



Substitute Senate Bill No. 950

Public Act No. 09-208

AN ACT CONCERNING CONSUMER CREDIT LICENSEES.

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

Section 1. Subsection (c) of section 36a-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(c) Any licensee may surrender any license issued by the commissioner under any provision of the general statutes by [filing with the commissioner written notice that such license is surrendered] surrendering the license to the commissioner in person or by registered or certified mail, but such surrender shall not affect the licensee's civil or criminal liability, or affect the commissioner's ability to impose an administrative penalty on the licensee pursuant to section 36a-50 for acts committed prior to the surrender. If, prior to receiving [written notice of a licensee's intent to surrender its license] the license, the commissioner has instituted a proceeding to suspend, revoke or refuse to renew such license, such surrender will not become effective except at such time and under such conditions as the commissioner by order determines. If no proceeding is pending or has been instituted by the commissioner at the time of surrender, the commissioner may still institute a proceeding to suspend, revoke or refuse to renew a license under subsection (a) of this section up to the date one year after the

Substitute Senate Bill No. 950

date of receipt of the license by the commissioner.

Sec. 2. Subsection (b) of section 36a-486 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) No person licensed as a mortgage lender, mortgage correspondent lender or mortgage broker shall employ or retain a mortgage loan originator unless such mortgage loan originator is licensed under sections 36a-485 to 36a-498a, inclusive, as amended by this act. No individual may act as a mortgage loan originator without being licensed, or act as a mortgage loan originator for more than one person. The license of a mortgage loan originator is not effective during any period when such mortgage loan originator is not associated with a licensed mortgage lender, mortgage correspondent lender or mortgage broker, or during any period in which the license of the mortgage lender, mortgage correspondent lender or mortgage broker with whom such originator is associated has been suspended. Either the mortgage loan originator or the mortgage lender, mortgage correspondent lender or mortgage broker may file a notification of the termination of employment of a mortgage loan originator with the Nationwide Mortgage Licensing System.

Sec. 3. Section 36a-489 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If the commissioner finds, upon the filing of an application for a license as a mortgage lender, mortgage correspondent lender or mortgage broker, that the applicant meets the requirements of subsection (a) of section 36a-488, and that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the partners thereof if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a

Substitute Senate Bill No. 950

corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-485 to 36a-498a, inclusive, as amended by this act, and sections 36a-760a to 36a-760h, inclusive, the commissioner may thereupon issue the license. If the commissioner fails to make such findings, or if the commissioner finds that the applicant has made a material misstatement in such application, the commissioner shall not issue a license, and shall notify the applicant of the denial and the reasons for such denial. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

(b) Upon the filing of an application for a mortgage loan originator license, the commissioner shall license the mortgage loan originator named in the application unless the commissioner finds that such applicant or mortgage loan originator has made a material misstatement in the application or that the financial responsibility, character, reputation, integrity and general fitness of such mortgage loan originator are not such as to warrant belief that granting such license would be in the public interest and consistent with the purposes of sections 36a-485 to 36a-498a, inclusive, as amended by this act, and sections 36a-760a to 36a-760h, inclusive. If the commissioner denies an application for a mortgage loan originator license, the commissioner shall notify the applicant and the proposed mortgage loan originator of the denial and the reasons for such denial. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

(c) Withdrawal of an application for a license filed under subsection (a) or (b) of this section shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

Substitute Senate Bill No. 950

Sec. 4. Subsection (e) of section 36a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Each mortgage lender, mortgage correspondent lender, mortgage broker and mortgage loan originator license shall remain in force and effect until it has been surrendered, revoked, suspended or expires, or is no longer effective, in accordance with the provisions of [sections 36a-485 to 36a-498a, inclusive] this title.

Sec. 5. Subsection (b) of section 36a-492 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) The surety company shall have the right to cancel the bond at any time by a written notice to the licensee stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the licensee of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license on such date, unless the licensee prior to such date submits a letter of reinstatement of the bond from the surety company or a new bond or the licensee has ceased business and has surrendered the license in accordance with subsection (a) of section 36a-490. After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension, proceedings pursuant to section 36a-494 and an opportunity for a hearing on such action in accordance with section 36a-51, as amended by this act, and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Substitute Senate Bill No. 950

Sec. 6. Section 36a-537 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The application for a license as a sales finance company shall be on a form prescribed by the commissioner, in writing and under oath, together with such exhibits and other pertinent information as the commissioner may require. The application shall include (1) history of criminal convictions for the ten-year period prior to the date of the application of the applicant; and the partners, if the applicant is a partnership; the members, if the applicant is a limited liability company or association; or the officers, directors and principal employees if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, directors, members, officers, directors and principal employees as the commissioner deems necessary to make findings under section 36a-541, as amended by this act.

Sec. 7. Section 36a-541 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

If the commissioner finds, upon the filing of an application for a license as a sales finance company, that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the partners thereof if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-535 to 36a-546, inclusive, as amended by this act, the commissioner may thereupon issue the applicant the license. If the commissioner fails to make such findings, or if the commissioner finds that the applicant has made any material misstatement in the application, the commissioner shall not issue a

Substitute Senate Bill No. 950

license, and shall notify the applicant of the denial and the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the sales finance business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the date the withdrawal became effective.

Sec. 8. Section 36a-556 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Upon the filing of the required application and license fee, the commissioner shall investigate the facts and, if the commissioner finds that (1) the experience, character and general fitness of the applicant, and of the members thereof if the applicant is a partnership, limited liability company or association, and of the officers and directors thereof if the applicant is a corporation, are satisfactory, (2) a license to such applicant will be for the convenience and advantage of the community in which the applicant's business is to be conducted and (3) the applicant has the capital investment required by this section, the commissioner shall issue a license to the applicant to make loans in accordance with sections 36a-555 to 36a-573, inclusive, as amended by this act. If the commissioner fails to make such findings or finds that the applicant made a material misstatement in the application, the commissioner shall not issue a license and shall notify the applicant of the denial and the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any member, officer, or director of the applicant has been convicted, during

Substitute Senate Bill No. 950

the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the small loan lender business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the date the withdrawal became effective. The capital investment shall be not less than twenty-five thousand dollars for each licensed location in a city or town with a population of ten thousand or more inhabitants and ten thousand dollars for each licensed location in a city or town with a smaller population. Population shall be determined according to the last United States census at the time a license is granted.

Sec. 9. Section 36a-557 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) An application for such license shall be in writing, under oath and in the form prescribed by the commissioner, and shall include (1) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant; the members, if the applicant is a partnership, limited liability company or association; or the officers and directors, if the applicant is a corporation, and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, members, officers and directors as the commissioner deems necessary to make the findings under section 36a-556, as amended by this act.

(b) Withdrawal of an application for a license filed under subsection (a) of this section shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the date the withdrawal became effective.

Substitute Senate Bill No. 950

Sec. 10. Subsection (c) of section 36a-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) An application for a check cashing license or renewal of such license shall be in writing, under oath and on a form provided by the commissioner. The application shall set forth: (1) The name and address of the applicant; (2) if the applicant is a firm or partnership, the names and addresses of each member of the firm or partnership; (3) if the applicant is a corporation, the names and addresses of each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation; (4) if the applicant is a limited liability company, the names and addresses of each member and authorized agent of such limited liability company; (5) (A) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant; the members, if the applicant is a firm or partnership; the officers, directors, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of the applicant, if the applicant is a corporation, and (B) sufficient information pertaining to the history of criminal convictions in a form acceptable to the commissioner on such applicant, members, officers, directors, authorized agent and shareholders as the commissioner deems necessary to make the findings under subsection (e) of his section, as amended by this act; (6) each location where the check cashing business is to be conducted and the type of facility that will be operated at that location; ~~[(6)]~~ (7) the business plan, which shall include the proposed days and hours of operation; ~~[(7)]~~ (8) the amount of liquid assets available for each location which shall not be less than the amount specified in subdivision (7) of subsection (e) of this section, as amended by this act; ~~[(8)]~~ (9) for each limited facility, a copy of the executed contract evidencing the proposed arrangement between the applicant and the employer; and ~~[(9)]~~ (10) any other information the commissioner may

Substitute Senate Bill No. 950

require.

Sec. 11. Subsection (a) of section 36a-582 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Each applicant for a check cashing license shall pay to the commissioner a nonrefundable initial license fee of two thousand dollars and a nonrefundable location fee of two hundred dollars for each location, except that if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a nonrefundable initial license fee of one thousand dollars and a nonrefundable location fee of one hundred dollars for each location. Each licensee shall pay to the commissioner a nonrefundable (1) name change fee of one hundred dollars for each application to change a name, and (2) location transfer fee of one hundred dollars for each application to transfer a location. Each license issued pursuant to section 36a-581, as amended by this act, shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed, provided any license that is renewed effective July 1, 2007, shall expire on September 30, 2009, unless renewed. Each licensee shall, on or before September first of the year in which the license expires, pay to the commissioner a renewal license fee of one thousand five hundred dollars and a renewal location fee for each location of one hundred dollars for the succeeding two years, commencing October first. In the case of a license that expires on June 30, 2007, each licensee shall, on or before June 1, 2007, pay to the commissioner a renewal license fee of one thousand six hundred eighty-eight dollars and a renewal location fee of one hundred thirteen dollars. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on June 30, 2007, after June 1, 2007, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be

Substitute Senate Bill No. 950

timely and sufficient for purposes of subsection (b) of section 4-182. Each licensee shall file with the commissioner, not later than September first of each even-numbered year, the information required by subdivision [(7)] (8) of subsection (c) of section 36a-581, as amended by this act.

Sec. 12. Subsection (e) of section 36a-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Upon the filing of the required application and the applicable license and location fees, the commissioner shall investigate the facts and may issue a license if the commissioner finds that (1) the applicant is in all respects properly qualified and of good character, (2) if the applicant is a firm or partnership, each member of the firm or partnership is in all respects properly qualified and of good character, (3) if the applicant is a corporation, each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation is in all respects properly qualified and of good character, (4) if the applicant is a limited liability company, each member and authorized agent is in all respects properly qualified and of good character, (5) granting such license would not be against the public interest, (6) the applicant has a feasible plan for conducting business, and (7) the applicant has available and shall continuously maintain liquid assets of at least ten thousand dollars for each general facility location and at least two thousand five hundred dollars for each limited facility location specified in the application. The commissioner may deny an application if the commissioner finds that the applicant or any member, officer, director or authorized agent or shareholder owning ten per cent or more of the outstanding stock of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the check cashing services business, or any

Substitute Senate Bill No. 950

felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

Sec. 13. Section 36a-596 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in sections 36a-595 to 36a-610, inclusive, as amended by this act:

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

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

(3) "Licensee" means any person licensed or required to be licensed pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act.

(4) "Material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to a person's financial health and would be required to be referenced in a person's annual audited financial statements, report to shareholders or similar documents.

(5) "Monetary value" means a medium of exchange, whether or not

Substitute Senate Bill No. 950

redeemable in money.

(6) "Money order" means any check, draft, money order or other payment instrument. "Money order" does not include a travelers check or electronic payment instrument.

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

(8) "Net worth" means the excess of assets over liabilities as determined by generally accepted accounting principles.

(9) "Outstanding" means, in the case of a money order, travelers check, electronic payment instrument or stored value, that: (A) It is sold or issued in the United States; (B) a report of it has been received by a licensee from its agents; [or subagents;] and (C) it has not yet been paid by the issuer.

(10) "Payment instrument" means a money order, travelers check or electronic payment instrument that evidences either an obligation for the transmission of money or monetary value or payment of money, or the purchase or the deposit of funds for the purchase of such money order, travelers check or electronic payment instrument. A payment instrument is a "Connecticut payment instrument" if it is sold in this state.

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

Substitute Senate Bill No. 950

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

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

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

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

(15) "Travelers check" means a payment instrument for the payment of money that contains a provision for a specimen signature of the purchaser to be completed at the time of a purchase of the instrument

Substitute Senate Bill No. 950

and a provision for a countersignature of the purchaser to be completed at the time of negotiation.

(16) "Unsafe or unsound practice" means a practice or conduct by a licensee or an agent of such licensee that is likely to result in a material loss, insolvency or dissipation of the licensee's assets or otherwise materially prejudice the interests of purchasers.

Sec. 14. Subsection (a) of section 36a-597 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person shall engage in the business of issuing Connecticut payment instruments, or engage in the business of money transmission, without [first obtaining] a license [from] issued by the commissioner as provided in section 36a-600, as amended by this act. No person shall engage in such business or in the business of selling Connecticut payment instruments as an agent, [or subagent,] except as an agent [or subagent] of a [licensee] person that has been issued a license by the commissioner as provided in section 36a-600, as amended by this act, or an entity or a person exempt under section 36a-609, as amended by this act, and in accordance with section 36a-607, as amended by this act. The licensee and the agent shall promptly notify the commissioner, in writing, of the termination of the contract between such licensee and agent.

Sec. 15. Section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Each application for an original or renewal license required under sections 36a-595 to 36a-610, inclusive, as amended by this act, shall be made in writing and under oath to the commissioner in such form as the commissioner may prescribe. The application shall include:

(1) The exact name of the applicant and, if incorporated, the date of

Substitute Senate Bill No. 950

incorporation and the state where incorporated;

(2) The complete address of the principal office from which the business is to be conducted [,] and of the office where the books and records of the applicant are [maintained and] to be maintained; [, including the street and number, if any, and the municipality and county of such offices;]

(3) The complete name and address of each of the applicant's branches, subsidiaries, affiliates and agents, [and subagents,] if any, engaging in this state in the business of selling or issuing Connecticut payment instruments, or engaging in the business of money transmission;

(4) The name, title, address and telephone number of the person to whom notice of the commissioner's approval or disapproval of the application shall be sent and to whom any inquiries by the commissioner concerning the application shall be directed;

(5) The name and residence address of [(A)] the individual, if the applicant is an individual; [(B)] the partners, if the applicant is a partnership; [(C)] the directors, trustees, principal officers, and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or [(D)] the members, if the applicant is a limited liability company; [, and sufficient information pertaining to the name and address, in a form acceptable to the commissioner, on such partners, directors, trustees, principal officers, members, and any shareholder owning ten per cent or more of each class of its securities, as the commissioner deems necessary to make the findings under section 36a-600;]

(6) The most recently audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year, prepared by an independent

Substitute Senate Bill No. 950

certified public accountant acceptable to the commissioner;

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

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

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

Substitute Senate Bill No. 950

~~[(9)]~~ (10) (A) The surety bond required by subsection (a) of section 36a-602, as amended by this act, if applicable;

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

~~[(C)]~~ The commissioner may defer compliance with the provisions of this subdivision until after the commissioner rules on the application, but the commissioner shall not issue a license until an applicant complies with the provisions of this subdivision;

~~[(10)]~~ (11) A statement of whether the applicant will engage in the business of issuing money orders, travelers checks or electronic payment instruments or engage in the business of money transmission in this state; and

~~[(11)]~~ (12) Any other information the commissioner may require.

(b) An applicant or licensee shall promptly notify the commissioner, in writing, of any change in the information provided in the application for license or most recent renewal of such license.

(c) A licensee shall not change the name specified on its license unless, prior to such change in name, the licensee files an application with the commissioner accompanied by the name change fee specified in subsection (a) of section 36a-599 and receives the approval of the commissioner.

(d) A licensee shall provide a written notice to the commissioner no later than one business day after the licensee has reason to know of the occurrence of any of the following events:

Substitute Senate Bill No. 950

(1) The filing of a petition by or against the licensee under the United States Bankruptcy Code for bankruptcy or reorganization;

(2) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(3) The commencement of a proceeding to revoke or suspend its license to engage in money transmission in another state or a foreign country, or other formal or informal regulatory action by any governmental agency against the licensee and the reasons therefor;

(4) The commencement of any action by the Attorney General or the attorney general of any other state and the reasons therefor;

(5) The cancellation or other impairment of the licensee's bond or other security, including notice of claims filed against the licensee's bond or other security;

(6) A conviction of the licensee or of a partner, director, trustee, principal officer, member or shareholder owning ten per cent or more of each class of the licensee's securities for a misdemeanor involving the money transmission business or the business of issuing Connecticut payment instruments, or a felony; or

(7) A conviction of its agent for a felony.

Sec. 16. Section 36a-600 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Upon the filing of an application for an original license, and the payment of the fees for investigation and license, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant.

Substitute Senate Bill No. 950

The commissioner shall approve conditionally any application, if the commissioner finds that:

(1) The applicant's financial condition is sound;

(2) The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of sections 36a-595 to 36a-610, inclusive, as amended by this act, and in a manner commanding the confidence and trust of the community;

(3) (A) If the applicant is an individual, such individual is in all respects properly qualified and of good character, (B) if the applicant is a partnership, each partner is in all respects properly qualified and of good character, (C) if the applicant is a corporation or association, each president, chairperson of the executive committee, senior officer responsible for the corporation's business, chief financial officer or any other person who performs similar functions as determined by the commissioner, director, trustee and each shareholder owning ten per cent or more of each class of the securities of such corporation is in all respects properly qualified and of good character, or (D) if the applicant is a limited liability company, each member is in all respects properly qualified and of good character;

(4) The applicant is in compliance with the provisions of sections 36a-603 and 36a-604;

(5) No person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act; and [;]

(6) No person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the commissioner any information lawfully required by the commissioner.

Substitute Senate Bill No. 950

(b) If the commissioner conditionally approves an application, the applicant shall have thirty days, which the commissioner may extend for cause, to comply with the requirements of section 36a-602, as amended by this act. Upon such compliance, the commissioner's conditional approval shall become final, and the commissioner shall issue a license to the applicant. The commissioner shall not issue a license to any applicant unless the applicant is in compliance with all the requirements of subsection (a) of this section and section 36a-602, as amended by this act, and has paid the investigation and license fee required under section 36a-599.

(c) The commissioner may deny an application if the commissioner finds that the applicant or any of its partners, directors, trustees, principal officers or shareholders owning ten per cent or more of the shares of the applicant or members have been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the money transmission business or the business of issuing Connecticut payment instruments, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80.

Sec. 17. Subsection (b) of section 36a-602 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) The surety company may cancel the bond at any time by a written notice to the licensee, stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the licensee of the date such bond cancellation shall take effect. The commissioner

Substitute Senate Bill No. 950

shall automatically suspend the license on [the] such date, [the cancellation takes effect,] unless the [surety bond has been replaced or renewed,] licensee, prior to such date, submits (1) a letter of reinstatement of the bond from the surety company, (2) a new bond, (3) evidence that all of the principal sum of such surety bond has been invested as provided in subsection (c) of this section, [or] (4) a new bond that replaces the surety bond [has been replaced] in part and evidence that the remaining part of the principal sum of such surety bond has been invested as provided in subsection (c) of this section, or [unless] (5) evidence that the licensee has ceased business and has [voluntarily] surrendered the license. [The] After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51, as amended by this act, and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Sec. 18. Section 36a-605 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

In connection with the examination of a licensee under section 36a-17, the commissioner may also examine the agents [and subagents] of such licensee. The commissioner, in lieu of conducting an examination, may accept the report of examination of any other state or federal supervisory agency or any organization affiliated with or representing such supervisory agency with respect to the examination or other supervision of any person subject to the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, or a report prepared by an independent accounting firm, and reports so accepted are considered for purposes of sections 36a-595 to 36a-610, inclusive, as amended by this act, as an official examination report of the

Substitute Senate Bill No. 950

commissioner.

Sec. 19. Section 36a-607 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

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

(1) The business may be conducted by the licensee or through or by means of such agents [and subagents] as the licensee may periodically designate or appoint. An agent may not engage in the business of issuing Connecticut payment instruments or the business of money transmission on behalf of a licensee through or by means of a subagent.

(2) No license under sections 36a-595 to 36a-610, inclusive, as amended by this act, shall be required of any agent [or subagent] of a licensee.

(3) Each agent [and subagent] of a licensee shall, from the moment of receipt, hold the proceeds of a sale or delivery of a licensee's Connecticut payment instruments in trust for the benefit of such licensee. [or of an agent of the licensee on behalf of such licensee.]

(4) A licensee shall be liable for the loss caused to any purchaser or holder of the licensee's Connecticut payment instruments by the failure of an agent [or subagent] of the licensee to forward to the licensee the amount due from the proceeds of a sale or delivery of the licensee's Connecticut payment instruments, or money or monetary value received for transmission.

(5) The licensee shall enter into a contract with each of its agents that requires the agent to operate in full compliance with sections 36a-595 to 36a-610, inclusive, as amended by this act, and provides that appointment of the agent is not effective during any period when the

Substitute Senate Bill No. 950

license of the licensee has been suspended. The licensee shall provide each such agent with policies and procedures sufficient to ensure compliance with sections 36a-595 to 36a-610, inclusive, as amended by this act.

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

(7) An agent of a licensee shall not provide money transmission services outside the scope of activity permissible under the contract between the agent and the licensee.

(b) For purposes of subsection (a) of this section, a licensee [shall include] means any person that has obtained a license from the commissioner as provided in section 36a-600, as amended by this act, and any entity or person exempt under section 36a-609, as amended by this act.

Sec. 20. Section 36a-608 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The commissioner shall make such investigations and conduct such hearings as the commissioner considers necessary to determine whether any licensee or any other person has violated or is about to violate any of the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, or whether any licensee has acted in such manner as otherwise would justify the suspension or revocation of the license. The provisions of section 36a-17 shall apply to such investigation.

(b) The commissioner may suspend or revoke a license or take any other action, in accordance with section 36a-51, as amended by this act, on any ground on which the commissioner might refuse to issue an original license, for any violation of sections 36a-595 to 36a-610,

Substitute Senate Bill No. 950

inclusive, as amended by this act, or of any regulation adopted under said sections, for noncompliance with an order [which] that the commissioner may issue under said sections to a licensee, [or] for failure of the licensee to pay a judgment ordered by any court within or outside this state within thirty days after the judgment becomes final or within thirty days after expiration or termination of a stay of execution of the judgment, for engaging in fraud, intentional misrepresentation or gross negligence, or for engaging in an unsafe and unsound practice.

(c) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of sections 36a-595 to 36a-610, inclusive, as amended by this act, or any regulation adopted under said sections, or any licensee has failed to pay a judgment ordered by any court within or outside of this state thirty days after the date on which the judgment becomes final or thirty days after the date of the expiration or termination of a stay of execution of the judgment, or engaged in fraud, intentional misrepresentation or gross negligence, or engaged in an unsafe and unsound practice, the commissioner may take action against such person in accordance with [section] sections 36a-50 and 36a-52.

(d) [The commissioner may order a licensee to terminate its agency relationship with any agent or subagent who refuses to allow an examination of its books and records regarding the business of such licensee as provided in section 36a-605.] The commissioner may order a licensee to terminate its agency relationship with any agent if the commissioner finds that: (1) The agent violated any provision of sections 36a-595 to 36a-610, inclusive, as amended by this act, or any regulation adopted under said sections or any other law or regulation applicable to the conduct of its business; (2) the agent refused to allow an examination of its books and records regarding the business of such licensee as provided in section 36a-605, as amended by this act; (3) the

Substitute Senate Bill No. 950

agent engaged in fraud, intentional misrepresentation, or gross negligence or misappropriated funds; (4) the agent has been convicted of a violation of a state or federal anti-money laundering statute; (5) the competence, experience, character or general fitness of the agent or a manager, partner, director, trustee, principal officer, member or shareholder owning ten per cent or more of each class of the agent's securities demonstrates that it would not be in the public interest to permit such agent to engage in the business of issuing Connecticut payment instruments or the business of money transmission on behalf of a licensee; or (6) the agent is engaging in an unsafe or unsound practice.

Sec. 21. Section 36a-609 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

The provisions of sections 36a-597 to 36a-606a, inclusive, as amended by this act, shall not apply to:

(1) Any federally insured federal bank, out-of-state bank, federal credit union or out-of-state credit union, provided such institution does not issue or sell Connecticut payment instruments or transmit money or monetary value through an agent [or subagent] which is not a federally insured bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union;

(2) Any Connecticut bank or Connecticut credit union;

(3) The United States Postal Service; and

(4) A person whose activity is limited to the electronic funds transfer of governmental benefits for or on behalf of a federal, state or other governmental agency, quasi-governmental agency or government sponsored enterprise.

Sec. 22. Subsection (c) of section 36a-647 of the general statutes is

Substitute Senate Bill No. 950

repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(c) Whenever the commissioner has reason to believe that any person has violated, is violating or is about to violate any provision of sections 36a-645 to 36a-647, inclusive, as amended by this act, or any regulation adopted under this section, the commissioner may take action against such person in accordance with [section] sections 36a-50 and 36a-52.

Sec. 23. Section 36a-655 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

As used in sections 36a-655 to 36a-665, inclusive, "bona fide nonprofit organization" means any organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended; "debt adjustment" means, for or with the expectation of a fee, commission or other valuable consideration, receiving, as agent of a debtor, money or evidences thereof for the purpose of distributing such money or evidences thereof among creditors in full or partial payment of obligations of the debtor; and "debtor" means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes.

Sec. 24. Section 36a-656 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No person [, other than a bona fide nonprofit organization,] shall engage in the business of debt adjustment in this state [. No bona fide nonprofit organization shall engage in the business of debt adjustment in this state] without a debt adjuster license. Any [bona fide nonprofit organization] person desiring to obtain such a license shall file with the

Substitute Senate Bill No. 950

commissioner an application under oath, setting forth such information as the commissioner may require. Each applicant for a license and each licensee shall notify the commissioner of any change in the applicant's business from that stated in the application for the license.

(b) An application for a debt adjuster license or renewal of such license shall be in writing on a form provided by the commissioner and shall include (1) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant; the partners, if the applicant is a partnership; the members, if the applicant is a limited liability company or association; or the officers, directors and principal employees if the applicant is a corporation, and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, directors, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (c) of this section.

[(b)] (c) If the commissioner finds, upon the filing of an application for a debt adjuster license, that: (1) The financial responsibility, character, reputation, integrity and general fitness of the applicant and of the partners thereof if the applicant is a partnership, of the members if the applicant is a limited liability company or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 36a-655 to 36a-665, inclusive, as amended by this act; and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a debt adjuster license. If the commissioner fails to make such findings, the commissioner shall not

Substitute Senate Bill No. 950

issue a license and shall notify the applicant of the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the debt adjuster business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

~~[(c)]~~ (d) Each applicant for an original debt adjuster license that is a bona fide nonprofit organization shall, at the time of making such application, pay to the commissioner an application fee of two hundred fifty dollars. Each applicant for an original or a renewal of a debt adjuster license that is not a bona fide nonprofit organization shall, at the time of making such application, pay to the commissioner an application fee of one thousand six hundred dollars or, in the case of an application that is filed not earlier than the date one year before the date of expiration of such license, a license fee of eight hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance unless such license is renewed. [Any license issued prior to October 1, 2002, shall expire on September 30, 2003, unless renewed.] Each licensee shall, on or before September first of the year in which the license expires, file such renewal application as the commissioner may require.

~~[(d)]~~ (e) If the commissioner determines that a check filed with the commissioner to pay an application fee has been dishonored, the commissioner shall automatically suspend the license or a renewal

Substitute Senate Bill No. 950

license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51, as amended by this act.

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

Sec. 25. Section 36a-660 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

Each licensee shall: (1) [Keep] Provide the debtor with a written agreement that sets forth the services to be provided by the licensee and any fees to be charged for such services; (2) provide individualized credit counseling and budgeting assistance to the debtor without charge prior to entering into a written agreement with the debtor; (3) determine that the debtor has the financial ability to make the payments stated in the written agreement and that the payments stated in the written agreement are suitable for the debtor; (4) contact each creditor of the debtor to determine whether such creditors will accept payment of the debtor's debts as contemplated by the written agreement; (5) keep complete and adequate records during the term of the [contract] written agreement and for a period of seven years from the date of cancellation or completion of the [contract] written agreement with each debtor, which records shall contain complete information regarding the [contract] written agreement, extensions thereof, payments, disbursements and charges, and shall be open to inspection by the commissioner during normal business hours; [(2)] (6) make remittances to creditors within a reasonable time after receipt of any funds, less prorated fees and costs, unless the reasonable payment of one or more of the debtor's obligations requires that such

Substitute Senate Bill No. 950

funds be held for a longer period so as to accumulate a sum certain; and [(3)] (7) furnish the debtor a written statement of the debtor's account [within a reasonable time after the debtor may request it] periodically, and no less than quarterly, and [within] not later than the date ninety days after the date of completion of the adjustment of the debtor's debts, and shall furnish the debtor a verbal accounting at any time the debtor may request it during normal business hours.

Sec. 26. Section 36a-661 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

No licensee shall: (1) Purchase from a creditor any obligation of a debtor; (2) operate as a collection agent and as a licensee as to the same debtor's account; (3) execute any contract or agreement to be signed by the debtor unless the contract or agreement is fully and completely filled in and finished; (4) directly or indirectly require the debtor to purchase other services or materials as a condition to enter into a written agreement for services; (5) pay any bonus or other consideration to any person for the referral of a debtor to the licensee's business or accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason, or [(5)] (6) advertise, display, distribute, broadcast or televise or permit to be displayed, advertised, distributed, broadcast or televised the licensee's services, rates or terms in any manner whatsoever wherein any false, misleading or deceptive statement or representation is made with regard to the services to be performed by the licensee or the charges to be made therefor.

Sec. 27. (NEW) (*Effective October 1, 2009*) (a) If a debt adjuster licensee imposes a fee or other charge or receives money or other payments not specified in the written agreement with the debtor, the debtor may void the agreement and recover any fees paid.

(b) If any person is not licensed as required by section 36a-656 of the

Substitute Senate Bill No. 950

general statutes, as amended by this act, the written agreement is voidable by the debtor.

(c) If a debtor voids a written agreement under this section, the licensee shall not have a claim against the debtor for breach of contract or for restitution.

Sec. 28. Subsection (b) of section 36a-664 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The surety or insurance company shall have the right to cancel any bond or insurance policy written or issued under subsection (a) of this section at any time by a written notice to the licensee, stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. No such bond shall be cancelled unless the surety or insurance company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety or insurance company, the commissioner shall give written notice to the licensee of the date such bond or insurance policy cancellation shall take effect. The commissioner shall automatically suspend the license on [the] such date, [the cancellation takes effect,] unless [the bond or insurance policy has been replaced or renewed. The] prior to such date the licensee submits a letter of reinstatement of the bond or insurance policy from the surety or insurance company or a new bond or insurance policy or the licensee has surrendered the license. After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51, as amended by this act, and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Substitute Senate Bill No. 950

Sec. 29. (NEW) (Effective October 1, 2009) (a) As used in this section and sections 30 to 33, inclusive, of this act, (1) "debt negotiation" means, for or with the expectation of a fee, commission or other valuable consideration, assisting a debtor in negotiating or attempting to negotiate on behalf of a debtor the terms of a debtor's obligations with one or more mortgagees or creditors of the debtor, including the negotiation of short sales of residential property or foreclosure rescue services; (2) "debtor" means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes; (3) "mortgagee" means the original lender under a mortgage loan secured by residential property or its agents, successors or assigns; (4) "mortgagor" means the owner-occupant of a one-to-four family residential property located in this state, including, but not limited to, a single-family unit in a common interest community, who is also the borrower under a mortgage encumbering such residential property; (5) "short sale" means the sale of residential property by a mortgagor for an amount less than the outstanding balance owed on the loan secured by such property where, prior to the sale, the mortgagee or an assignee of the mortgagee agrees to accept less than the outstanding loan balance in full or partial satisfaction of the mortgage debt and the proceeds of the sale are paid to the mortgagee or an assignee of the mortgagee; (6) "foreclosure rescue services" means services related to or promising assistance in connection with (A) avoiding or delaying actual or anticipated foreclosure proceedings concerning residential property, or (B) curing or otherwise addressing a default or failure to timely pay with respect to a mortgage loan secured by residential property, and includes, but is not limited to, the offer, arrangement or placement of a mortgage loan secured by residential property or other extension of credit when those services are advertised, offered or promoted in the context of foreclosure related services; and (7) "residential property" means one-to-four family owner-occupied real property.

Substitute Senate Bill No. 950

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

(c) An application for an original or renewal debt negotiation license shall be in writing on a form provided by the commissioner and shall include (1) the history of criminal convictions for the ten-year period prior to the date of the application of the (A) applicant, (B) partners, if the applicant is a partnership, (C) members, if the applicant is a limited liability company or association, or (D) officers, directors and principal employees, if the applicant is a corporation; and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, partners, members, officers, directors and principal employees as the commissioner deems necessary to make the findings under subsection (d) of this section.

(d) If the commissioner finds, upon the filing of an application for a debt negotiation license, that: (1) The financial responsibility, character, reputation, integrity and general fitness of the (A) applicant, (B) partners thereof, if the applicant is a partnership, (C) members, if the

Substitute Senate Bill No. 950

applicant is a limited liability company or association, and (D) officers, directors and principal employees, if the applicant is a corporation, are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of sections 29 to 33, inclusive, of this act; and (2) the applicant is solvent and no proceeding in bankruptcy, receivership or assignment for the benefit of creditors has been commenced against the applicant, the commissioner may thereupon issue the applicant a debt negotiation license. Such debt negotiation license shall not be transferable. Any change of location of a licensee shall require prior written notice to the commissioner. No licensee shall use any name unless such name has been approved by the commissioner. If the commissioner fails to make such findings, the commissioner shall not issue a license and shall notify the applicant of the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any partner, member, officer, director or principal employee of the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the debt negotiation business or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80 of the general statutes. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the effective date of withdrawal.

(e) Each applicant for an original or renewal debt negotiation license shall, at the time of making such application, pay to the commissioner an application fee of one thousand six hundred dollars, provided, if such application is filed not earlier than one year before the date such license will expire, such person shall pay a license fee of eight hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance

Substitute Senate Bill No. 950

unless such license is renewed. Each licensee shall, on or before September first of the year in which the license expires, file such renewal application as the commissioner may require. Whenever an application for a license is filed under this section by any person who was a licensee under this section and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

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

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

Sec. 30. (NEW) (*Effective October 1, 2009*) (a) (1) No debt negotiation license, and no renewal thereof, shall be granted unless the applicant has filed a surety bond with the commissioner in an aggregate amount of forty thousand dollars for all licensed locations. Such surety bond shall be written by a surety authorized to write such bonds in this state.

(2) The form of any surety bond submitted pursuant to this section shall be approved by the Attorney General. Any surety bond filed under this section shall be conditioned upon the licensee faithfully performing any and all written agreements with debtors and

Substitute Senate Bill No. 950

conducting such business consistent with the provisions of sections 29 to 33, inclusive, of this act. Any debtor who may be damaged by failure to perform any written agreements or by conduct inconsistent with the provisions of sections 29 to 33, inclusive, of this act may proceed on any such surety bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on any such surety bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50 of the general statutes. The proceeds of any bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. Any bond required by this section shall be maintained during the entire period of the license granted to the applicant, and the aggregate liability under any such bond shall not exceed the principal amount of the bond.

(b) The surety shall have the right to cancel any bond written or issued under subsection (a) of this section at any time by a written notice to the licensee stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. No such bond shall be cancelled unless the surety notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety, the commissioner shall give written notice to the licensee of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license on such date, unless prior to such date the licensee submits a letter of reinstatement of the bond from the surety or a new bond, or the licensee has surrendered the license. After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation

Substitute Senate Bill No. 950

or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51 of the general statutes, as amended by this act, and shall require the licensee to take or refrain from taking such action as, in the opinion of the commissioner, will effectuate the purposes of this section.

(c) No licensee shall use, attempt to use or make reference to, either directly or indirectly, any word or phrase that states or implies that the licensee is endorsed, sponsored, recommended, bonded or insured by the state.

Sec. 31. (NEW) (*Effective October 1, 2009*) The provisions of sections 29 to 33, inclusive, of this act shall not apply to the following: (1) Any attorney admitted to the practice of law in this state, when engaged in such practice; (2) any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union, provided subsidiaries of such institutions other than operating subsidiaries of federal banks and federally-chartered out-of-state banks are not exempt from licensure; (3) any person licensed as a debt adjuster pursuant to sections 36a-655 to 36a-665, inclusive, of the general statutes while performing debt adjuster services; (4) any person acting under the order of a court; or (5) any bona fide nonprofit organization organized under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time.

Sec. 32. (NEW) (*Effective October 1, 2009*) (a) A debt negotiator shall provide to each debtor a contract that shall include a complete, detailed list of services to be performed, the costs of such services and the results to be achieved. Each debt negotiation service contract shall contain (1) a statement certifying that the person offering debt negotiation services has reviewed the consumer's debt, and (2) an individualized evaluation of the likelihood that the proposed debt negotiation services would reduce the consumer's debt or debt service

Substitute Senate Bill No. 950

or, if appropriate, prevent the consumer's residential home from being foreclosed. Each contract shall allow the consumer to cancel or rescind such contract within three business days after the date on which the consumer signed the contract. Such contract shall contain a clear and conspicuous caption that shall read, "Debtor's three-day right to cancel", along with the following statement: "If you wish to cancel this contract, you may cancel by mailing a written notice by certified or registered mail to the address specified below. The notice shall state that you do not wish to be bound by this contract and must be delivered or mailed before midnight of the third business day after you sign this contract." As used in this section, "business day" shall have the same meaning as in section 42-134a of the general statutes.

(b) No person offering debt negotiation services may receive a fee, commission or other valuable consideration for the performance of any service the person offering debt negotiation services has agreed to perform for any consumer until the person offering debt negotiation services has fully performed such service. A person offering debt negotiation services may receive reasonable periodic payments as services are rendered, provided such payments are clearly stated in the contract. The commissioner may establish a schedule of maximum fees that a debt negotiator may charge for specific services.

(c) Any contract that does not comply with the provisions of this section shall be voidable by the consumer.

Sec. 33. (NEW) (*Effective October 1, 2009*) (a) The commissioner may suspend, revoke or refuse to renew any license or take any other action, in accordance with the provisions of section 36a-51 of the general statutes, as amended by this act, for any reason that would be sufficient grounds for the commissioner to deny application for a license under sections 29 to 33, inclusive, of this act, or if the commissioner finds that the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such

Substitute Senate Bill No. 950

licensee has done any of the following: (1) Made any material misstatement in the application; (2) committed any fraud or misappropriated funds; (3) violated any of the provisions of sections 29 to 33, inclusive, of this act, or any other law or regulation applicable to the conduct of its business; or (4) failed to perform any agreement with a debtor.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate the provisions of sections 29 to 33, inclusive, of this act, or any licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, misappropriated funds or failed to perform any agreement with a debtor, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52 of the general statutes.

(c) Upon complaint, the Banking Commissioner may review any fees or charges assessed by a person offering debt negotiation services and order the reduction of such fees or charges or repayment of such amount of the fees or charges that the commissioner deems excessive, taking into consideration the fees that other persons performing similar debt negotiation services charge for such services and the benefit to the consumer of such services. In conducting an investigation pursuant to this subsection, the commissioner shall have the same authority as specified in section 36a-17 of the general statutes.

Sec. 34. Section 36a-718 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

If the commissioner determines that any mortgage servicing company has violated any provision of section 36a-716, the commissioner may [] take action against such mortgage servicing company in accordance with [section] sections 36a-50 and 36a-52. [order the mortgage servicing company to cease and desist from such

Substitute Senate Bill No. 950

violation.] The commissioner may also order the mortgage servicing company to make restitution to the mortgagor upon fourteen days' notice in writing. Such notice shall be sent by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to the principal place of business of the mortgage servicing company and shall state the grounds for the contemplated action. Within fourteen days of receipt of the notice, the mortgage servicing company may file a written request for a hearing. If a hearing is requested, the commissioner shall not issue an order to make restitution until after such hearing is held. Such hearing shall be conducted in accordance with the provisions of chapter 54.

Sec. 35. Subdivision (1) of subsection (b) of section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) Any person desiring to act within this state as a consumer collection agency shall make a written application to the commissioner for such license in such form as the commissioner prescribes. Such application shall be accompanied by (A) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to execute such documents, (B) the history of criminal convictions for the ten-year period prior to the date of the application of the applicant, (C) a license fee of eight hundred dollars, or in the case of an initial application that is filed not earlier than one year before the date such license will expire, a license fee of four hundred dollars, and [(C)] (D) an investigation fee of one hundred dollars. The commissioner shall cause to be made such inquiry and examination as to the qualifications of each such applicant as the commissioner deems necessary. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially

Substitute Senate Bill No. 950

responsible. If the commissioner is satisfied that such applicant is in all respects properly qualified and trustworthy and that the granting of such license is not against the public interest, the commissioner may issue to such applicant a license, in such form as the commissioner may adopt, to act within this state as a consumer collection agency. The commissioner may deny an application if the commissioner finds that the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Any such license issued by the commissioner shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed. [, provided any license that is renewed effective May 1, 2003, shall expire on September 30, 2005.] The commissioner may renew such application, in the commissioner's discretion, upon filing of a proper renewal application accompanied by a license fee of eight hundred dollars, [or in the case of an application for renewal of a license that expires on April 30, 2003, a license fee of one thousand dollars,] and satisfactory proof that such applicant at that time possesses the required qualifications for the license. The commissioner may deny a renewal application if the commissioner finds that the applicant has been convicted, during the ten-year period prior to the date of application, of any misdemeanor involving any aspect of the consumer collection agency business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Such renewal application shall be filed with the commissioner on or before September first of the year in which the license expires. [, or in the case of a license that expires on April 30, 2003, on or before April 1, 2003.] Any renewal application filed with the commissioner after September first [, or in the case of a license that expires on April 30, 2003, after April 1, 2003,] shall be accompanied by a one-hundred-dollar late fee and any such filing shall

Substitute Senate Bill No. 950

be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-800 to 36a-810, inclusive, as amended by this act, by any person who was a licensee under said sections 36a-800 to 36a-810, inclusive, as amended by this act, and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. To further the enforcement of this section and to determine the eligibility of any person holding a license, the commissioner may, as often as the commissioner deems necessary, examine the licensee's books and records, and may, at any time, require the licensee to submit such a financial statement for the examination of the commissioner, so that the commissioner may determine whether the licensee is financially responsible to carry on a consumer collection agency business within the intents and purposes of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any financial statement submitted by a licensee shall be confidential and shall not be a public record unless introduced in evidence at a hearing conducted by the commissioner. The applicant or licensee shall notify the commissioner, in writing, of any change in the information provided in its initial application for license or most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in such information becoming inaccurate.

Sec. 36. Subsections (a) and (b) of section 36a-802 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No such license and no renewal thereof shall be granted unless the applicant has filed with the commissioner a bond to the people of the state in the penal sum of [five] twenty-five thousand dollars,

Substitute Senate Bill No. 950

approved by the Attorney General as to form and by the commissioner as to sufficiency of the security thereof. Such bond shall be conditioned that such licensee shall well, truly and faithfully account for all funds entrusted to the licensee and collected and received by the licensee in the licensee's capacity as a consumer collection agency. Any person who may be damaged by the wrongful conversion of any creditor, consumer debtor or property tax debtor funds received by such consumer collection agency may proceed on such bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50. The proceeds of the bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. The bond shall run concurrently with the period of the license granted to the applicant, and the aggregate liability under the bond shall not exceed the penal sum of the bond.

(b) The surety company shall have the right to cancel the bond at any time by a written notice to the licensee stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. After receipt of such notification from the surety company, the commissioner shall give written notice to the licensee of the date such bond cancellation shall take effect. The commissioner shall automatically suspend the license on [the] such date, [the cancellation takes effect,] unless the [surety bond has been replaced or renewed. The] licensee prior to such date submits a letter of reinstatement of the bond from the surety company or a new bond or

Substitute Senate Bill No. 950

the licensee has ceased business and has surrendered its license. After a license has been automatically suspended, the commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51, as amended by this act, and require the licensee to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this section.

Sec. 37. Subsection (a) of section 36a-806 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No consumer collection agency shall engage in this state in any practice which is prohibited in section 36a-805 or determined pursuant to [sections 36a-807 and] section 36a-808, as amended by this act, to be an unfair or deceptive act or practice, nor shall any consumer collection agency engage outside of this state in any act or practice prohibited in said section 36a-805. The commissioner shall have power to examine the affairs of every consumer collection agency in this state in order to determine whether it has been or is engaged in any act or practice prohibited by sections 36a-805 to 36a-808, inclusive, as amended by this act.

Sec. 38. Section 36a-807 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

[(a) If the commissioner determines that any person has been engaged, or is engaging, in violations of sections 36a-801 to 36a-808, inclusive, in any act or practice prohibited in section 36a-805, or in violations of any regulations issued pursuant to section 36a-809, the commissioner may order such person to cease and desist from such practices in accordance with section 36a-52. In that connection, the commissioner may exercise the powers contained in section 36a-17.]

Substitute Senate Bill No. 950

[(b)] No order of the commissioner under sections 36a-805 to 36a-808, inclusive, as amended by this act, shall relieve or absolve any person affected by such order from any liability under any other laws of this state.

Sec. 39. Section 36a-808 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

Whenever the commissioner has reason to believe that any consumer collection agency is engaging in this state in any act or practice in the conduct of such business which is not defined in section 36a-805, and that such act or practice is unfair or deceptive, [or whenever it appears to the commissioner that any consumer collection agency or other person has violated, is violating, or is about to violate any provision of sections 36a-800 to 36a-810, inclusive, or any regulation adopted pursuant to section 36a-809,] the commissioner may take action against such consumer collection agency [or person] in accordance with section 36a-50.

Sec. 40. Section 36a-555 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

No person shall (1) engage in the business of making loans of money or credit; (2) make, offer, broker or assist a borrower in Connecticut to obtain such a loan; or (3) in whole or in part, arrange such loans through a third party or act as an agent for a third party, regardless of whether approval, acceptance or ratification by the third party is necessary to create a legal obligation for the third party, through any method, including, but not limited to, mail, telephone, internet or any electronic means, in the amount or to the value of fifteen thousand dollars or less for loans made under section 36a-563 or section 36a-565, and charge, contract for or receive a greater rate of interest, charge or consideration than twelve per cent per annum therefor, unless licensed to do so by the commissioner pursuant to

Substitute Senate Bill No. 950

sections 36a-555 to 36a-573, inclusive, as amended by this act. The provisions of this section shall not apply to [(1)] (A) a bank, [(2)] (B) an out-of-state bank, [(3)] (C) a Connecticut credit union, [(4)] (D) a federal credit union, [(5)] (E) an out-of-state credit union, [(6)] (F) a savings and loan association wholly owned subsidiary service corporation, [(7)] (G) a person to the extent that such person makes loans for agricultural, commercial, industrial or governmental use or extends credit through an open-end credit plan, as defined in subdivision (8) of subsection (a) of section 36a-676, for the retail purchase of consumer goods or services, [(8)] (H) a mortgage lender or mortgage correspondent lender licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as amended by this act, when making first mortgage loans, as defined in section 36a-485, or [(9)] (I) a licensed pawnbroker.

Sec. 41. Section 36a-573 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No person, except as authorized by the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, shall, directly or indirectly, charge, contract for or receive any interest, charge or consideration greater than twelve per cent per annum upon the loan, use or forbearance of money or credit of the amount or value of (1) five thousand dollars or less for any such transaction entered into before October 1, 1997, and (2) fifteen thousand dollars or less for any such transaction entered into on and after October 1, 1997. The provisions of this section shall apply to any person who, as security for any such loan, use or forbearance of money or credit, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who, by any device or pretense of charging for the person's services or otherwise, seeks to obtain a greater compensation than twelve per cent per annum. No loan for which a greater rate of interest or charge than is allowed by

Substitute Senate Bill No. 950

the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, has been contracted for or received, wherever made, shall be enforced in this state, and any person in any way participating therein in this state shall be subject to the provisions of said sections, provided, a loan lawfully made after June 5, 1986, in compliance with a validly enacted licensed loan law of another state to a borrower who was not, at the time of the making of such loan, a resident of Connecticut but who has become a resident of Connecticut, may be acquired by a licensee and its interest provision shall be enforced in accordance with its terms.

(b) The provisions of subsection (a) of this section shall apply to any loan made or renewed in this state if the loan is made to a borrower who resides in or maintains a domicile in this state and such borrower (1) negotiates or agrees to the terms of the loan in person, by mail, by telephone or via the Internet while physically present in this state; (2) enters into or executes a loan agreement with the lender in person, by mail, by telephone or via the Internet while physically present in this state; or (3) makes a payment of the loan in this state. As used in this subsection, "payment of the loan" includes a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution, and "financial institution" means any bank or credit union chartered or licensed under the laws of this state, any other state or the United States and having its main office or a branch office in this state.

(c) Whenever it appears to the Banking Commissioner that any person has violated the provisions of subsection (a) of this section or offered a loan that violates the provisions of subsection (a), the commissioner may investigate, take administrative action or assess civil penalties and restitution in accordance with the provisions of sections 36a-50 and 36a-52.

Sec. 42. Section 52-352b of the general statutes is repealed and the

Substitute Senate Bill No. 950

following is submitted in lieu thereof (*Effective October 1, 2009*):

The following property of any natural person shall be exempt:

(a) Necessary apparel, bedding, foodstuffs, household furniture and appliances;

(b) Tools, books, instruments, farm animals and livestock feed, which are necessary to the exemptioner in the course of his or her occupation, profession or farming operation;

(c) Burial plot for the exemptioner and his or her immediate family;

(d) Public assistance payments and any wages earned by a public assistance recipient under an incentive earnings or similar program;

(e) Health and disability insurance payments;

(f) Health aids necessary to enable the exemptioner to work or to sustain health;

(g) Workers' compensation, Social Security, veterans and unemployment benefits;

(h) Court-approved payments for child support;

(i) Arms and military equipment, uniforms or musical instruments owned by any member of the militia or armed forces of the United States;

(j) One motor vehicle to the value of three thousand five hundred dollars, provided value shall be determined as the fair market value of the motor vehicle less the amount of all liens and security interests which encumber it;

(k) Wedding and engagement rings;

Substitute Senate Bill No. 950

(l) Residential utility deposits for one residence, and one residential security deposit;

(m) Any assets or interests of an exemptioner in, or payments received by the exemptioner from, a plan or arrangement described in section 52-321a;

(n) Alimony and support, other than child support, but only to the extent that wages are exempt from execution under section 52-361a;

(o) An award under a crime reparations act;

(p) All benefits allowed by any association of persons in this state towards the support of any of its members incapacitated by sickness or infirmity from attending to his usual business;

(q) All moneys due the exemptioner from any insurance company on any insurance policy issued on exempt property, to the same extent that the property was exempt;

(r) Any interest of the exemptioner in any property not to exceed in value one thousand dollars;

(s) Any interest of the exemptioner not to exceed in value four thousand dollars in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the exemptioner under which the insured is the exemptioner or an individual of whom the exemptioner is a dependent;

(t) The homestead of the exemptioner to the value of seventy-five thousand dollars, or, in the case of a money judgment arising out of services provided at a hospital, to the value of one hundred twenty-five thousand dollars, provided value shall be determined as the fair market value of the real property less the amount of any statutory or consensual lien which encumbers it; and

Substitute Senate Bill No. 950

(u) Irrevocable transfers of money to an account held by a [bona fide nonprofit] debt adjuster licensed pursuant to sections 36a-655 to 36a-665, inclusive, as amended by this act, for the benefit of creditors of the exemptioner.

Approved July 7, 2009