



General Assembly

January Session, 2019

Committee Bill No. 5681

LCO No. 5572



Referred to Committee on BANKING

Introduced by:

(BA)

AN ACT REQUIRING CERTAIN LENDERS AND CREDITORS TO REPORT THE FAVORABLE PAYMENT HISTORY OF DEBTORS WHO HAVE FILED A PETITION FOR BANKRUPTCY.

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

1 Section 1. Section 36a-646 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) No creditor shall use any abusive, harassing, fraudulent,
4 deceptive or misleading representation, device or practice to collect or
5 attempt to collect any debt.

6 (b) A creditor shall report the favorable payment history of a
7 consumer debtor who has filed a petition for bankruptcy to a
8 nationally recognized consumer credit agency not later than thirty
9 days after receiving a regular monthly or other periodic payment on a
10 debt secured by the consumer debtor's personal property.

11 Sec. 2. Section 36a-719h of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective October 1, 2019*):

13 (a) No mortgage servicer shall, directly or indirectly:

14 (1) Employ any scheme, device or artifice to defraud or mislead
15 mortgagors or mortgagees or to defraud any person;

16 (2) Engage in any unfair or deceptive practice toward any person or
17 misrepresent or omit any material information in connection with the
18 servicing of the residential mortgage loan, including, but not limited
19 to, misrepresenting the amount, nature or terms of any fee or payment
20 due or claimed to be due on a residential mortgage loan, the terms and
21 conditions of the servicing agreement or the mortgagor's obligations
22 under the residential mortgage loan;

23 (3) Obtain property by fraud or misrepresentation;

24 (4) Recklessly apply residential mortgage loan payments or
25 knowingly misapply residential mortgage loan payments to the
26 outstanding balance of a residential mortgage loan;

27 (5) Recklessly apply payments or knowingly misapply payments to
28 escrow accounts;

29 (6) Place hazard, homeowners or flood insurance on the mortgaged
30 property when the mortgage servicer knew or should have known that
31 the mortgagor has an effective policy for such insurance;

32 (7) Fail to comply with section 49-10a;

33 (8) Knowingly or recklessly provide inaccurate information to a
34 credit bureau that results in harm to a mortgagor's creditworthiness;

35 (9) Fail to report (A) both the favorable and unfavorable payment
36 history of the mortgagor to a nationally recognized consumer credit
37 bureau at least annually if the mortgage servicer regularly reports
38 information to a credit bureau, or (B) the favorable payment history of
39 a mortgagor who has filed a petition for bankruptcy, whether or not
40 the mortgagor has entered an agreement to reaffirm the debt on the
41 residential mortgage loan, to a nationally recognized consumer credit
42 bureau on or before thirty days after receiving a regularly monthly or

43 other periodic payment from the mortgagor on the residential
44 mortgage loan;

45 (10) Collect private mortgage insurance beyond the date for which
46 private mortgage insurance is required;

47 (11) Fail to issue a release of mortgage in accordance with section
48 49-8;

49 (12) Fail to provide written notice to a mortgagor upon taking action
50 to place hazard, homeowners or flood insurance on the mortgaged
51 property, including a clear and conspicuous statement of the
52 procedures by which the mortgagor may demonstrate that he or she
53 has the required insurance coverage and by which the mortgage
54 servicer shall terminate the insurance coverage placed by it and refund
55 or cancel any insurance premiums and related fees paid by or charged
56 to the mortgagor;

57 (13) Place hazard, homeowners or flood insurance on a mortgaged
58 property, or require a mortgagor to obtain or maintain such insurance,
59 in excess of the replacement cost of the improvements on the
60 mortgaged property as established by the property insurer;

61 (14) Fail to provide to the mortgagor a refund of unearned
62 premiums paid by a mortgagor or charged to the mortgagor for
63 hazard, homeowners or flood insurance placed by a mortgagee or the
64 mortgage servicer if the mortgagor provides reasonable proof that the
65 mortgagor has obtained coverage such that the forced placement
66 insurance is no longer necessary and the property is insured. If the
67 mortgagor provides reasonable proof that no lapse in coverage
68 occurred such that the forced placement was not necessary, the
69 mortgage servicer shall promptly refund the entire premium;

70 (15) Require any amount of funds to be remitted by means more
71 costly to the mortgagor than a bank or certified check or attorney's
72 check from an attorney's account to be paid by the mortgagor;

73 (16) Refuse to communicate with an authorized representative of the
74 mortgagor who provides a written authorization signed by the
75 mortgagor, provided the mortgage servicer may adopt procedures
76 reasonably related to verifying that the representative is in fact
77 authorized to act on behalf of the mortgagor;

78 (17) Conduct any business covered by sections 36a-715 to 36a-719l,
79 inclusive, without holding a valid license as required under said
80 sections, or assist or aid and abet any person in the conduct of business
81 without a valid license as required under this title;

82 (18) Negligently make any false statement or knowingly and
83 wilfully make any omission of a material fact in connection with any
84 information or reports filed with a governmental agency or the system
85 or in connection with any investigation conducted by the
86 commissioner or another governmental agency; or

87 (19) Collect, charge, attempt to collect or charge or use or propose
88 any agreement purporting to collect or charge any fee prohibited by
89 sections 36a-485 to 36a-498e, inclusive, 36a-534a and 36a-534b.

90 (b) No mortgage servicer shall fail to establish, enforce and maintain
91 policies and procedures reasonably designed to achieve compliance
92 with subsection (a) of this section, and no qualifying individual or
93 branch manager for such mortgage servicer shall fail to enforce such
94 policies and procedures. No violation of this subsection shall be found
95 unless the mortgage servicer, qualifying individual or branch
96 manager's failure to establish, enforce or maintain policies and
97 procedures resulted in conduct in violation of sections 36a-715 to 36a-
98 724, inclusive, or rules or regulations adopted under said sections or
99 any other state or federal law, including the rules and regulations
100 thereunder, applicable to any business authorized or conducted under
101 said sections.

102 Sec. 3. Section 36a-498 of the general statutes is amended by adding
103 subsection (i) as follows (*Effective October 1, 2019*):

104 (NEW) (i) No mortgage lender or mortgage correspondent lender
105 shall fail to report the favorable payment history of a mortgagor who
106 has filed a petition for bankruptcy, whether or not such mortgagor has
107 entered an agreement to reaffirm the debt on the residential mortgage
108 loan, to a nationally recognized consumer credit bureau on or before
109 thirty days after receiving a regularly monthly or other periodic
110 payment by the mortgagor on the residential mortgage loan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	36a-646
Sec. 2	October 1, 2019	36a-719h
Sec. 3	October 1, 2019	36a-498

Statement of Purpose:

To require creditors, mortgage lenders, mortgage correspondent lenders and mortgage servicers to report to a nationally recognized credit bureau the favorable payment history of certain debtors who have filed a petition for bankruptcy.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. PAVALOCK-D'AMATO, 77th Dist.; REP. FISHBEIN, 90th Dist.

H.B. 5681