OLR Bill Analysis

sSB 1257

AN ACT CONCERNING CONSUMER CREDIT AND COMMERCIAL FINANCING.

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SUMMARY

This bill makes assorted changes to the state's banking laws that principally affect licensees and registrants involved with, among other things, mortgages, private student education loans, and commercial financing.

EFFECTIVE DATE: October 1, 2025, unless otherwise specified below.

§§ 1-5 & 14 — SURETY BOND CANCELLATIONS

Requires all surety bond cancellations to be done electronically for bonds issued to certain banking department regulated entities

The bill generally requires surety companies to give all their cancellation notices electronically for the bonds they issue to certain banking department regulated entities. More specifically, it requires them to give written cancellation notices through the "system" (i.e. the Nationwide Multistate Licensing System and Registry (NMLS) (see § 28 below)).

The bill applies to bonds issued to the following banking department licensees and others it regulates:

1. mortgage lenders, mortgage correspondent lenders, and mortgage brokers, and specific entities and individuals exempt from licensing as such (e.g., federally insured banks and credit unions (and certain subsidiaries)) (see CGS §§ 36a-492(a) & 36a-487(a) & (b));

2. mortgage loan originators (see CGS § 36a-492(a));

3. money transmitters (see CGS §§ 36a-597 & 36a-602(a));

4. debt adjusters (see CGS §§ 36a-656 & 36a-664(a));

5. debt negotiators (see CGS § 36a-671d(a));

6. consumer collection agencies (see CGS § 36a-802(a)); and

7. mortgage servicers, including certain mortgage lenders acting as servicers but exempt from licensing as such.

The bill's requirement replaces current law, which (1) only allows surety companies to send cancellations electronically if the bond was issued electronically on NMLS and (2) otherwise requires them to send cancellations by certified mail.

By law, cancellations must be sent at least 30 days before the cancellation date to the bond's principal and the banking commissioner.

§§ 6-11 — SURETY BOND UPDATES

Requires certain banking licensees to update their surety bonds when they change their legal names instead of when they change their office names or addresses

The bill modifies the circumstances for when certain licensees must update their surety bonds with the banking commissioner. It specifically applies to the following:

1. mortgage lenders, mortgage correspondent lenders, mortgage brokers, and lead generators (see CGS § 36a-490(b)(1));

2. money transmitters (see CGS § 36a-598(d)(1));

3. debt adjusters (see CGS §§ 36a-656 & 36a-658(a));

4. debt negotiators (see CGS § 36a-671(b));

5. mortgage servicers (see CGS § 36a-719a(a)); and

6. consumer collection agencies.

Under existing law, a licensee may change the name or office address on its most recent filing with NMLS if, at least 30 calendar days beforehand, it files the change with the system and the commissioner

does not disapprove of the change in writing or request more information within the 30-day period.

Generally, under current law, the licensee must also give the commissioner a bond rider or endorsement, or addendum, as applicable, that reflects the new name or address. The bill instead only requires licensees to give the commissioner a bond rider to their surety bonds when they change their legal names. However, similar to current law, it allows debt negotiator licensees to give an endorsement or addendum to their surety bonds instead of a bond rider in those circumstances.

§§ 12 & 17-19 — FINANCE ACTIVITY REQUIRING LICENSURE

Expands what constitutes sales finance company, small loan, and mortgage servicing activity requiring licensure to when someone receives any payments (including fees) in connection with certain contracts or loans as applicable and makes a similar expansion for education loan servicing licensees and registrants

The bill expands the types of activities that require someone to obtain certain licenses and registrations under the state's banking laws. Existing law generally prohibits anyone from engaging in the business of a sales finance company or acting as a mortgage servicer without a license (see CGS §§ 36a-536 & 36a-718). Similarly, certain small loan related actions are prohibited without a license.

Under the bill, sales finance company, small loan, and mortgage servicing activity requiring licensure includes when someone receives any payments (including fees) in connection with, respectively, a retail installment contract or installment loan contract, small loan, and residential mortgage loan, instead of just principal and interest payments under one.

The bill also makes a similar expansion affecting certain education loan servicers. Existing law generally prohibits anyone from acting as a private student loan servicer without a banking department license or acting as a federal student loan servicer unless they are registered as such on NMLS (see CGS §§ 36a-847 & 36a-847a). The bill changes what is considered "servicing" for these servicers to encompass receiving any payment, rather than just scheduled periodic ones, and maintaining

account records for and communicating with a borrower about his or her loan during any period that payments are not required, instead of periods outside of scheduled periodic payments.

Lastly, the bill makes technical and conforming changes.

§§ 13 & 14 — MORTGAGE LENDER REGISTRATION ON NMLS

Requires licensed mortgage lenders to register on NMLS as "exempt mortgage servicer registrants" before acting as mortgage servicers and authorizes the banking commissioner to suspend, revoke, or refuse to renew these registrations

Existing law exempts certain mortgage lender licensees from having to obtain a separate license to act as a mortgage servicer if they meet certain conditions. The bill generally carries this exemption forward but further requires these lenders to register on NMLS as "exempt mortgage servicer registrants" before acting as mortgage servicers. It relatedly authorizes the banking commissioner to suspend, revoke, or refuse to renew these registrations.

Generally, under current law, any person licensed as a mortgage lender in Connecticut is exempt from mortgage servicer licensure if (1) they act as a mortgage servicer from their lender licensed main office or branch office, (2) they satisfy certain bonding requirements, and (3) their lender license is not suspended. The bill modifies the third condition by requiring that their NMLS-associated registration is not suspended.

Lastly, the bill makes technical and conforming changes.

Exempt Mortgage Servicer Registration Conditions and Oversight

Under the bill, exempt mortgage servicer registrations must generally expire at the close of business on December 31 of the year in which they were approved, unless renewed. However, any registration approved on or after November 1 must expire at the close of business on December 31 of the following year. Renewal applications must be filed on NMLS between November 1 and December 31 of the year in which the registration expires.

The bill requires each applicant for an initial registration or renewal to meet the supplemental mortgage servicer surety bond, fidelity bond,

and errors and omissions coverage requirements that apply under existing law to mortgage lenders exempt from mortgage servicer licensure. It further requires applicants to pay to NMLS any required fees or charges and makes all fees nonrefundable.

The bill also expressly authorizes the banking commissioner to suspend, revoke, or refuse to renew any exempt mortgage servicer registration or take any other action under his licensing and registration enforcement authority (see § 16 below). He may only exercise this authority if he finds that the registrant no longer meets the requirements for registration or if the registrant or any control person, trustee, employee, or agent of the registrant has (1) made any material misstatement in an application; (2) committed any fraud or misappropriated funds; or (3) violated any Connecticut banking statute, banking department regulation or order, or any other law applicable to the conduct of the registrant's business.

Additionally, the bill extends to exempt mortgage servicer registrants automatic suspension provisions that apply to mortgage servicer licensees under existing law. It specifically requires the commissioner to automatically suspend the registration when an exempt registrant's fidelity bond or errors and omissions coverage expires or is no longer in effect. However, no automatic suspension or inactivation may occur if, before the bond or coverage cancellation or expiration takes effect, the (1) principal submits a letter of reinstatement of the bond or coverage, or a new bond or coverage, or (2) exempt registrant has ceased business in Connecticut and surrendered its registration. After a registration has been automatically suspended, the commissioner must (1) give the registrant notice of the automatic suspension, pending proceedings for revocation or refusal to renew, and an opportunity for a hearing in accordance with state banking law, and (2) require the registrant to take or refrain from taking any action the commissioner deems necessary.

§§ 15 & 19 — SERVICING PRIVATE STUDENT EDUCATION LOANS

Extends private student education loan servicing requirements to any person servicing them instead of just private student education loan servicers

The bill extends existing law's requirements on private student

education loan servicers so that they also apply to private education lenders, private education loan creditors, and any other person servicing a private student education loan. Generally, under these requirements, the entities must give certain information to borrowers and cosigners about (1) borrower and cosigner rights and responsibilities, (2) cosigner release eligibility, and (3) parameters for the cosigner release application process.

The bill adds a new requirement that any person that makes or extends a private student education loan on or after October 1, 2025, provide options for cosigner release on the loan if certain criteria are met, including the borrower making 12 consecutive on-time payments or the cosigner becoming totally and permanently disabled.

Additionally, the bill modifies which entities are subject to constraints that currently only apply to private student education loan servicers. These constraints include prohibitions on (1) any restriction that permanently prevents a borrower or cosigner from qualifying for a cosigner release and (2) any requirement that a borrower make more than 12 consecutive timely payments to be eligible for a cosigner release. The bill specifically prohibits, on and after October 1, 2025, any person that makes, extends, or owns at least one private student education loan, including any private education lender or private education loan creditor, from directly or indirectly taking these actions.

The bill likewise, on and after October 1, 2025, applies to any person that makes, extends, or owns at least one private student education loan current law's prohibitions on (1) refusing to release the cosigner from his or her obligation to repay the loan when notified that the cosigner is totally and permanently disabled and (2) requiring that a new cosigner be added to the loan after the original cosigner has been released. Current law applies these prohibitions unless the loan agreement's terms expressly prohibit them. The bill does not carry that exception forward (i.e. it prohibits these actions regardless of the loan agreement's terms).

Lastly, the bill makes minor, technical, and conforming changes.

Application

Under the bill, "servicing" generally is:

1. receiving any payments from a student loan borrower on a student education loan;

2. applying these payments to a loan;

3. maintaining account records for and communicating with the borrower about the loan during the period when no payments are required;

4. interacting with a borrower to service a loan, including by helping a borrower prevent loan defaults; or

5. performing other administrative services on a loan.

By law, a "private student education loan" is any student education loan that is not (1) made under the William D. Ford Federal Direct Loan Program or purchased by the U.S. Department of Education and (2) owned by the U.S. Department of Education.

Under existing law, a "private student education loan servicer" is any person, wherever located, responsible for servicing private student education loans to student loan borrowers who live in Connecticut.

A "private education lender" is any person engaged in the business of making or extending private education loans. A "private education loan creditor" is any person to whom a private education loan is sold or assigned or who otherwise acquires one. By law, private education lenders do not include banks or out-of-state banks; Connecticut, federal, or out-of-state credit unions; the banks' or credit unions' wholly owned subsidiaries; operating subsidiaries with an owner that is wholly owned by the same bank or credit union; or the Connecticut Higher Education Supplemental Loan Authority (CHESLA). Certain banks and these credit unions are similarly exempt from the definition of private education loan creditors, as are consumer collection agencies; private student loan servicers; and local, state, and federal departments and

agencies. Relatedly, a "private education loan" is credit (1) extended expressly, in whole or part, for a borrower's postsecondary educational expenses, regardless of whether it is provided by the educational institution a student attends, and (2) not made, insured, or guaranteed under certain federal laws (i.e. not a federally issued education loan). It excludes loans secured by real property (CGS § 36a-856(a)(5)).

By law, unchanged by the bill, the above requirements do not apply to banks, out-of-state banks with a physical presence in Connecticut, and credit unions; their wholly owned subsidiaries; operating subsidiaries where the owners are wholly owned by the bank or credit union; or CHESLA.

§ 16 — ENFORCEMENT OVER REGISTRATIONS

Extends existing enforcement law so that the banking commissioner may suspend, revoke, or refuse to renew registrations issued by him

Existing law authorizes the banking commissioner to suspend, revoke, or refuse to renew any license he issues under state law according to notice and hearing procedures. This law also generally establishes processes for him to follow when these licenses are surrendered or expire as well as when applications for them are withdrawn. The bill extends this collective enforcement authority to registrations issued by the commissioner. By law, these provisions do not apply to the state's securities laws.

§ 20 — REGISTRATIONS FOR MORTGAGE LICENSE SPONSORS

Creates a registration timeline and fee requirements for exempt registrants that sponsor the licensing of a mortgage loan originator or a loan processor or underwriter

Existing law exempts several different entities from being licensed as a mortgage lender, mortgage correspondent lender, or mortgage broker (e.g., federally insured banks and credit unions, any corporation that makes residential mortgage loans exclusively for the benefit of its employees or agents, and people who make secondary mortgage loans to immediate family members) (see CGS § 36a-487(a) to (c)).

By law, any person claiming this exemption may register on NMLS as an exempt registrant to sponsor a mortgage loan originator or a loan processor or underwriter. The bill creates a timeline and fee

requirements for those who register.

Under the bill, these registrations must generally expire at the close of business on December 31 of the year in which they were approved, unless renewed. However, any registration approved on or after November 1 must expire at the close of business on December 31 of the following year. Renewal applications must be filed on NMLS between November 1 and December 31 of the year in which the registration expires.

The bill requires each applicant for an initial registration or renewal to pay to NMLS any required fees or charges and makes all fees nonrefundable.

§§ 21-23 — COMMERCIAL FINANCING REGISTRATION AND ENFORCEMENT

Increases the base renewal fee for commercial financing registrants from $500 to $1,000 and specifies that the banking department may consider certain misconduct by registrants' employees and agents against registrants

The bill makes several registration and enforcement changes affecting certain lenders offering specific types of commercial financing. By law, "commercial financing" is a sales-based financing transaction of $250,000 or less, the proceeds of which are not primarily intended for personal, family, or household purposes (CGS § 36a-861).

The bill also makes a technical change.

EFFECTIVE DATE: July 1, 2025, except the technical change is effective upon passage.

Registration

Under existing law, commercial financing providers and brokers must register with the banking commissioner as he prescribes (CGS §§ 36a-861 & 36a-870). In practice, they currently register with NMLS. The bill aligns their renewal registration fee amount with their existing initial registration fee amount (i.e. increasing the former from $500 to $1,000). The bill also requires initial and renewal registrants to pay their registration fees to NMLS along with any other required fees or charges. It also specifies that these fees are nonrefundable.

The bill also modifies the expiration dates of these registrations. Under current law, they must be renewed by September 15 annually or they expire. The bill instead requires renewal applications to be filed with the commissioner between November 1 and December 31 of the year in which the registration expires. It generally expires registrations at the close of business on December 31 of the year when the registration was approved, unless it was renewed or approved on or after November 1, in which case the registration expires at the close of business on December 31 of the following year.

Enforcement

The bill makes several minor changes to current provisions on the enforcement powers of the banking commissioner against commercial financing registrants. Among other things, it specifies that the commissioner may suspend, revoke, or refuse to renew any commercial financing registration or take other enforcement actions authorized under existing law if he finds that the registrant or any control person, trustee, employee, or agent of the registrant has taken certain actions. Specifically, this applies if they (1) made any material misstatement in the registration application; (2) committed any fraud or misappropriated funds; or (3) violated any statute, regulation, or order related to them or any other law applicable to the conduct of the registrant's business. (Existing law already prohibits anyone from making untrue statements of material fact or engaging in fraud in connection with any activity under the commissioner's jurisdiction (CGS § 36a-53b).)

§ 24 — PRIVATE EDUCATION LENDER AND PRIVATE EDUCATION LOAN CREDITOR REGISTRATION AND ENFORCEMENT

Codifies the $900 fee amounts for private education lender and private education loan creditor registrations and authorizes the banking commissioner to bar violators from engaging in any banking activity for up to 10 years instead of just from acting as these lenders or creditors

The bill makes several registration and enforcement changes to the law governing private education lenders and private education loan creditors.

Registration

Under current law, private education lenders and private education loan creditors generally must register with the banking commissioner and pay a fee as he prescribes, which may include registering using NMLS and paying any of its fees. In practice, these lenders and creditors currently register with NMLS. The bill codifies the $900 registration and renewal fee amounts they currently must pay NMLS. The bill also specifically requires initial and renewal registrants to pay their registration fees to NMLS along with any other required fees or charges. It specifies that these fees are nonrefundable.

The bill also modifies the expiration dates of these annual registrations. It sets the same registration renewal deadlines as for various other licenses and registrations, including commercial financing registrations (see §§ 21-23 above).

Enforcement

Under existing law, anyone who violates the law governing private education lenders and private education loan creditors and causes a consumer financial harm because of it may be barred from acting in certain capacities for up to 10 years by the banking commissioner.

Under current law, the commissioner may bar them from acting as a private education lender or a private education loan creditor or as a stockholder, officer, director, partner, or other owner or employee of a lender or creditor. The bill instead authorizes him to bar violators from engaging in any activity requiring a license or registration under Connecticut's banking laws or acting as a stockholder, officer, director,

partner, or other owner or employee of an entity requiring a state banking license or registration.

Current law does not explicitly provide a process for the commissioner to handle these bars. The bill requires he provide these people notice and an opportunity for a hearing before barring them. Specifically, he must send notice by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, or by personal delivery according to existing law. The notice is deemed received on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of an email notice, it is deemed received according to existing law.

Under the bill, the notice must include a:

1. statement of the time, place, and nature of the hearing;
2. statement of the legal authority and jurisdiction under which the hearing is to be held;
3. reference to the particular statutes, regulations, rules, or orders allegedly violated;
4. short and plain statement of the matter; and
5. statement indicating that the person may file a written request for a hearing within 14 days of receiving the notice.

If a hearing is requested within this time frame, the commissioner must hold a hearing upon the matters asserted in the notice unless the person fails to appear. After the hearing, the commissioner must determine whether to issue an order barring the person and the order's term. He may also issue an order if the person does not request a hearing within the deadline or fails to appear at the hearing. Regardless, the bill prohibits issuing any order unless it is done according to the Uniform Administrative Procedure Act.

The bill also makes similar changes as it does for commercial financing enforcement (see §§ 21-23 above) but applies them against

private education lender and private education loan creditor registrants and any control person, trustee, employee, or agent of them.

§ 25 — SHARED APPRECIATION AGREEMENT DISCLOSURES

Establishes written disclosure requirements for mortgage lenders offering to make residential loans in which the lender receives an interest in the appreciated value of the property

The bill requires mortgage lenders that offer to make a shared appreciation agreement to give certain written disclosures within three business days after a prospective borrower applies for the agreement.

By law, a "mortgage lender" is generally someone in the business of making residential mortgage loans. A "shared appreciation agreement" is a nonrecourse obligation in which money is advanced to a consumer in exchange for an equity interest in a dwelling, residential real estate, or a future obligation to repay when a certain event happens, such as a transfer of ownership, maturity date, borrower's death, or other circumstance outlined and explicitly agreed to (CGS § 36a-485).

The bill's required disclosures include, among other things, an informational statement, the agreement and transaction details, the method of determining the property's fair market value, the interest charged, and repayment examples.

Written Disclosures

The bill requires the following statement to be given clearly, conspicuously, and in at least 12-point font:

> "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage and shared interest in your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan. You may wish to consult an attorney."

The following must also be disclosed:

1. financial information relevant to the proposed shared

appreciation agreement, including whether repayment terminates it, such as through the mortgage lender receiving some or all of the sale proceeds for the dwelling or residential real estate (collectively "property" for the purposes of this bill analysis) that is the subject of the agreement;

2. agreement and transaction details, including the mortgage lender's contact information, transaction amount, cash sum to be paid to the prospective borrower, starting value for appreciation sharing, term of the agreement, and property's estimated current fair market value;

3. the method of determining the property's current fair market value and its final value when the agreement is terminated;

4. the interest charged, if applicable;

5. the limit of the mortgage lender's share of appreciation or equity in the property; and

6. an advisory that the prospective borrower consult his or her tax advisor on the agreement's potential tax implications.

Additionally, repayment examples for the proposed shared appreciation agreement must be given based on at least the following:

1. settlement of the agreement after 5, 10, 15, and 30 years, in each case up to the maximum term of the agreement;

2. no change in the property's market value; and

3. changes in its market value (a) over the agreement's term at a 10% total depreciation rate, 3.5% total appreciation rate, and 5.5% total appreciation rate, and (b) reflecting the actual average appreciation or depreciation rate for all dwellings or residential real estate in Connecticut during the period equal to the term of the agreement and that occurred immediately before it.

Lastly, information and corresponding calculations for the proposed

agreement must be given on the following, if applicable:

1. calculated appreciation amount;
2. appreciation-based charge;
3. accrued or charged interest;
4. principal amount to be repaid;
5. mortgage lender’s total calculated share of appreciation or equity and any limit to that share; and
6. for each of the repayment scenarios specified above, the actual amount of money to be paid by the prospective borrower to the lender, including any unconditional administrative fees or reimbursement of protective advances that must be paid at the time of the agreement’s settlement, and the total cost to the borrower expressed as an annual percentage rate to allow the prospective borrower to compare, under each repayment scenario, the cost at the time of the agreement’s settlement with the cost of a traditional mortgage loan.

§§ 26-29 — ADDITIONAL TECHNICAL CHANGES

Makes several technical changes in different banking laws

The bill makes several technical changes in different banking laws.

COMMITTEE ACTION

Banking Committee

Joint Favorable
Yea 12 Nay 0 (03/06/2025)