



General Assembly

February Session, 2020

Raised Bill No. 382

LCO No. 1534



Referred to Committee on BANKING

Introduced by:

(BA)

***AN ACT CONCERNING EXEMPTIONS FROM CERTAIN
REQUIREMENTS FOR PERSONS ACTING AS LEAD GENERATORS
AND COMMERCIAL MORTGAGE LOAN ORIGINATORS.***

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

1 Section 1. Subdivision (5) of subsection (b) of section 36a-486 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2020*):

4 (5) On and after January 1, 2018, no person shall, directly or
5 indirectly, act as a lead generator without first obtaining a license under
6 section 36a-489, unless such person is exempt from licensure. The
7 following persons shall be exempt from licensure as a lead generator:

8 (A) Any bank, out-of-state bank, Connecticut credit union, federal
9 credit union or out-of-state credit union, provided such bank or credit
10 union is federally insured;

11 (B) Any wholly owned subsidiary of any such bank or credit union;

12 (C) Any operating subsidiary where each owner of such operating

13 subsidiary is wholly owned by the same such bank or credit union;

14 (D) Any person licensed as a mortgage lender, mortgage
15 correspondent lender or mortgage broker in this state, provided such
16 exemption shall not be effective during any period in which the license
17 of such person is suspended;

18 (E) A consumer reporting agency, as defined in Section 603 (f) of the
19 Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time;
20 [and]

21 (F) An employee of a person licensed as a lead generator or exempt
22 from licensure as a lead generator, while engaged in lead generator
23 activities on behalf of such person; [.] and

24 (G) An individual employed by an affiliate of a bank or credit union
25 exempt from licensure pursuant to subparagraph (A) of this subdivision
26 who is registered or licensed with a state or federal regulator to engage
27 in securities brokerage, investment advisory or insurance sales activities
28 and who, incidental to the performance of such regulated activities,
29 performs lead generation activities limited to the referral of one or more
30 leads to such bank or credit union. For purposes of this subparagraph,
31 "affiliate" means an entity that is controlled by or is under common
32 control with the bank or credit union, such that the bank or credit union
33 (i) directly or indirectly acting through one or more other persons owns,
34 controls or has the power to vote more than fifty per cent of any class of
35 voting securities of the affiliate, (ii) controls in any manner the election
36 of a majority of directors or trustees of the affiliate, or (iii) directly or
37 indirectly exercises a controlling influence over the management or
38 policies of the affiliate.

39 Sec. 2. Section 31-76i of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2020*):

41 The provisions of sections 31-76b to 31-76j, inclusive, shall not apply
42 with respect to [(a)] (1) any driver or helper, excluding drivers or helpers
43 employed by exempt employers, with respect to whom the Interstate

44 Commerce Commission or its successor agency or the Secretary of
45 Transportation has power to establish qualifications and maximum
46 hours of service pursuant to the provisions of applicable federal law or
47 regulation of any employee of a carrier by air subject to the Railway
48 Labor Act or any employee of any employer subject to said Railway
49 Labor Act; [(b)] (2) any employee employed as a seaman; [(c)] (3) any
50 employee employed as an announcer, a news editor or chief engineer by
51 a radio station or television station; [(d)] (4) repealed by 1972, P.A. 116,
52 S. 3, 6; [(e)] (5) any person employed in a bona fide executive,
53 administrative or professional capacity as defined in the regulations of
54 the Labor Commissioner issued pursuant to section 31-60; [(f)] (6) any
55 person employed in the capacity of outside salesman as defined in the
56 regulations of the Federal Fair Labor Standards Act; [(g)] (7) any inside
57 salesperson whose sole duty is to sell a product or service [(1)] (A)
58 whose regular rate of pay is in excess of two times the minimum hourly
59 rate applicable to him under section 31-58, [(2)] (B) more than half of
60 whose compensation for a representative period, being not less than one
61 month, represents commissions on goods or services, and [(3)] (C) who
62 does not work more than fifty-four hours during a work week of seven
63 consecutive calendar days. In determining the proportion of
64 compensation representing commissions, all earnings resulting from the
65 application of a bona fide commission rate shall be deemed
66 commissions on goods or services without regard to whether the
67 computed commissions exceed the draw or guarantee; [(h)] (8) any
68 person employed as a taxicab driver by any employer engaged in the
69 business of operating a taxicab, if such driver is paid forty per cent or
70 more of the fares recorded on the meter of the taxicab operated by him;
71 [(i)] (9) any person employed in the capacity of a household delivery
72 route salesman engaged in delivering milk or bakery products to
73 consumers and who is paid on a commission basis as defined in the
74 regulations of the Labor Commissioner issued pursuant to section 31-
75 60; [(j)] (10) any salesman primarily engaged in selling automobiles. For
76 the purposes of this subdivision, "salesman" includes any person
77 employed by a licensed new car dealer [(1)] (A) whose primary duty is
78 to sell maintenance and repair services, [(2)] (B) whose regular rate of

79 pay is in excess of two times the minimum hourly rate applicable to him
80 under the provisions of section 31-58, [(3)] (C) more than half of whose
81 compensation for a representative period, being not less than one
82 month, represents commissions on goods or services, and [(4)] (D) who
83 does not work more than fifty-four hours during a work week of seven
84 consecutive days. In determining the proportion of compensation
85 representing commissions, all earnings resulting from the application of
86 a bona fide commission rate shall be deemed commissions on goods or
87 services without regard to whether the computed commissions exceed
88 the draw or guarantee; [(k)] (11) any person employed in agriculture;
89 [(l)] (12) any permanent paid members of the uniformed police force of
90 municipalities and permanent paid members of the uniformed
91 firefighters of municipalities; [(m)] (13) any person employed as a
92 firefighter by a private nonprofit corporation which on May 24, 1984,
93 has a valid contract with any municipality to extinguish fires and protect
94 its inhabitants from loss by fire; [(n)] (14) any person, except a person
95 paid on an hourly basis, employed as a beer delivery truck driver by a
96 licensed distributor, as defined in section 12-433; [(o)] (15) any person
97 employed as a mechanic primarily engaged in the servicing of motor
98 vehicles, as defined in section 14-1, or farm implements, as defined in
99 section 14-1, by a nonmanufacturing employer primarily engaged in the
100 business of selling such vehicles or implements to consumers, to the
101 extent that such employees are exempt under the federal Wage-Hour
102 and Equal Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided
103 such person's actual weekly earnings exceed an amount equal to the
104 total of [(1)] (A) such person's basic contractual hourly rate of pay times
105 the number of hours such person has actually worked plus [(2)] (B) such
106 person's basic contractual hourly rate of pay times one-half the number
107 of hours such person has actually worked in excess of forty hours in
108 such week. For the purposes of this section, "basic contractual hourly
109 rate" means the compensation payable to a person at an hourly rate
110 separate from and exclusive of any flat rate, incentive rate or any other
111 basis of calculation; [or (p)] (16) any mortgage loan originator, as
112 defined in section 36a-485, who is a highly compensated employee, as
113 [defined] described in 29 CFR 541.601, provided this subdivision shall

114 not apply to an individual who performs the functions of a mortgage
 115 loan originator solely from the office of such mortgage loan originator's
 116 employer. For purposes of this subdivision, an office in the mortgage
 117 loan originator's home shall not be considered the office of such
 118 mortgage loan originator's employer. Beginning on October 1, 2012, the
 119 total annual compensation for purposes of Subsection (a) of 29 CFR
 120 541.601 shall be increased annually, effective October first of each year,
 121 based on the percentage increase, from year to year, in the average of all
 122 workers' weekly earnings as determined by the Labor Commissioner
 123 pursuant to subdivision (1) of subsection (b) of section 31-309; or (17)
 124 any commercial mortgage loan originator who is a highly compensated
 125 employee, as described in 29 CFR 541.601. For purposes of this
 126 subdivision, (A) "commercial mortgage loan originator" means an
 127 individual who for compensation or gain or with the expectation of
 128 compensation or gain, either for such individual or for the person
 129 employing or retaining such individual, (i) takes a commercial mortgage
 130 loan application, or (ii) offers or negotiates terms of a commercial
 131 mortgage loan, and (B) "commercial mortgage loan" means loans which
 132 are not primarily for personal, family or household use.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2020	36a-486(b)(5)
Sec. 2	October 1, 2020	31-76i

Statement of Purpose:

To exempt certain persons from licensure as a lead generator and to exempt commercial mortgage loan originators from certain overtime requirements.

[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.]