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Small Loan Licensees

(Transferred from § 36-239)

Sec. 36a-570-1. Definitions

As used in sections 36a-570-1 to 36a-570-17, inclusive, of these regulations:

(a) "Affiliated entity" means any person, partnership, association or corporation authorized by the commissioner under section 36a-561 of the Connecticut General Statutes to solicit or conduct business in association or conjunction with a licensee or within any office or room where a licensee conducts the business of making loans under the provisions of part III of chapter 668 of the Connecticut General Statutes.

(b) "Commissioner" means the commissioner of banking.

(c) "Department" means the department of banking.

(d) "Electronic equivalent" means any system whereby information or records required to be maintained may be displayed in readily understandable form on a computer screen or similar device.

(e) "Licensee" means a person, partnership, association or corporation licensed under part III of chapter 668 of the Connecticut General Statutes.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-2. Advertising and solicitation

(a) The advertising of each licensee and affiliated entity shall conform with the provisions of part III of chapter 669 of the Connecticut General Statutes and any regulations issued thereunder.

(b) It may be indicated in advertising that the licensee is "Licensed under the Laws Relating to Small Loans," but no other reference to licensing or supervision by the commissioner or State of Connecticut may be made.

(c) No licensee or affiliated entity shall advertise in any manner that may tend to confuse the identity of the licensee or affiliated entity with any other unrelated business.

(d) No licensee or affiliated entity shall cause or permit any advertising of its services to be placed before the public in any manner if it contains any statements or claims which are deceptive or false.

(e) Each licensee and affiliated entity shall make readily available to the commissioner a copy of all advertising for a period of one year from the date of its use.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-3. Deferral charges

No deferral charge shall be collected without the specific authorization of the borrower.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-4. Extended first payments, interest after maturity, rebates of unearned charges, and renewals

(a) **Extended first payments.** To determine the due date for loans under which the first payment is extended for a charge, the actual number of days in the extension period shall be counted from the date of the loan and a month, as determined under subsection (b) of section 36a-563 of the Connecticut General Statutes, added to the date so obtained.

(b) **Interest after maturity.** Interest after maturity shall be computed from the maturity date or deferred maturity date as applicable and shall be computed at a

rate no higher than twelve per cent per year computed on a daily basis on the respective unpaid balances.

(c) **Rebates of unearned charges.** (1) Where prepayment in full occurs on or before the fifteenth day following an instalment period due date, the rebate shall be calculated as of the due date immediately preceding the date of prepayment.

(2) Where prepayment in full occurs on or after the sixteenth day following an instalment period due date, the rebate shall be calculated as of the due date immediately following the date of prepayment.

(3) In the event prepayment occurs before the first instalment period due date, the entire first month's charges shall be earned, except where prepayment occurs during any paid first payment extension period, in which case only the first month's charge shall be earned and the extension charge shall be refunded.

(4) In the event prepayment occurs after any paid first payment extension period, but before the first instalment period due date, both the extension charge and the first month's charges shall be earned.

(d) **Renewals or refinances.** No loan shall be renewed or refinanced unless a distinct advantage to the borrower results therefrom. Restoration to a contractually up-to-date condition shall not, in itself, constitute a distinct advantage to the borrower.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-5. Collection practices

(a) Each licensee shall maintain a record of all contacts or attempted contacts with the debtor or others regarding an alleged debt, whether such contacts or attempted contacts be by telephone, in writing, in person, or any other method. Such record shall indicate the date, nature of the contact, name of the collector, the person contacted, and a brief summary of any conversation. Form letters shall be identified by number or title. Copies of all collection communications, except form notices and form letters of collection, shall be kept for a year from the date thereof. A sample copy of each form notice or letter shall be kept on file.

(b) The ledger card or its electronic equivalent shall indicate when any account has been placed for collection or legal action taken as well as the fact that any judgment has been obtained, together with the date and details of the judgment.

(c) Sections 36a-645 through 36a-647, inclusive, of the Connecticut General Statutes and regulations adopted thereunder shall govern all collection practices by licensees and affiliated entities.

(d) Unless specific written permission is given by the commissioner, all collections of, or attempts to collect, any amounts due a licensee or an affiliated entity shall be made in this state only by the licensee, the affiliated entity, or an attorney at law.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-6. General conduct of business

(a) No licensee shall conduct the loan business at any place of business other than that named in the license. Where a loan results from a recommendation of a merchant or dealer for the purpose of financing the purchase price of goods or services to be purchased from that merchant or dealer, the borrower or, if a joint loan contract, at least one of the borrowers, must sign the note in the office of the licensee.

(b) No licensee shall, by any representation or device, offer money or other articles or consideration of value to any person for the purpose of inducing that person or any other person to borrow from such licensee.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-7. Office and office hours

(a) Unless specific written permission is given by the commissioner, the place of business, as designated in the license, shall be open for business at least three consecutive hours each day, Monday through Friday, except when one of those days is designated by law as a legal holiday. A licensee may close its place of business on a day other than a legal holiday if it requests and receives permission from the commissioner to do so. Except in the case of a bona fide emergency, such permission shall be in writing. Unless otherwise prohibited by law, a licensee may remain open for business on a legal holiday.

(b) The licensee shall file with the commissioner a schedule of days and hours during which the office will be open. Any restrictive change in such schedule shall be reported to the commissioner and appropriate notice given to borrowers before such change is to become effective.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-8. Books and records

(a) All records and supporting papers prescribed by subsection (b) of this section, and all expense vouchers, shall be maintained by a licensee for a minimum period of two years after making the final entry therein and, unless specifically authorized in writing by the commissioner, shall be maintained at the place of business of the licensee and shall be made available to the commissioner or his representative for examination at any time without prior notice. All accounting records shall be maintained in accordance with generally accepted accounting standards and in a manner satisfactory to the commissioner. The records prescribed by subsection (b) of this section may be maintained via an electronic equivalent, provided the required information is readily viewable by the commissioner or his representative in the office of the licensee on a computer screen or similar device and can be printed on paper at the commissioner's or his representative's request. If the licensee maintains an electronic equivalent of any record prescribed by subsection (b) of this section, the commissioner or his representative shall have unlimited access to the equipment necessary to view and print the required information, and shall be provided with reasonable instruction in the use of such equipment.

(b) The following records shall be maintained by the licensee:

(1) Loan register. The loan register or its electronic equivalent shall list all loans made in chronological order, indicating loan number, name of maker, amount of loan, type of loan, and date of loan.

(2) Original papers on loans made. A file of original papers on loans made or its electronic equivalent shall be maintained for each borrower and shall contain complete information concerning all loans to such borrower. The account card and note or their electronic equivalent shall bear the loan number.

(3) Alphabetical index file. Each licensee shall maintain an alphabetical index file or its electronic equivalent of all persons obligated on the loan contracts, indicating loan number and original amount of each loan. The alphabetical index file shall be completely cross-referenced as to maker and co-maker.

(4) Contract cards. (A) An individual contract card or its electronic equivalent shall be kept for each loan contract. If the contract card or its electronic equivalent

is for a contract where the charge is in terms of dollars and added to the principal amount, it shall clearly and separately show each payment, default charge, deferment charge, and the respective dates, and the unpaid balance of the contract at all times. (B) If the contract card or its electronic equivalent is for a contract where the charge is computed on an interest basis, it shall clearly and separately show the payments on principal and interest, and the unpaid balance at all times. (C) The contract card or its electronic equivalent shall clearly indicate the date to which the contract is contractually paid at all times. (D) No erasures shall be made upon that portion of the contract card where payments are entered. When an electronic equivalent of the contract card is maintained, corrective entries may be made where necessary but no entries shall be deleted.

(c) Upon the repayment of any loan in full, the licensee: (1) Shall mark indelibly each paper signed by the borrower with the word "paid" or "cancelled" and cancel and return any note; or (2) Unless otherwise required by the terms of any agreement between the licensee and the borrower entered into before October 1, 1994, shall transmit or deliver to the borrower a duplicate of the original document that clearly identifies the loan and shows that the loan has been paid in full and the note has been cancelled.

(Effective August 25, 1992, transferred and amended April 24, 1995)

Sec. 36a-570-9. Miscellaneous

(a) On the first page of the statement delivered to the borrower at the time a loan is made, the following sentence shall appear in bold and easily readable type:

**This Office is Licensed by The
Commissioner of Banking,
260 Constitution Plaza,
Hartford, Connecticut 06103**

(b) No licensee shall sell, transfer, hypothecate, assign or otherwise dispose of any loan to any individual, partnership, corporation or association not having a small loan license issued by the commissioner, unless prior written approval is obtained from the commissioner.

(c) Capital investment, as referred to by statute, shall consist of cash on hand, cash in banks, collectible small loans, marketable securities or furniture and fixtures of a fair value. Deferred charges, advances to any other company including the parent, any subsidiary or any related company, and organization expenses are not allowable in computing required capital investment.

(d) If any other business is conducted by the licensee, separate records of assets, liabilities, income and expenses shall be maintained to the extent required by the commissioner.

(Effective August 25, 1992, transferred April 24, 1995, amended January 30, 1996)

Sec. 36a-570-10. Other businesses on licensed premises

If any other business is permitted by the commissioner to be operated on the premises occupied by a licensee, such business shall be conducted by a separate entity. When more than one other business is authorized to operate on the premises occupied by a licensee, such other authorized businesses may be operated by one separate entity.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-11. Records and accounts of affiliated entities

(a) Each affiliated entity shall maintain separate books and records in the form and manner prescribed by subsection (a) of section 36a-570-8 of these regulations.

(b) The account ledger cards or their electronic equivalent relating to each type of business conducted on the same premises shall be filed in such a manner as to be readily distinguished one from the other. The same shall apply to ledger cards or their electronic equivalent of accounts paid in full, renewed or refinanced, which shall be filed separate from open accounts.

(c) An alphabetical index or its electronic equivalent shall be maintained for all persons indebted to any affiliated entity. The index shall show the following information:

- (1) The name of the obligor;
- (2) the account number or numbers assigned to the obligor;
- (3) the total indebtedness of the obligor when liable on more than one contract of any type;
- (4) the type of indebtedness.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-12. Restrictions on loans by affiliated entities

(a) A loan shall not be made for a downpayment on an automobile, other merchandise or service where the retail instalment contract in the transaction is purchased or to be purchased and held by an affiliated entity.

(b) A loan shall not be made coincident with the purchasing of a retail instalment contract or the entering into any other type of contract by an affiliated entity when the proceeds of both are for the same purpose.

(Effective September 26, 1967, transferred April 24, 1995)

Sec. 36a-570-13. Refinancing loans

A loan shall not be made to refinance a retail instalment contract or any other obligation held by an affiliated entity unless a refund credit, as required by law for prepayment in full, is first given and, in addition, one of the following conditions shall prevail:

- (1) The contract being refinanced has been in existence for at least ninety days, or
- (2) the amount of each instalment on the loan being made is less than the instalment on the contract being refinanced by ten per cent or five dollars, whichever is greater, or
- (3) the principal amount of the loan being made exceeds the net amount owing on the obligation held by the affiliated entity by at least seventy-five dollars. A loan shall not be made where the proceeds are for the sole purpose of making payments on an obligation of any affiliated entity.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-14. Restrictions on affiliated entities

(a) Commissions, gratuities, or broker's fees shall not be paid by a licensee or an affiliated entity to dealers, salesmen or any other parties for the referral of loans to be made under part III of chapter 668 of the Connecticut General Statutes. No licensee shall make a loan under said chapter if the licensee knows that the borrower has paid or has contracted to pay such commissions, gratuities or broker's fees.

(b) An affiliated entity granting mortgage loans in excess of five thousand dollars under section 36a-570-17 of these regulations may pay commissions, gratuities, or broker's fees for the referral of such loans. Any such commissions, gratuities, or

broker's fees may be charged to or paid by the borrower, provided: (1) if a nonrefundable prepaid finance charge is assessed against the borrower, such commissions, gratuities, or broker's fees shall be subject to the limitation set forth in subparagraph (A) of subdivision (2) of subsection (a) of section 36a-570-17 of these regulations; and (2) if a nonrefundable prepaid finance charge is not assessed against the borrower, such commissions, gratuities, or broker's fees shall not exceed eight per cent of the loan amount in the case of a closed-end loan or eight per cent of the initial cash advance in the case of an open-end loan.

(c) An affiliated entity engaging in the sales finance business may pay a portion of the finance charge permitted under section 36a-772 of the Connecticut General Statutes to the seller originating a retail instalment contract under an arrangement commonly known as "dealer participation."

(Effective July 22, 1994, transferred April 24, 1995)

Sec. 36a-570-15. Revocation of authorization

Any authorization granted by the commissioner pursuant to section 36-231 of the Connecticut General Statutes shall be subject to revocation for any violation of sections 36a-570-10 to 36a-570-17, inclusive, of these regulations.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-16. Investigations and examinations

The commissioner or his duly appointed representative shall have the authority to investigate and examine at any time the books and records of any affiliated entity, licensed or unlicensed, for the purpose of determining if it is operating in a manner consistent with the provisions of section 36a-561 of the Connecticut General Statutes. The cost of any such investigation or examination shall be paid by the licensee.

(Effective August 25, 1992, transferred April 24, 1995)

Sec. 36a-570-17. Mortgage loans in excess of five thousand dollars

(a) (1) **Approval of Commissioner.** Any licensee in this state may apply to the commissioner, in a manner prescribed by the commissioner, for permission to allow an affiliated entity on the same premises to make loans in excess of five thousand dollars which are secured by real estate. Upon receipt of written permission from the commissioner, the affiliated entity shall conduct its business in accordance with the requirements of this section.

(2) **Calculation of finance charge.** (A) The total finance charge assessed against the borrower on any mortgage loan made pursuant this section may be composed of interest and a nonrefundable prepaid finance charge, provided, any such nonrefundable prepaid finance charge, when added to any commissions, gratuities, or broker's fees for which the borrower may be obligated, shall not exceed, in the aggregate, eight per cent of the loan amount in the case of a closed-end loan or eight per cent of the initial cash advance in the case of an open-end loan. (B) When computed in accordance with part III of chapter 669 of the Connecticut General Statutes, but without the tolerances contained therein, the total finance charge, expressed as an annual percentage rate, shall not exceed twenty-four per cent for the original term of the loan. (C) In the case of a closed-end loan, the interest portion of the total finance charge may be assessed on a daily basis on the actual unpaid loan amount at the simple interest rate contained in the mortgage note, or at the lender's option it may be precomputed at the same rate in accordance with the disclosed schedule of payments. In the case of an open-end loan, the interest

portion of the total finance charge shall be computed in accordance with subsection (e) of section 36a-565 of the Connecticut General Statutes.

(b) **Other charges.** In addition to the finance charge permitted under subdivision (2) of subsection (a) of this section, the commissions, gratuities, or broker's fees permitted under subsection (b) of section 36a-570-14 of these regulations, the prepayment penalty permitted under subsection (e) of this section and the costs or charges permitted under subsections (c), (i), and (k) to (n), inclusive, of this section, no other charges of any kind shall be assessed against the borrower on any mortgage loan made pursuant to this section except the actual and reasonable costs of the following:

- (1) Fees or premiums for title examination, abstract of title, title insurance, surveys or similar purposes.
- (2) Preparation of deeds, settlement statements or other documents.
- (3) Fees for notarizing deeds or other documents.
- (4) Fees paid to public officials for the filing of deeds and other documents.
- (5) Appraisal fees.

The borrower shall not be charged for any of the services listed in subdivisions (1) to (5), inclusive, of this subsection when performed by a salaried employee of the licensee.

(c) **Insurance.** (1) Credit life insurance on the life of one borrower or on the lives of the borrower and the borrower's spouse if both are to be obligors on the loan may be sold in connection with a mortgage loan made pursuant to this section, if requested by any such borrower whose life is to be insured, in accordance with part III of chapter 669 of the Connecticut General Statutes. The cost of such insurance may be in addition to the finance charge and other charges permitted by this section.

(2) If requested by any borrower who will be insured, as required under part III of chapter 669 of the Connecticut General Statutes, credit accident and health insurance covering one borrower may be sold in connection with the mortgage loan, providing indemnity against the risk of a borrower becoming disabled for a period of not less than fourteen days, except that such insurance may provide for retroactive coverage if the disability continues for the period stated in the policy. The cost of such insurance may be in addition to the finance charge and other charges permitted by this section.

(3) If a borrower obtains credit accident and health insurance, the borrower shall have the right for a period of fifteen days after loan is made to cancel the entire insurance coverage. Notification of this right shall be made in the borrower's insurance election. All persons obligated on the loan must agree in writing to the cancellation and return all certificates upon cancellation. The lender shall, at the lender's option, either refund the insurance charges to the borrower or apply them to the unpaid balance of the loan.

(4) The lender may require evidence that the mortgaged property is adequately insured against loss from physical damage, provided, no such insurance may be sold by the lender to the borrower.

(d) **Security.** No collateral, other than a lien on real property owned by the borrower and the insurances described under subsection (c) of this section, shall be taken in connection with any mortgage loan made pursuant to this section.

(e) **Prepayment.** In the event of prepayment in full or in part of a mortgage loan upon which the interest portion of the finance charge is assessed on a daily basis on the unpaid loan amount, the interest portion of the finance charge shall be assessed only to the date of prepayment at a simple interest rate contained in the mortgage

note. In the event of prepayment in full of a mortgage loan upon which the interest portion of the finance charge is precomputed, a rebate of the unearned interest portion of the finance charge shall be credited to the borrower. Such unearned interest portion of the finance charge shall be computed by the actuarial method at the simple interest rate contained in the mortgage note on the declining principal balances scheduled to follow the date of prepayment, as originally scheduled or as deferred in accordance with subsection (l) of this section. No portion of any prepaid finance charge is required to be refunded in the event of prepayment. Except as otherwise provided in this subsection, no penalty for prepayment shall exceed five per cent of the principal balance prepaid, provided, no such penalty shall be imposed for any prepayment occurring more than three years after the date of the loan.

(f) **Multiple loans.** A borrower may be indebted to affiliated entities for a mortgage loan made pursuant to this section and an unsecured loan made under part III of chapter 668 of the Connecticut General Statutes at the same time, provided, such loans shall not be split or divided for the purpose of obtaining a higher finance charge than would be received if a single loan had been granted. A borrower may not be indebted to affiliated entities for a mortgage loan made pursuant to this section and a mortgage loan made under part III of chapter 668 of the Connecticut General Statutes at the same time.

(g) **Loan amounts—repayment periods.** All mortgage loans made pursuant to this section shall be for amounts in excess of five thousand dollars. The repayment period shall be determined by the borrower's ability to repay, but there shall be no maximum maturity.

(h) **Advertising and collection practices.** All advertising and collection practices with respect to mortgage loan made pursuant to this section shall comply with sections 36a-570-2 and 36a-570-5 of these regulations.

(i) **Foreclosure costs.** No mortgage documents prepared in connection with a mortgage loan made pursuant to this section shall provide for payment by the borrower of other than the reasonable costs of any foreclosure action, including reasonable attorney's fees, as may be determined by the court.

(j) **Termination of permission.** The commissioner may suspend or revoke any permission granted under the provisions of section 36a-561 of the Connecticut General Statutes and this section for any violation or evasion of the provisions of section 36a-561, this section or sections 36a-570-1 to 36a-570-16, inclusive, of these regulations.

(k) **Late charge.** If any instalment on a loan made pursuant to this section remains unpaid for ten or more consecutive days, including Sundays and holidays, after it is due, the lender may assess and collect a late charge not exceeding the lesser of ten dollars or five per cent of the amount of such scheduled instalment.

(l) **Deferment charge.** If the lender and the borrower agree to the deferment of one or more instalments on a loan made pursuant to this section upon which the interest portion of the finance charge is precomputed, the lender may make an additional charge for such deferment. The deferment charge shall be computed on a daily basis at a rate not to exceed the simple interest rate contained in the mortgage note for the actual number of days in the deferment period. No deferment charge shall be assessed or collected without the permission of the borrower.

(m) **Dishonored check service charge.** If the agreement between the lender and the borrower so provides, the lender may assess and collect a dishonored check service charge in accordance with the provisions of Section 52-565a of the Connecticut General Statutes.

(n) **Open-end loan annual fee.** In the case of an open-end loan made pursuant to this section, if the agreement between the lender and the borrower so provides, the lender may assess and collect an annual fee not to exceed fifty dollars for the privileges made available to the borrower under the open-end loan agreement.

(Effective July 22, 1994; transferred April 24, 1995; amended April 7, 2000, August 16, 2000)