

PA 11-119

HB6350

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lk/gbr BANKS COMMITTEE

March 1, 2011
11:00 a.m.

questions that we're asking. Thank you. Thank you, Mr. Chairman.

REP. TONG: So without further adieu, we'll introduce our Attorney General George Jepson. General.

ATTORNEY GENERAL GEORGE JEPSON: Good morning. Here we go. Eight years ago I wouldn't have missed that one. Senator Duff, Representative Tong, it's great to be here. I've been joined today by my -- members from my staff, Matthew Budzik, Assistant Attorney General, who has our banking and insurance department and Robert Clark, the new legislative liaison.

I appreciate the opportunity to speak in favor of House Bill 6350 AN ACT CONCERNING THE ATTORNEY GENERAL'S AUTHORITY TO ENFORCE PROVISIONS OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT. I strongly support this proposal and urge the committee to report favorably upon it.

Last year, following one of the most severe financial crisis our -- our nation has ever faced, Congress passed and President Obama signed into law the Dodd-Frank Act which is Public Law 111-203, House Resolution 4173.

This new federal law represents the most sweeping overhaul to financial regulation in the United State since the Great Depression. The stated aim of the Dodd-Frank Act is to quote promote the financial stability of the United States by improving accountability and transparency in the financial system to end quote, too big to fail, close quote to protect the American tax payer by ending bailouts to protect consumers from abusive financial services practices and for other purposes.

Section 1042 of the Dodd-Frank Act, excerpts of which are attached hereto -- to -- for your convenience, authorizes state attorneys general to bring civil actions to enforce provisions of the Dodd-Frank Act as well as certain regulations that soon will be promulgated by the Federal Bureau of Consumer Financial Protection. In particular, the Dodd-Frank Act authorizes state attorneys general to enforce the new federal laws and regulations designed to protect consumers from unfair, deceptive or abusive mortgage or mortgage broker practices, check cashing and day -- and payday lending practices, debt collection practices and prepaid debit card practices.

House Bill 6350 simply states that the Connecticut Attorney General, like all other state attorneys general, has the -- the authority to do what Congress has explicitly empowered state attorneys general to do which is to enforce the provisions of the Dodd-Frank Act in accordance with the requirements and conditions set forth in that law. Because the Dodd-Frank Act itself vests its power in all state attorneys general, there's a -- there is a strong, even compelling argument, that no such state authorization is actually required.

Nevertheless, because state enforcement is such a significant component of the Dodd-Frank Act and because those who violate that act, may seek to thwart enforcement proceedings by raising baseless jurisdictional challenges, the most prudent course to protect Connecticut residents and consumers is to pass House Bill 6350 and thereby remove any doubt about whether Connecticut law permits the Connecticut Attorney General to perform that function that Congress has assigned to all state attorneys general.

State attorneys general are often the first to become aware of financial practices that harm ordinary citizens. Connecticut residents deserve, and under Dodd-Frank Act, are entitled to have the same level of state enforcement as residents of other states. This bill will permit my office to ensure that that happens.

Thank you once again for your efforts on this important matter. I look forward to working with all of the members of this committee and welcome any questions you might have at this time.

REP. TONG: Thank you, General. Just a few questions. And you addressed it at the end here. But this question of whether this bill is necessary, I wanted to give you a chance to expand on that a little bit more. It seems to me that you're asking for something that (inaudible) enabling legislation or almost -- almost regulatory language or regulations that implement what Congress has done. Is that really necessary and are there other circumstances in which that's done? And can you expand on -- on why you think that's important?

ATTORNEY GENERAL GEORGE JEPSON: It -- it probably isn't necessary, but it's prudent. I think that if you -- we go -- let's say we're enforcing regulations and they happen to be enforced against a deep-pocked large bank, the first thing that their attorneys will do is to raise the jurisdictional issues which would then delay enforcement of the act while that sorts itself out in court which could take years. So it's -- it's almost certainly baseless, but prudent to do to protect consumers.

REP. TONG: I know you've -- you've just taken

office. Congratulations again.

ATTORNEY GENERAL GEORGE JEPSON: Thank you.

REP. TONG: As you think about this proposed bill and your new enforcement authority under Dodd-Frank, is that going to require significantly more resources in the Attorney Generals Office? Do you have a unit ready to tackle that already? Do you have any sense of how you're going to approach it organizationally?

ATTORNEY GENERAL GEORGE JEPSON: We have a very strong banking and insurance department within my office. And, you know, we are facing, regrettably, as everyone knows, a time of diminished resources. And we are part of, in fact, the principle focus of my work in the office for the last two months has been to identify -- we are understaffed to begin with in this office -- is to identify areas where we can cut back and reallocate resources. So this -- this issue doesn't -- the issue that you correctly raise about -- about demanding resources for -- for enforcement, it doesn't exist in isolation, it exists in the context of the department that -- that has staff shortfalls in a number of other areas as well. And I am extremely confident Deputy Nora Dannehy are doing a department by department review of where we can pull back a little bit in order to reallocate resources and -- and included in that would be any resources needed here.

REP. TONG: Well, I invite you to let us know to the extent that you need resources and what you do need to enforce provisions of Dodd-Frank and keep us up to date on your efforts.

ATTORNEY GENERAL GEORGE JEPSON: Great. We'll (inaudible) in touch.

REP. TONG: Any further questions? Representative Albis.

REP. ALBIS: Thank you and thank you very much for your testimony this morning. So if I understand the Dodd-Frank Act correctly, really the only office that is directed to enforce this is your office across the nation; is that correct, sir?

ATTORNEY GENERAL GEORGE JEPSON: We're the only office that gains new hours that we didn't -- existed up until Dodd-Frank enforcement of existing banking regulations was federalized largely. And in addition, there's -- it's -- it's in creation mode. There's the new Consumer Financial Protection Bureau that is coming into existence in later this year. Presumably we'll start to promulgate regulations that protect new regulations to protect consumers. And we would be deputized to enforce those regulations.

REP. ALBIS: In terms of the aspects that you've identified and the testimony though in terms of enforcing the new federal laws and, you know, in regulations, you know, from the Unfair Deceptive Acts, the Dodd-Fair -- Dodd-Frank Bill or Dodd-Frank Act, basically, though specified states attorneys generals --

ATTORNEY GENERAL GEORGE JEPSON: Yes.

REP. ALBIS: -- with that and they -- they didn't contemplate in the act any other office at the state level from persons --

ATTORNEY GENERAL GEORGE JEPSON: Not that I'm aware of. I believe that is -- that is accurate.

REP. ALBIS: Okay. Thank you very much. Thank you,

Mr. Chairman.

REP. TONG: Questions? Chairman.

SENATOR DUFF: Thank you, Mr. Attorney General, it's good to have you here today. We appreciate it. Off -- going off of the two other questions -- questioners from before. In our discussions we've had previously, I think it was understood that you could actually -- if you wanted to, you've been prudent about the legislature and being a forward to this Committee because you could have reached a lot further into what you might be able to do as an Attorney General. But I think you have thought of it -- thought of your role in a -- in a prudent way of trying to make sure that you've codified some things in state law, but not overreached your office. And just want to -- if you could just comment on that a little bit because I think that is a important point for the Committee to understand.

ATTORNEY GENERAL GEORGE JEPSON: There are some who urged us to go beyond simply enabling legislation that -- that says take Dodd-Frank and the powers there and enforce them, go beyond that and see -- increase authority to -- to (inaudible) authority. But, you know, I -- I just felt that it would be an overreach and that we should try to make this new federal law to work. This is uncharted territory for us as a -- as an office. And I'd rather take it one step at a time.

SENATOR DUFF: Great. Thank you for your response and for your measured approach to this legislation. Thank you, Mr. Chairman.

REP. TONG: Anymore questions? Thank you, General.

ATTORNEY GENERAL GEORGE JEPSON: Thank you.

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lk/gbr BANKS COMMITTEE

March 1, 2011
11:00 a.m.

RAPHAEL PODOLSKY: Good morning. Senator Duff, Representative Tong, members of the Committee, thank you. My name is Raphael Podolsky. I'm a lawyer with the Legal Assistance Resource Center in Hartford. I'm going to try to and testify very quickly on five bills. Those are Senate bills -- Senate Bill 957, House Bill 6351, Senate Bill 905, House Bill 6350, and Senate Bill 1077.

(HB5892)

(HB5437)

Senate Bill 957 is the bill that the previous witness spoke about, the Neighborhood Protection Act. That act was adopted two years ago. It's a very -- I think it's a very important act for municipalities. It's designed to give them contact information so as to be able to know who of a -- when a -- when a lender has foreclosed to know whom to get in touch with. And also, to allow towns to maintain a watch list on buildings that are potentially at risk of being abandoned or damaged or otherwise adversely affecting the neighborhood.

What this bill does is it strengthens that act. And what it does in some ways is makes it more like an ordinance that the City of New Haven had adopted prior to the passage of the act. In particular, it picks up occupied as well as vacant buildings. It requires the contact information be given at the beginning rather than the end of the foreclosure. And it allows the town to make sure all the information goes to a single location, so that it could create a watch list because we very much support the bill.

House Bill 6351 deals with the Foreclosure Mediation Program and fixes what I would say is one kind of awkwardness in the program. Under the existing statute, while the parties are in mediation, the pleadings for the case continue

to move forward, so that, particularly for a pro se litigant who is in good faith engaged in -- in the mediation process, if they don't know how to plead or what to do, they could end up -- defaults can -- can be entered and it makes a lot more sense to say that until the mediation is over that the -- that the foreclosure action should simply be on hold. So we're in favor of that bill.

We are in favor of Senate Bill 905 which calls for a study of CHFA Lost Mitigation Programs. I think it would be useful to take a good look at them from the legislative end and make sure that they are being used to the maximum extent possible. It's not to criticize anything about the program, that we want to maximize those -- the usage especially the Emergency Mortgage Assistance Program. And I think with -- with the review, it may be possible to promote a broader use and perhaps more liberal underwriting and maybe, if necessary, changes in the statute.

House Bill 6350 which the Attorney General spoke to which deals with the Attorney General's enforcement of the Dodd-Frank Bill -- the Dodd-Frank Act, I really view this as kind of a technical clarification bill. There is some case law in Connecticut that says the Attorney General can only do what the legislature has authorized them to do. And that's what creates the potential conflict between the federal statute that invites and, in fact, requests and depends on Attorney General enforcement in each of the states. And this really is sort of is -- is protective of that by making clear that, indeed, under Connecticut law, the Attorney General is authorized to do what the federal government is saying it should under -- he should under Dodd-Frank.

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Legal Assistance Resource Center**of Connecticut, Inc.**44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106
(860) 278-5688 x203 ♦ cell (860) 836-6355 ♦ fax (860) 278-2957 ♦ RPodolsky@LARCC.org**Testimony of Raphael L. Podolsky****Foreclosure bills**

Banks Committee public hearing -- March 1, 2011

SB905 HB6350
SB1077 HB5892
HB5437**S.B. 957 -- Neighborhood Protection Act****SUPPORT**

In 2009, the General Assembly adopted the Neighborhood Protection Act to make it easier for towns to identify a contact person in charge of foreclosed properties and to maintain an on-going watch list of foreclosed properties so as to monitor them more effectively and prevent them from becoming a source of neighborhood deterioration. At the time, New Haven had a strong and effective ordinance already in place. The 2009 act, however, was less comprehensive than the New Haven ordinance and it arguably prevents other towns from adopting the New Haven approach (it grandfathered the New Haven ordinance so as not to affect New Haven). In particular, unlike the New Haven ordinance, the state act does not require registration of occupied foreclosed buildings, does not require registration at the start of the foreclosure action so as to permit monitoring during the action's pendency, and does not allow the town to require the contact information to be submitted to a single location (thereby making it nearly impossible to maintain a watch list). This bill makes changes to the state statute so as to make its requirements more similar to the New Haven ordinance. We believe that these changes will significantly improve the ability of towns to benefit from the two core goals of the original statute and thus make it a better statute: (1) To assure that towns have the contact information they need to deal with neighborhood preservation during and after foreclosure and (2) to maintain a watch list of buildings at risk as the result of foreclosure activity so as to more effectively monitor those buildings and prevent the neighborhood deterioration that sometimes arises from foreclosure.

H.B. 6351 -- Foreclosure Mediation Program**SUPPORT**

Under the existing Foreclosure Mediation Program, the foreclosing lender is allowed to continue to move the foreclosure forward while court-based mediation is in progress. The only thing it cannot do is actually obtain judgment, but it can do everything short of judgment. This means that the lender will file motions for default for failure to plead, disclosure of defense, or summary judgment, even though mediation is actively in progress. This creates an extremely difficult situation for the homeowner, and especially for a homeowner without a lawyer (which is usually the case), who does not know how to respond to this pressure. In addition, it is fundamentally contrary to the commitment to mediation, which assumes that people are trying to work out an acceptable solution. The problem is compounded by the fact that most delays in the mediation process are caused by the lender's failure to complete internal reviews or have an appropriate person available for mediation, rather than by the borrower. The borrower thus often finds himself waiting for the lender to pull information together at the same time that the lender is threatening the homeowner with default for failure to plead. This bill says that, once mediation is

(continued on reverse side)

requested, pleading will stop until 15 days after mediation is completed. This makes much more sense as a way to maximize the parties' mutual ability to reach a successful conclusion.

S.B. 905 -- Study of CHFA Loss Mitigation Programs

SUPPORT

One key element of Connecticut's response to the foreclosure crisis has been to greatly expand the Emergency Mortgage Assistance Program (EMAP) and to create several new programs, including CT FAMILIES and HERO, that are operated by the Connecticut Housing Finance Authority (CHFA). Through the past two years, concerns have been expressed that overly restrictive underwriting standards, or in some cases unnecessary restrictions built into the program statute itself, have resulted in far too few families receiving help. This bill creates a task force to review and evaluate these programs and to report back to the 2012 session of the General Assembly. We believe that such a task force would be helpful and is worth creating.

H.B. 6350 -- Attorney General enforcement of Dodd-Frank

SUPPORT

This act makes clear that the state Attorney General can enforce the provisions of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 1042 of Dodd-Frank provides that state attorneys general "may bring a civil action...to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law." Section 1042 is a key element that was included in Dodd-Frank to assure that its consumer protection sections would be enforced. In Connecticut, however, there has been some dispute in the past as to the scope of the Attorney General's authority to initiate litigation without explicit statutory authority. H.B. 6350 makes clear that the Attorney General can act to enforce Dodd-Frank to the extent that Dodd-Frank permits such state action.

S.B. 1077 -- Repeal of 1.5% minimum interest rate on mortgage escrow deposits and tenant security deposits

OPPOSE

Connecticut law requires lenders to pay interest on mortgage escrow deposits and landlords to pay interest on tenant security deposits at an index rate set annually by the Banking Commissioner. That rate cannot, however, be set at less than 1.5%. The Banks Committee has already heard H.B. 5892, which I testified against, which would repeal the 1.5% floor for tenant security deposits. My testimony on that bill documented the fact that at least five Connecticut banks, including at least three statewide banks, offer tenant security deposit accounts at the 1.5% rate, including TD Bank which offers a comprehensive account with free collateral services for landlords with at least ten security deposits.¹ S.B. 1077 goes even farther by taking the 1.5% minimum rate away from homeowners on their escrow deposits. This change is especially undesirable, because the deposit of tax and insurance escrows is controlled by the bank itself. In effect, it allows the bank to use its lowest rates for the payment of this interest to its own mortgagors. The homeowner is often not free to look for better rates elsewhere. The 1.5% minimum should be retained.

¹The Insurance Committee has already JF'd H B 5437, a bill that is the same as H B 5892.

GEORGE C. JEPSEN
ATTORNEY GENERAL



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Office of The Attorney General
State of Connecticut

*TESTIMONY OF
ATTORNEY GENERAL GEORGE JEPSEN
BEFORE THE BANKS COMMITTEE
MARCH 1, 2011*

I appreciate the opportunity to speak in favor of HB 6350, An Act Concerning the Attorney General's Authority to Enforce Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I strongly support this proposal and urge the committee to report favorably upon it.

Last year, following one of the most severe financial crises our nation has ever faced, Congress passed, and President Obama signed into law, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), Public Law 111-203, H.R. 4173. This new federal law represents the most sweeping overhaul to financial regulation in the United States since the Great Depression. The stated aim of the Dodd-Frank Act is "to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."

Section 1042 of the Dodd-Frank Act, excerpts of which are attached hereto for your convenience, authorizes state attorneys general to bring civil actions to enforce provisions of the Dodd-Frank Act, as well as certain regulations that soon will be promulgated by the federal Bureau of Consumer Financial Protection. In particular, the Dodd-Frank Act authorizes state attorneys general to enforce the new federal laws and regulations designed to protect consumers from unfair, deceptive or abusive mortgage or mortgage broker practices, check cashing and pay-day lending practices, debt collection practices, and prepaid debit card practices.

HB 6350 simply states that the Connecticut Attorney General, like all other state attorneys general, has the authority to do what Congress has explicitly empowered state attorneys general to do: enforce the provisions of the Dodd-Frank Act in accordance with the requirements and conditions set forth in that law. Because the Dodd-Frank Act itself vests this power in all state attorneys general, there is a strong argument that no such authorization is even required.

Nevertheless, because state enforcement is such a significant component of the Dodd-Frank Act and because those who violate that law may seek to thwart enforcement proceedings by raising baseless jurisdictional challenges, the most prudent course to protect Connecticut residents is to pass HB 6350 and thereby remove any doubt about whether Connecticut law permits the Connecticut Attorney General to perform the function Congress has assigned to all state attorneys general.

State attorneys general are often the first to become aware of financial practices that harm ordinary citizens. Connecticut residents deserve, and under the Dodd-Frank Act, are entitled to the same level of state enforcement as residents of other states. This bill will permit my office to ensure that happens.

Thank you once again for your efforts on this important matter. I look forward to working with all of the members of the committee and welcome any questions you may have.

PUBLIC LAW 111-203—JULY 21, 2010

DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT

Public Law 111-203
111th Congress

An Act

July 21, 2010
(H.R. 4173)

Dodd-Frank Wall
Street Reform
and Consumer
Protection Act.
12 USC 5301
note.

To promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Dodd-Frank Wall Street Reform and Consumer Protection Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents
- Sec. 2. Definitions.
- Sec. 3. Severability
- Sec. 4. Effective date
- Sec. 5. Budgetary effects
- Sec. 6. Antitrust savings clause

TITLE I—FINANCIAL STABILITY

- Sec. 101. Short title.
- Sec. 102. Definitions

Subtitle A—Financial Stability Oversight Council

- Sec. 111. Financial Stability Oversight Council established.
- Sec. 112. Council authority.
- Sec. 113. Authority to require supervision and regulation of certain nonbank financial companies.
- Sec. 114. Registration of nonbank financial companies supervised by the Board of Governors.
- Sec. 115. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies
- Sec. 116. Reports.
- Sec. 117. Treatment of certain companies that cease to be bank holding companies
- Sec. 118. Council funding
- Sec. 119. Resolution of supervisory jurisdictional disputes among member agencies.
- Sec. 120. Additional standards applicable to activities or practices for financial stability purposes.
- Sec. 121. Mitigation of risks to financial stability
- Sec. 122. GAO Audit of Council
- Sec. 123. Study of the effects of size and complexity of financial institutions on capital market efficiency and economic growth

Subtitle B—Office of Financial Research

- Sec. 151. Definitions
- Sec. 152. Office of Financial Research established.
- Sec. 153. Purpose and duties of the Office
- Sec. 154. Organizational structure, responsibilities of primary programmatic units
- Sec. 155. Funding
- Sec. 156. Transition oversight.

124 STAT. 2012

PUBLIC LAW 111-203—JULY 21, 2010

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) EXPLANATION OF CONSIDERATIONS.—The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(4) RESERVATION OF AUTHORITY.—No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.

(5) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.

(6) DEFINITION.—For purposes of this subsection, the term “consumer protection regulation” means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

Federal Register,
publication

12 USC 5552

SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) ACTION BY STATE —Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity.

(2) ACTION BY STATE AGAINST NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION TO ENFORCE RULES.—

(A) **IN GENERAL.**—Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association to enforce a provision of this title.

(B) **ENFORCEMENT OF RULES PERMITTED.**—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under other law.

(3) **RULE OF CONSTRUCTION.**—No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(b) CONSULTATION REQUIRED.—**(1) NOTICE.—**

(A) **IN GENERAL.**—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title, including any regulation prescribed by the Bureau under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) **EMERGENCY ACTION.**—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) **CONTENTS OF NOTICE.**—The notification required under this paragraph shall, at a minimum, describe—

- (i) the identity of the parties;
- (ii) the alleged facts underlying the proceeding;

and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) **BUREAU RESPONSE.**—In any action described in paragraph (1), the Bureau may—

- (A) intervene in the action as a party;
- (B) upon intervening—

(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

Records

(ii) be heard on all matters arising in the action;

and

(C) appeal any order or judgment, to the same extent as any other party in the proceeding may.

(c) REGULATIONS.—The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) PRESERVATION OF STATE AUTHORITY.—

(1) STATE CLAIMS.—No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) STATE SECURITIES REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) STATE INSURANCE REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.

12 USC 5553

SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.

This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of enactment of this Act, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.

SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

12 USC 25b

“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

“(a) DEFINITIONS —For purposes of this section, the following definitions shall apply:

“(1) NATIONAL BANK.—The term ‘national bank’ includes—

“(A) any bank organized under the laws of the United States; and

“(B) any Federal branch established in accordance with the International Banking Act of 1978.

“(2) STATE CONSUMER FINANCIAL LAWS.—The term ‘State consumer financial law’ means a State law that does not directly or indirectly discriminate against national banks and that

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
PART 9
2762 – 3112**

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HOUSE OF REPRESENTATIVES

51
May 17, 2011

Thank you. Mr. Speaker, up in the Gallery today is children from St. Michael's School in Pawcatuck, Connecticut, and I know them very well. They do a ton of community service. They're a bunch of wonderful kids.

So if we could just give our usual welcome to St. Michael's School from Pawcatuck. Thank you, Mr. Speaker.

(Applause.)

SPEAKER DONOVAN:

Welcome to our Chamber.

Will the Clerk please call Calendar 173.

THE CLERK:

On Page 46, Calendar 173, House Bill Number 6350
AN ACT CONCERNING THE ATTORNEY GENERAL'S AUTHORITY TO
ENFORCE PROVISIONS OF THE DODD-FRANK WALL STREET
REFORM AND CONSUMER PROTECTION ACT. Favorable Report
of the Committee on Judiciary.

SPEAKER DONOVAN:

The Chairman of Banks, William Tong. You have the floor, sir.

REP. TONG (147th):

pat/gbr
HOUSE OF REPRESENTATIVES

52
May 17, 2011

Thank you, Mr. Speaker. Good afternoon. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

SPEAKER DONOVAN:

The question is acceptance of the Joint Committee's Favorable Report and passage of the Bill. Will you remark?

REP. TONG (147th):

Yes, Mr. Speaker, thank you. This Bill implements at the state level provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In short, that federal statute delegated certain enforcement powers under the Wall Street Reform and Consumer Protection Act to the Attorney General of this state.

What this Bill simply does is says the Attorney General of Connecticut has that authority as delegated to him and it clears up any ambiguity whatsoever that that authority is vested in the Attorney General of the State of Connecticut, and I move adoption.

I urge passage of the Bill.

DEPUTY SPEAKER RYAN:

The question before the Chamber is on adoption.
Will you remark further? Will you remark further?
Representative Alberts of the 50th.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. If I may, a couple questions to the proponent of the Bill before us.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. So, my understanding is that this Bill essentially clarifies that in Connecticut it will be the Office of the State Attorney General that will be responsible for enforcing this legislation. Is that not correct? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Yes.

SPEAKER DONOVAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. In reviewing the fiscal note, there is no fiscal note to this. There is no

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expense, rather, in the fiscal note, so there is no cost to this.

Is that not correct? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, yes, that is correct.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I thank the gentleman for his responses. As much as it pains me to support a Bill that has Dodd and Frank linked together, I do believe that this measure that is before us is worthy of our support, and I urge my Members to support it. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Shaban of the 135th.

REP. SHABAN (135th):

Thank you, Mr. Speaker. Through you, a few questions to the proponent, please.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. SHABAN (135th):

Thank you, Mr. Speaker. Through you, my question, I had some problems with this Bill when we saw it in Judiciary, and I want to tease them out now.

In Section 1 when the Attorney General may bring a civil action in any court of civil, any court of competent jurisdiction, through you, does that mean the State Attorney can bring a civil action under the Dodd-Frank Act, or an action under the Dodd-Frank Act in federal court?

Through you.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker, yes, he can.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

And through you, Mr. Speaker, do you, I mean, I guess it's really not a question. It's more a comment. The concern I have is, we're having what's supposed, again, it's a similar discussion I've had in weeks past, what was supposed to be a federal overlay,

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a federal jurisdictional issue, a federal enforcement issue, but somehow getting the states pulled in.

Through you, Mr. Speaker, does the proponent see a potential over-stepping of jurisdictional bounds here by the State Attorney General, or for that matter, the U.S. Attorney giving the State Attorney General a homework assignment? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker, this is, as my good friend knows, a duly enacted law of Congress and under the supremacy clause, we are duty bound to follow it.

The Attorney General has, you know, the prerogative as our legal representative here in Connecticut, to initiate an action in state court or federal court on a variety of matters and he retains that discretion. Through you.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker. A final comment with respect to that answer.

The supremacy clause grants supremacy to the federal government in areas that the states granted authority to the federal government, so I take some issue with your response to the last issue, but this isn't a venue for that discussion.

Thank you for your time and responses. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Hetherington of the 125th.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. Nice to see you up on the bridge there.

DEPUTY SPEAKER RYAN:

Thank you, sir.

REP. HETHERINGTON (125th):

And through you, to the proponent please. Through you, Mr. Speaker, does this contemplate concurrent jurisdiction in that is that the Justice Department of the United States as well as the Attorney General of Connecticut could take action?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

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REP. TONG (147th):

Through you, Mr. Speaker, I believe that it does.

DEPUTY SPEAKER RYAN:

Representative Hetherington.

REP. HETHERINGTON (125th):

Through you, Mr. Speaker, does the proponent know
if other states have taken similar action?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker, I do not.

DEPUTY SPEAKER RYAN:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. I thank the proponent for his
responses. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you. Will you remark further on this Bill?
Will you remark further on this Bill? Representative
Mikutel of the 45th.

REP. MIKUTEL (45th):

Yes, thank you, Mr. Speaker. Mr. Speaker, I
stand in support of this Bill. This is a Bill that

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protects consumers and investors from the shylocks on Wall Street and protects consumers and hopefully that will restore confidence that small investors have in Wall Street in the big city banks.

So as a populace that I am, I urge my colleagues to support this measure and hopefully we will once again turn Wall Street from a casino into a place where people could have confidence. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Alberts of the 50th.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. For the second time, a couple of questions to the proponent of the Bill.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. It's my understanding after reading this Bill that the only piece of the federal legislation that we are looking at here and addressing is articulating that the individual that's going to be responsible or the office of state government that's going to be responsible for carrying

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out these measures or carrying out any legal action is the office of the State Attorney General. Is that not correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker. Yes.

SPEAKER DONOVAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I thank the gentleman for his response. Thank you.

SPEAKER DONOVAN:

Representative Shaban for the second time.

REP. SHABAN (135th):

Thank you, Mr. Speaker. For the second time, through you, a follow up question if I may.

Through you, Mr. Speaker, could, under this law if it passes as written, isn't it possible that the Department of Justice may decide in its discretion not to bring an action under the Dodd-Frank Act, but the Attorney General could, or vice-versa, through you?

DEPUTY SPEAKER RYAN:

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Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker, the federal legislation requires, and this law does not change the requirement that the State Attorney General first let the federal government know, and the Bureau of Consumer Protection know, that they are going to, that we are going to initiate an enforcement action. Through you.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

Through you, Mr. Speaker. So under the present construct then, could the federal government then tell the State Attorney General don't bring that suit?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Under the current construct, I think they're supposed to talk about it. Through you.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

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I'm trying to figure out, through you, Mr. Speaker, I'm trying to figure out if the federal government under the reading of it, and this was my concern, frankly, that the federal government could in fact veto what the State Attorney General decides is an appropriate suit.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Tong.

REP. TONG (147th):

Through you, Mr. Speaker, I don't know whether the statute at the federal level speaks to a veto or not. This legislation certainly does not, but I do know that they are supposed to consult with the Bureau of Consumer Protection to ensure that actions are coordinated, that they're not duplicative, and that we pursue enforcement authority in the most productive way.

Through you.

DEPUTY SPEAKER RYAN:

Representative Shaban.

REP. SHABAN (135th):

I thank the gentleman for his answers. It's my understanding, Mr. speaker, that either through

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federal primacy doctrine or similar doctrines, that we could in fact get into a situation where once again we're allowing the federal government to tell the state government what to do, and that's my prime concern.

I thank the gentleman for his answers.

DEPUTY SPEAKER RYAN:

Thank you, sir. Further on the Bill? Further on the Bill? If not, staff and guests please retire to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all the Members voted? Have all the Members voted? Please check the board to make sure your vote is properly cast.

If all Members have voted, the machine will be locked. Would the Clerk please take a tally.

And would the Clerk please announce the tally.

THE CLERK:

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House Bill 6350.

Total Number Voting	140
Necessary for Passage	71
Those voting Yea	129
Those voting Nay	11
Those absent and not voting	11

DEPUTY SPEAKER ALTOBELLO:

The Bill passes.

Would the Clerk please call Calendar 154. 154.

THE CLERK:

On Page 45, Calendar 154, Substitute for House
Bill Number 6303 AN ACT CONCERNING THE TREATMENT OF
ILL AND INJURED ANIMALS IN MUNICIPAL ANIMAL SHELTERS.
Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER ALTOBELLO:

Representative Grogins, you have the floor,
madam.

REP. GROGINS (129th):

Mr. Speaker, I move for the acceptance of the
Joint Committee's Favorable Report and passage of the
Bill.

DEPUTY SPEAKER ALTOBELLO:

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So ordered, sir.

SENATOR LOONEY:

Thank you Madam President.

And an item to be placed on the Consent Calendar, Madam President, is calendar page 14, Calendar 517, House Bill Number 6350. That item will be placed on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

And also, an item, another item to be marked go, is on calendar page 13, Calendar 513, House Bill Number 6557; an act concerning liability for recreational use of lands. That item might, would be marked go.

THE CHAIR:

So ordered sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if we might have the Clerk now read the items on the Consent Calendar so that we might proceed to a vote on the Consent Calendar.

THE CHAIR:

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Mr. Clerk.

THE CLERK:

Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CLERK:

Madam President, the items placed...

THE CHAIR:

I would ask the Chamber to be quiet please so we can hear the call of the Calendar for the Consent Calendar.

Thank you.

Please proceed, Mr. Clerk

THE CLERK:

Madam President, the items placed on the first Consent Calendar begin on calendar page 5, Calendar 336, House Bill 5697.

Calendar page 7, Calendar 421, Substitute for House Bill 6126.

Calendar page 8, Calendar 449, Senate Bill 1149.

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Calendar page 10, Calendar 470, Substitute for House Bill 5340. Calendar 474, Substitute for House Bill 6274. Calendar 476, House Bill 6635.

Calendar page 12, Calendar 499, Substitute for House Bill 6638. Calendar 500, House Bill 6614. Calendar 508, House Bill 6222.

Calendar page 13, Calendar 511, House Bill 6356. Calendar 512, Substitute for House Bill 6422. Calendar 514, House Bill 6590. Calendar 515, House Bill 6221. Calendar 516, House Bill 6455.

Calendar page 14, Calendar 517, House Bill 6350. Calendar 519, House Bill 5437. Calendar 522, House Bill 6303.

Calendar page 15, Calendar 523, Substitute for House Bill 6499. Calendar 524, House Bill 6490. Calendar 525, House Bill 5780. Calendar 526, House Bill 6513. Calendar 527, Substitute for House Bill 6532.

Calendar page 16, Calendar 528, House Bill 6561. Calendar 529, Substitute for House Bill 6312. Calendar 530, Substitute for House Bill 5032. Calendar 532, House Bill 6338.

Calendar page 17, Calendar 533, Substitute for House Bill 6325. Calendar 534, House Bill 6352.

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Calendar 536, House Bill 5300. Calendar 537, House
Bill 5482.

calendar page 18, Calendar 543, House Bill 6508.

Calendar 544, House Bill 6412. Calendar 546,
Substitute for House Bill 6538. Calendar 547,
Substitute for House Bill 6440. Calendar 548,
Substitute for House Bill 6471.

Calendar page 19, Calendar 550, Substitute for
House Bill 5802. Calendar 551, House Bill 6433.
Calendar 552, House Bill 6413. Calendar 553,
Substitute for House Bill 6227.

Calendar page 20, Calendar 554, Substitute for
House Bill 5415. Calendar 557, Substitute for House
Bill 6318. Calendar 558, Substitute for House Bill
6565.

Calendar page 21, Calendar 559, Substitute for
House Bill 6636.

Calendar page 22, Calendar 563, Substitute for
House Bill 6600. Calendar 564, Substitute for House
Bill 6598. Calendar 566, House Bill 5585.

Calendar page 23, Calendar 568, Substitute for
House Bill 6103. Calendar 570, Substitute for House
Bill 6336. Calendar 573, Substitute for House Bill
6434.

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Calendar page 24, Calendar 577, Substitute for
House Bill 5795.

Calendar page 25, Calendar 581, House Bill
6354.

Calendar page 26, Calendar 596, Substitute for
House Bill 6282. Calendar 598, Substitute for House
Bill 6629.

Calendar page 27, Calendar 600, House Bill
6314. Calendar 601, Substitute for House Bill 6529.
Calendar 602, Substitute for House Bill 6438.
Calendar 604, Substitute for House Bill 6639.

Calendar page 28, Calendar 605, Substitute for
House Bill 6526. Calendar 608, House Bill 6284.

Calendar page 30, Calendar number 615,
Substitute for House Bill 6485. Calendar 616,
Substitute for House Bill 6498.

Calendar page 31, Calendar 619, Substitute for
House Bill 6634. Calendar 627, Substitute for House
Bill 6596.

Calendar page 32, Calendar 629, House Bill
5634. Calendar 630, Substitute for House Bill 6631.
Calendar 631, Substitute for House Bill 6357.
Calendar 632, House Bill 6642.

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Calendar page 33, Calendar 634, Substitute for
House Bill 5431. Calendar 636, Substitute for
House, correction, House Bill 6100.

Page 34, Calendar 638, Substitute for House
Bill 6525.

Calendar page 48, Calendar 399, Substitute for
Senate Bill 1043.

Calendar page 49, Calendar 409, Substitute for
House Bill 6233. Calendar 412, House Bill 5178.
Calendar 422, Substitute for House Bill 6448.

Calendar page 52, Calendar 521, Substitute for
House Bill 6113.

Madam President, that completes the item placed
on the first Consent Calendar.

THE CHAIR:

Thank you, sir.

We call for another roll call vote. And the
machine will be open for Consent Calendar number 1.

THE CLERK:

The Senate is now voting by roll 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.

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Senator Cassano, would you vote, please, sir.

Thank you.

Well, all members have voted. All members have voted. The machine will be closed, and Mr. Clerk, will you call the tally?

THE CLERK:

Motion is on option Consent Calendar Number 1.

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

THE CHAIR:

Consent Calendar Number 1 has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

We might stand at ease for just a moment as we prepare the next item..

THE CHAIR:

The Senate will stand at ease.

(Chamber at ease.)