohibit a licensee from employing or retaining an originator prior to registering such originator, and any individual from acting as an originator without being registered or acting as an originator for more than one licensee; (3) provide that registration of an originator is not effective when the originator is not associated with a licensee; and (4) require notification to the Commissioner of termination of employment of an originator.
- Section 4. This section amends Section 36a-487 to make technical changes.
- Section 5. This section amends Section 36a-488 to: (1) impose a minimum tangible net worth requirement of \$250,000 for a first mortgage lender, and \$25,000 for a first mortgage correspondent lender and a first mortgage broker; (2) require that mortgage lenders and first mortgage brokers have, at the licensed location, a supervisor with at least three years of relevant experience within the last five years; (3) specify the types of licenses that the Commissioner may issue and the activities authorized under certain licenses; and (4) specify additional items to be included in the license or renewal application.
- Section 6. This section amends Section 36a-489 to: (1) add the finding that the applicant meets the net worth and experience requirements imposed by Section 5 of this proposal to the findings that the Commissioner must

make prior to issuing a license; (2) provide that the Commissioner shall deny a license upon finding that the applicant made a material misstatement in the application; (3) provide that a denial of an application shall be subject to the provisions of Section 46a-80; and (4) set forth the standards for registration of originators.

- Section 7. This section amends Section 36a-490 to require: (1) that each license be maintained at the location for which it was issued and be available for public inspection, in lieu of the requirement that each license be prominently posted; (2) prior written notice to the Commissioner, instead of approval, for a change in location; and (3) that licensees notify the Commissioner in writing of any change in the information provided in the application, and not merely changes in certain personnel and shareholders.
- Section 8. This section amends Section 36a-491 to: (1) provide that a license issued under the section shall expire on September thirtieth of the even-numbered year following its issuance; (2) change the license fee for a first mortgage lender license or a first mortgage correspondent lender license to \$800, except that the license fee will be \$400 for applications filed within one year or less of the date such license expires; (3) change the license fee for a first mortgage broker license to \$400, except that the license fee will be \$200 for applications filed within one year or less of the date such license expires; (4) establish a fee of \$100 for registration of an originator, except that the registration fee will be \$50 for applications filed within one year or less of the date the license of the applicant expires; and (5) provide that the registration of an originator shall expire when the licensee's license expires.
- Section 9. This section amends Section 36a-492 to clarify that only borrowers and prospective borrowers may proceed on the bond, additionally allow the Commissioner to proceed on the bond to collect any civil penalty imposed on the licensee under Section 36a-50, and create a statutory trust with respect to the proceeds of the bond.
- Section 10. This section amends Section 36a-493 to require licensees: (1) to maintain records of the name and address of any broker involved in the loan transaction; (2) for loans made and serviced by the licensee, to retain records of the loan transaction for not less than two years following the final payment or the assignment of the loan, whichever occurs first, or any longer period required by law; and (3) for loans in which the licensee acts as a mortgage lender or first mortgage broker but does not service the loan, to retain records of the loan transaction for not less than two years from the date of the transaction, or any longer period required by law.
- Section 11. This section amends Section 36a-494(a) to authorize the Commissioner to suspend, revoke or refuse to renew a license based on a finding that

the licensee or certain related individuals misappropriated funds, violated any provision (instead of certain specified provisions) of Title 36a, or failed to perform any agreement with a licensee; and to suspend, revoke or refuse to renew a registration for certain specified grounds.

- Section 12. This section amends Section 36a-496 to prohibit persons engaged in the business of making first mortgage loans in Connecticut from accepting applications or referrals from, or paying a fee to, any unregistered originator.
- Section 13. This section amends Section 36a-497 to make technical changes.
- Section 14. This section amends Section 36a-498 to include advance fees paid to originators in the provisions concerning refundability of advance fees.
- Section 15. This section amends Section 36a-510 to add definitions of "mortgage lender", "originator", "secondary mortgage broker", "secondary mortgage correspondent lender", "secondary mortgage lender", "table funding agreement" and "warehouse agreement", and amend and delete certain existing definitions.
- Section 16. This section amends Section 36a-511 to: (1) delete certain exclusions from what constitutes engaging in the secondary mortgage loan business for licensed real estate brokers, accountants, attorneys and beneficiaries of a licensee's estate; (2) provide that a secondary mortgage correspondent lender shall not be deemed to be acting as a secondary mortgage lender by virtue of utilizing its own funds to make a loan where another person who had made a commitment to fund the loan fails to do so; (3) prohibit a licensee from employing or retaining an originator prior to registering such originator, and any individual from acting as an originator without being registered or acting as an originator for more than one licensee; (4) provide that registration of an originator is not effective when the originator is not associated with a licensee; and (5) require notification to the Commissioner of termination of employment of an originator.
- Section 17. This section amends Section 36a-512 to make technical changes.
- Section 18. This section amends Section 36a-513 to: (1) impose a minimum tangible net worth requirement of \$100,000 for a secondary mortgage lender, and \$25,000 for a secondary mortgage correspondent lender and a secondary mortgage broker; (2) require that mortgage lenders and secondary mortgage brokers have, at the licensed location, a supervisor with at least three years of relevant experience within the last five years; (3) specify the types of licenses that the Commissioner may issue and the activities authorized under certain licenses; (4) specify additional items to be included in the license or renewal application; (5) make the standards for

the issuance or denial of a license similar to those for a first mortgage license; and (6) set forth the standards for registration of an originator.

Section 19.

This section amends Section 36a-514 to: (1) provide that a license issued under the section shall expire on September thirtieth of the even-numbered year following its issuance; (2) change the license fee for a secondary mortgage lender license or a secondary mortgage correspondent lender license to \$800, except that the license fee will be \$400 for applications filed within one year or less of the date such license expires, and \$500 for renewal of a license that expires on June 30, 2003; (3) change the license fee for a secondary mortgage broker license to \$400, except that the license fee is \$200 for applications filed within one year or less of the date such license expires, and \$250 for renewal of a license that expires on June 30, 2003; (4) establish a fee of \$100 for registration of an originator except that the registration fee will be \$50 for applications filed within one year or less of the date the license of the applicant expires; (5) provide that the registration of an originator shall expire when the licensee's license expires; and (6) provide that registration fees shall not be abated if a registration is surrendered, revoked or suspended prior to expiration.

Section 20.

This section amends Section 36a-515 to make its provisions similar to the provisions of Section 36a-490, as amended by Section 7 of this proposal.

Section 21.

This section amends Section 36a-516 to: (1) specify that the required records must be maintained at the place of business named in the license or made available at such location within five days of the Commissioner's request; (2) require licensees, for loans made and serviced by the licensee, to retain records of loan transactions where the loan is made and serviced by the licensee, for not less than two years following the final payment or assignment of the loan, whichever occurs first, or any longer period required by law; and (3) require licensees, for loans in which the licensee acts as a mortgage lender or secondary mortgage broker but does not service the loan, to retain records of the loan transaction for not less than two years from the date of the loan transaction, or any longer period required by law.

Section 22.

This section amends Section 36a-517(a) to authorize the Commissioner to suspend, revoke or refuse to renew a license based on a finding that the licensee or certain related individuals misappropriated funds, violated any provision (instead of specified provisions) of Title 36a or any other law or regulation applicable to its conduct, or failed to perform any agreement with a licensee, and to suspend, revoke or refuse to renew a registration for certain specified grounds.

Section 23.

This section amends Section 36a-519 to make a technical change.

- Section 24. This section amends Section 36a-520 to make technical changes.
- Section 25. This section amends Section 36a-521 to make technical changes.
- Section 26. This section amends Section 36a-523 to make technical changes.
- Section 27. This section amends Section 36a-524 to make a technical change.
- Section 28. This section amends Section 36a-534a to make technical changes.
- Section 29. This section amends Section 36a-539(a) to: (1) provide that a sales finance company license shall expire on September thirtieth of the odd-numbered year following its issuance, except that a license that is renewed effective July 1, 2003, will expire on September 30, 2005; and (2) change the license fee to \$800, except that the license fee will be \$400 for applications filed within one year or less of the date the license expires.
- Section 30. This section amends Section 36a-540 to make its provisions similar to the provisions of Section 36a-490, as amended by Section 7 of this proposal.
- Section 31. This section amends Section 36a-541 to make the standards for the issuance or denial of a sales finance company license similar to those for a first mortgage license.
- Section 32. This section amends Section 36a-542 to make the filing deadline for renewal of a sales finance company license consistent with the amended expiration date under Section 29 of this proposal, and set a license fee of \$800 for renewal of a license, except that the license fee for a license that expires on June 30, 2003, will be \$900.
- Section 33. This section amends Section 36a-543 to make technical changes and minor changes.
- Section 34. This section amends Section 36a-555 to make technical changes.
- Section 35. This section amends Section 36a-556 to delete the publication requirement for an applicant for a small loan lender license, add standards for denial of a license, and delete an obsolete provision.
- Section 36. This section amends Section 36a-557 to delete the provisions specifying the information that must be included in the application for a small loan lender license.
- Section 37. This section amends Section 36a-558(a) to: (1) provide that a small loan lender license shall expire on September thirtieth of the odd-numbered year following its issuance, except that a license that is renewed

effective July 1, 2003, shall expire on September 30, 2005; and (2) change the license fee to \$800, except that the license fee will be \$400 for applications filed within one year or less of the date the license expires and \$900 for renewal of a license that expires on June 30, 2003.

- Section 38. This section amends Section 36a-572 to delete the authority of the Commissioner to revoke a small loan lender license for failure to pay the annual license fee.
- Section 39. This section amends Section 36a-602(a) to authorize the Commissioner to proceed on the bond to collect any civil penalty imposed on the licensee under Section 36a-50.
- Section 40. This section amends Section 36a-655 to amend the definition of "bona fide nonprofit organization" to mean any corporation that is exempt from taxation under Section 503(c)(3) of the Internal Revenue Code, and add a definition of "debtor".
- Section 41. This section amends Section 36a-656 to: (1) delete the provision that a debt adjuster license shall be effective as long as the licensee remains in the debt adjustment business; (2) set forth the standards for issuance and denial of a debt adjuster license; (3) set a one-time application fee of \$250; (4) provide that such license shall expire on September thirtieth of the odd-numbered year following its issuance, except that any license issued prior to the effective date of this proposal shall expire on September 30, 2003; and (5) provide that the license fee shall not be abated if the license is surrendered, revoked or suspended prior to expiration, nor shall it be refundable.
- Section 42. This section amends Section 36a-657 to give the Commissioner authority to refuse to renew a debt adjuster license and make the grounds for suspension, revocation and refusal to renew similar to those for other consumer credit licenses.
- Section 43. This section amends Section 36a-658 to make its provisions similar to the provisions of Section 36a-490, as amended by Section 7 of this proposal.
- Section 44. This section amends Section 36a-659 to make the requirement of a separate bank account applicable only to payments received from debtors who are residents of Connecticut.
- Section 45. This section amends Section 36a-664 to: (1) impose a bond requirement on debt adjuster licensees with the principal amount of the bond being the greater of \$40,000 or twice the amount of the highest total payments received by the licensee from Connecticut debtors in any month during the preceding 12 months ending July thirty-first of each year; and (2) delete the prohibition against such licensees making any reference to

bonding or state approval and, instead, prohibit any claim that they are endorsed, sponsored, recommended or bonded by the state.

- Section 46. This section amends Section 36a-801 to: (1) provide that a consumer collection agency license shall expire on September thirtieth of the odd-numbered year following its issuance, except that a license that is renewed effective May 1, 2003, shall expire on September 30, 2005; (2) change the license fee to \$800 except that the license fee is \$400 for applications filed within one year or less of the date the license expires, and \$1,000 for renewal of a license that expires on April 30, 2003; (3) impose an additional \$100 processing fee for applications filed by persons whose license expired less than 60 days prior to the filing of the application; (4) require prior written notice to the Commissioner of a change in the location of a licensee; and (5) provide that a license shall not be transferable or assignable.
- Section 47. This section amends Section 36a-802 to allow the Commissioner to proceed on the bond to collect any civil penalty imposed on the licensee under Section 36a-50, and create a statutory trust with respect to the proceeds of the bond.
- Section 48. This section amends Section 36a-804 to provide grounds for the suspension, revocation or refusal to renew a consumer collection agency license and clarify the Commissioner's authority to take enforcement action under Section 36a-50 for violation of the provisions concerning consumer collection agencies.
- Section 49. This section repeals Sections 36a-495, 36a-518, 36a-571, and 36a-803.

**COMMISSIONER OF BANKING'S
POSITION:**

This is a Department of Banking proposal. Connecticut's current regulation of mortgage lenders and brokers does not adequately protect consumers. First, because the scheme does not require licensure of the investors who fund loans that are closed by correspondent lenders or of loan originators, the Commissioner has no enforcement authority with respect to such persons. Therefore, if an investor reneges on a commitment made to a correspondent lender who is, consequently unable to make the loan, or an originator engages in fraudulent activity, the Commissioner is unable to take any action against the person. Second, unlike many states, Connecticut does not have any net worth or experience requirements for lenders and brokers. This proposal would address these problems. The current regulation of debt adjusters is also inadequate. Unlike other licensing provisions, the licensing provision for debt adjusters does not set forth any standards for approval and the licenses have no expiration date. Thus, the Commissioner does not have the opportunity to re-evaluate these licensees at renewal. Even more significant is the absence of any bond requirement for debt adjusters

whose business involves the receipt of funds from debtors. These debtors would have little or no recourse if the debt adjuster were to go into bankruptcy.

The proposal also puts all consumer credit licenses on a two year renewal cycle with mortgage lender and broker licenses, which constitute the majority of licenses issued by this department, expiring in even-numbered years and all the other licenses expiring in odd-numbered years. This will reduce the burden on licensees as well as on the Department.

②



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COMMENTARY TO RAISED BILLS**5073 - Prepaid Finance charges****SB0231 - Consumer Credit and Money Transmitter Licensees**

February 19, 2002

Mortgage brokers originate some 60% of all residential mortgages nationwide. The Connecticut Society of Mortgage Brokers (CSMB) represents a majority of the mortgage broker industry in Connecticut. CSMB consists of 108 member broker firms plus 58 wholesale lenders plus 41 affiliate members. The success of CSMB and its members rests entirely upon serving well the consumer and home buying public.

CSMB has reviewed these proposed bills and has met with their proposer, the Department of Banking.

In general, CSMB is supportive of these bills as they will enable more effective oversight of the mortgage industry, provide additional consumer safeguards and will enhance the professionalism of our industry.

However, we have identified a number of concerns which are technical in nature and are in process of definition. Our intent is to clarify certain points to facilitate their effective implementation. CSMB has promised the Commissioner of the Department of Banking with these findings in the near future for their consideration.

Respectfully submitted,

John Read and Tony Fiorenzi, Co-Chair
Legislative Committee
Connecticut Society of Mortgage Brokers