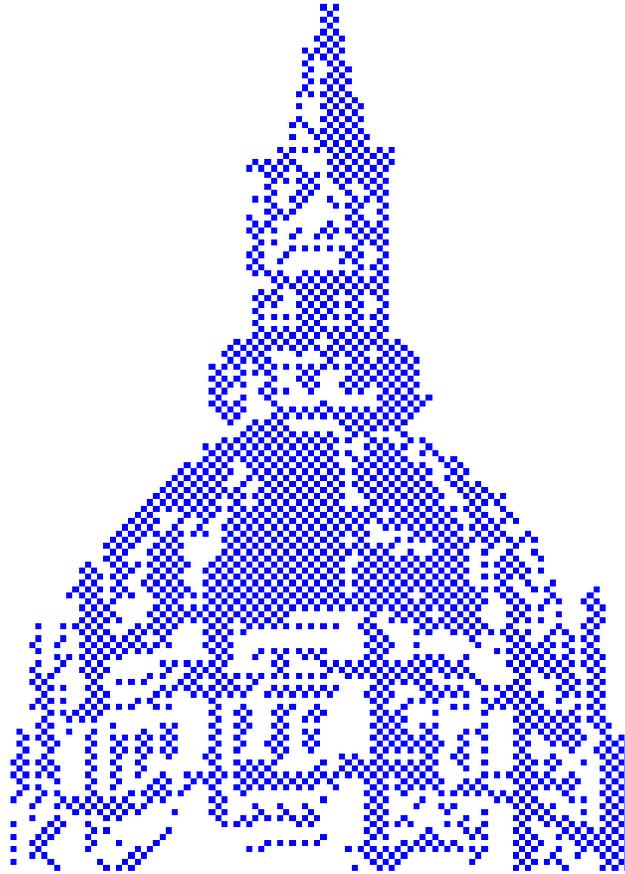




## ACTS AFFECTING BANKING



2015-R-0169

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July 14, 2015

## **NOTICE TO READERS**

This report provides highlights of new laws (public acts) affecting banking enacted during the 2015 legislative session. In each summary, we indicate the public act (PA) number.

Not all provisions of the acts are included here. Complete summaries of all 2015 public acts are available on OLR's webpage: <http://cga.ct.gov/olr/olrpassums.asp>.

Readers are encouraged to obtain the full texts of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website: <http://www.cga.ct.gov>.

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## **STUDENT LOAN BORROWER OMBUDSMAN AND EDUCATION COURSE**

[PA 15-162](#) requires the banking commissioner, within available appropriations, to create the position of student loan borrower ombudsman in the Banking Department to provide timely assistance to student loan borrowers. It establishes the ombudsman's duties and requires him or her, in consultation with the commissioner and within available appropriations, to implement and maintain a prescribed student loan borrower education course.

It also establishes a separate non-lapsing account in the Banking Fund, called the student loan ombudsman account, to be funded by student loan servicers' licensing and investigation fees and any other money required by law. The act requires the commissioner to use money in the account for the ombudsman position and the education course.

The act establishes licensure requirements and standards of conduct for student loan servicers. It exempts banks, credit unions, and certain of their subsidiaries from the servicer licensure requirements. The commissioner (1) must adopt regulations implementing the servicer provisions and (2) may conduct investigations and examinations and take enforcement action against violators.

The commissioner must also report annually, starting by January 1, 2016, to the Banking and Higher Education and Employment Advancement committees on, among other things, the implementation of the ombudsman position and the licensing and oversight of student loan servicers.

EFFECTIVE DATE: July 1, 2016, except the provisions on the ombudsman position and the definitions are effective October 1, 2015.

## **FINANCIAL LITERACY EDUCATION**

[PA 15-138](#) adds topics that must be included in any financial literacy instruction plan that the State Department of Education (SDE), Board of Regents for Higher Education (BOR), and UConn Board of Trustees (BOT) develop in consultation with the Banking Department. By law, any such plan must include instruction on the use of credit and debit cards. The act adds instruction in banking, investing, saving, and handling of personal finance.

By law, the State Board of Education, using available appropriations and material, must assist and encourage school districts to provide courses in personal financial management. Under the act, these courses must include any financial literacy instruction plan SDE, BOR, and UConn BOT develop.

EFFECTIVE DATE: October 1, 2015

## **FORECLOSURE MEDIATION PROGRAM**

[PA 15-124](#) extends the state's foreclosure mediation program for three years, until July 1, 2019. Courts may not accept mediation requests on or after that date, and the program terminates when the mediation of all previously submitted requests concludes. Under prior law, courts could not accept mediation requests on or after July 1, 2016

The act also expands the scope of the program for foreclosure actions with a return date on or after October 1, 2015. In these cases, it makes eligible an owner-occupant who is not a borrower on the mortgage but is a permitted successor-in-interest (i.e., a person who, among other things, holds title to the property as a result of certain events, such as divorce, legal separation, property settlement, or the borrower's death).

It expands the account history and related information a mortgagee must provide to a mediator and mortgagor by requiring the mortgagee to include copies of any agreements that modify the note or mortgage. It also requires the mortgagee to provide the most current version of required evaluation forms.

The act (1) specifies when the required pre-mediation meeting

between the mediator and mortgagor must be held; (2) extends the deadline to submit certain forms and documentation to the mortgagee; and (3) allows the court, for good cause, to grant a mediator's motion to extend the premediation period.

The act requires the chief court administrator to report on the mediation program to the Banking Committee annually starting March 1, 2016 until March 1, 2019, instead of once by February 14, 2015. Under existing law, the chief court administrator must work with the Governor's Office, the banking industry, and consumer advocates to develop some of the required report data. The act requires that he also work with the Banking Department.

EFFECTIVE DATE: July 1, 2015

## **SECURITY FREEZES ON CHILDREN'S CREDIT REPORTS**

[PA 15-62](#) allows a minor's parent or legal guardian to request that a credit rating agency place a security freeze on the minor's credit report, and the agency must do so within five business days of getting the request. Under the act, a "minor" is someone under age 18 when a security freeze request is submitted.

Under the act, the freeze prohibits a credit rating agency from releasing the minor's credit report and information derived from it if the agency has information about the child. If the

agency does not have any information about the child, it must create, but not release, a record that compiles the information the agency created that identifies the child. The agency cannot use the record to consider the child's credit worthiness, standing, or capacity; character; reputation; personal characteristics; or mode of living.

To initiate a security freeze, the act requires the parent or guardian to provide the credit rating agency with a written request by certified mail or other secure method authorized by the rating agency and proper identification and sufficient proof of authority to act for the minor, such as:

1. a court order;
2. an original copy of the minor's birth certificate; or
3. a written notarized statement signed by the parent or guardian that expressly describes his or her authority to act and is acknowledged according to law by a judge, family support magistrate, court clerk or deputy clerk with a seal, town clerk, notary public, justice of the peace, or Connecticut-licensed attorney.

The parent or legal guardian can request the removal of a freeze by submitting (1) a written request to the credit rating agency in the same way as existing law allows for freezes of an

adult's credit report and (2) proper identification and sufficient proof of authority to act for the child. The agency must remove a freeze within 15 business days of a request.

EFFECTIVE DATE: October 1, 2015

### **MORTGAGE CORRESPONDENT LENDERS, THE SMALL LOAN ACT, VIRTUAL CURRENCIES AND SECURITY FREEZES ON CONSUMER CREDIT REPORTS**

[PA 15-53](#) makes a variety of changes in the banking laws. It:

1. allows Connecticut-licensed mortgage correspondent lenders to act as mortgage servicers without obtaining a mortgage servicer license from the banking commissioner, under certain circumstances;
2. changes the fidelity bond and error and omissions coverage requirements for mortgage servicers;
3. voids a contract or other agreement involving interest, consideration, or charges that violates the laws governing small loans and makes other changes regarding violations of these laws;
4. requires an applicant for a money transmitter license to indicate whether the business will transmit virtual currency (such as

Bitcoin), allows the commissioner to deny such a license if the proposed business model poses an undue risk of financial loss to consumers, and allows him to place additional requirements on such a license, including requiring different surety bond amounts than for other money transmitters; and

5. prohibits credit reporting agencies from charging certain people (including identity theft victims) fees for credit freezes.

EFFECTIVE DATE: Upon passage, except the provisions on virtual currency are effective October 1, 2015.

## **REVISIONS TO VARIOUS CONNECTICUT BANKING STATUTES**

[PA 15-235](#) makes numerous unrelated changes in various banking statutes. Among other things, it:

1. makes several revisions to the Connecticut Truth-in-Lending Act (Connecticut TILA) to make it substantially similar to the federal Truth-in-Lending Act (federal TILA) and related regulations;
2. expands the banking commissioner's enforcement authority by allowing him to impose a civil penalty provided in federal law on creditors who violate certain federal requirements;
3. eliminates the requirement for Connecticut credit unions to file semi-annual reports with the commissioner, instead requiring them to report to the National Credit Union Administration (NCUA);
4. allows a Connecticut bank or savings and loan association that applies for a name change to meet certain mailing requirements by using any method of mailing that provides a signature as proof of delivery;
5. establishes a deadline by which a Connecticut bank must file its annual audit with the commissioner;
6. replaces statutory provisions on home banking services with provisions on virtual banking and explicitly allows banks and credit unions to provide virtual banking services;
7. makes bank or holding company acquisition approval requirements that pertain to anti-money laundering laws and regulations applicable only to the extent that the acquiring entity is subject to such laws and regulations;
8. changes the look-back period a mortgage lender, mortgage correspondent lender, mortgage broker, and exempt registrant

must use to calculate and confirm bonding requirements;

9. allows mortgage lenders to make certain mortgage insurance disclosures based on closing costs required to be furnished under federal TILA; and
10. makes technical changes in the consumer collection agency statutes to incorporate, by reference throughout, the sections previously enacted by PA 13-253 that (a) added new fund management and recordkeeping requirements and (b) require compliance with the federal Fair Debt Collection Practices Act.

EFFECTIVE DATE: Various

## **POWER OF ATTORNEY**

[PA 15-240](#) enacts the Uniform Power of Attorney Act and repeals prior law governing powers of attorney (POA), including a statutory form for a POA, a list of powers the principal can grant an agent in different subjects, and provisions terminating a POA when a conservator of the estate is appointed for a principal who can no longer manage his or her affairs. Prior law allowed a principal to grant an agent authority over various subject matters such as real estate, stocks and bonds, banking transactions, litigation, and personal relationships.

POAs are documents used by a person (the principal) to designate

someone (the agent) to make decisions and act on the principal's behalf. POAs generally name the agent and the powers granted to him or her.

Compared to prior law, the act, among other things:

1. more extensively covers an agent's authority, duties, and liabilities;
2. allows a principal to grant an agent authority over more subjects, with more specific powers for agents described under each subject than under prior law;
3. makes a POA created under its provisions durable, meaning its effectiveness continues after the principal becomes incapacitated, unless the POA expressly states otherwise;
4. allows a probate court to continue, limit, suspend, or terminate a POA when appointing a conservator;
5. authorizes certain people to petition the probate court to review a POA or an agent's conduct;
6. requires people to accept POAs in most circumstances, allows people to request information about them, and limits when people can refuse to accept POAs; and

7. provides sample POA forms to implement the act's provisions, that require people to strike out the subject matters on the form that they do not want to give agents authority to handle.

The act gives the probate court power to construe POAs, require agents to account to the court about estates under their control, and provide relief.

EFFECTIVE DATE: July 1, 2016

### **PROTECTING ELDERLY CONSUMERS FROM FINANCIAL ABUSE**

[PA 15-236](#), among other things, requires the Commission on Aging to create a forum and clearinghouse for best practices and free training resources to help financial institutions and agents detect potential fraud, exploitation, and financial abuse of elderly consumers. The commission must establish a single portal for resources and material by January 1, 2016.

The act requires financial agents to participate in mandatory training to detect potential elderly fraud, exploitation, and financial abuse, including using the commission's portal. Agents must complete the training within the later of six months after the commission establishes its portal or beginning employment.

The training requirement applies to officers or employees of banks, savings banks, credit unions, trust companies, savings and loan associations, insurance companies, investment companies, mortgage bankers, trustees, executors, pension or retirement funds, other fiduciaries, and private financial institutions who:

1. have direct contact with elderly people within the scope of employment or professional practice or
2. review or approve financial documents, records, or transactions for the elderly.

EFFECTIVE DATE: October 1, 2015

### **REPOSSESSION OF MOTOR VEHICLES BY LENDING INSTITUTIONS**

[PA 15-42](#), among other things, expressly permits lending institutions to repossess vehicles by contracting with a licensed wrecker or an entity exempt from licensure. In doing so, it applies a number of provisions governing the towing of unauthorized vehicles to the towing of repossessed vehicles.

EFFECTIVE DATE: October 1, 2015

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