

Conn. Banking Brief: The Notable Compliance Updates In Q3

By **Brian Rich** (October 13, 2023)

In this Expert Analysis series, attorneys provide quarterly recaps discussing the biggest developments in Connecticut banking regulation and policymaking.

Before capping off the legislative year with a special session to consider a Supreme Court nominee, the Connecticut General Assembly engaged in a flurry of activity related to banking and finance issues.

While most of the legal changes ultimately signed into law by Gov. Ned Lamont do not necessarily involve any tectonic shifts to the landscape for most financial institutions, the sheer volume of activity demands some attention.

Most of the changes — which include increased regulatory protections for consumers, an expansion of state financial assistance for underserved communities, and a panoply of tweaks to existing laws — went into effect at the end of the third quarter on Oct. 1, though some went into effect as of the beginning of July.

While this article does not seek to present an exhaustive examination of all of those changes, some of the salient highlights are included below.



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Remote Notarization

P.A. 23-28

As part of the continuing response to the COVID-19 pandemic, Public Act 23-28, which became effective on Oct. 1, allows a notary public, under certain conditions, to engage in remote notarization. It also permits a notary to refuse remote notarizations if appropriate, excluding certain records from eligibility — including real estate closing documents.

The act also allows state and internal notarization by Connecticut notaries under certain circumstances and permits the secretary of state to adopt remote notarization regulations.

Consumer Protections and Changes to Financial Accounts Legislation

P.A. 23-126

In a move opposed by much of the Connecticut banking community because of a perceived disproportionate impact on in-state lenders resulting from federal preemption laws, state and federally chartered financial institutions doing business in the state must make available to Connecticut residents a "basic banking account" that prevents having a required minimum initial deposit or balance of more than \$25. The law also restricts fees.

The new law, which went into effect Oct. 1, also requires banks to offer these accounts only at their offices and branches and expands the circumstances under which a financial institution does not need to provide notice of a deposit account's closure.

P.A. 23-23

In a development with ramifications to collection actions, this new law requires a financial institution served with an account execution to respond to the serving officer within seven days, with specific information, and to electronically notify the judgment debtor that funds have been removed without disclosing the serving officer's name or contact information. It went into effect Oct. 1.

P.A. 23-161

This act — effective as of Oct. 1 — is a consummate consumer protection law, requiring financial institutions to provide "hard copy" periodic statements to consumers unless consumers explicitly consent to electronic statements. It permits the consumer to withdraw those consents at any time, and requires that the institution provide paper copies anytime a consumer requests them.

The act also addresses the financial exploitation of seniors by authorized expanded disclosures, creating specific processes for limits on account holds, and lowers the evidentiary standard to determine when ownership of a joint account would not vest to the surviving account owner from "clear and convincing" to a "preponderance of the evidence."

Changes to the Department of Banking

P.A. 23-126

In response to various concerns from media, consumers and advocacy groups arising from mergers of financial institutions, this law seeks to help account holders navigate issues as their accounts are transferred to new entities.

The act also provides assistance, via the Connecticut Department of Banking, in receiving and reviewing complaints, transmitting complaints to out-of-state regulators, and monitoring the development of rules and regulations pertaining to these mergers.

Effective as of Oct. 1, the act also specifically requires the banking commissioner to provide an annual analysis beginning January 2024 of merger laws, regulations and policies with recommended changes.

P.A. 23-204

This act, effective Oct. 1, formally establishes the state Office of the Student Loan Ombudsman.

Although prior law required this type of appointment within available appropriations, the new act represents a change to the prior process of appointing the ombudsman within available appropriations within the department, at least theoretically strengthening the muscle of this entity.

Mortgage Modifications Under Foreclosure Mediation Program

P.A. 23-45

This new law, effective Oct. 1, requires that a mortgagee that agrees to modify a mortgage

under the existing foreclosure mediation program send the modification offer to the mortgagor at least 15 days before the first modified payment is due or face sanctions under the program.

While the new law undoubtedly brings some level of clarity to the process of offering these modifications, it remains to be seen precisely how much of a change this will pose to the operation of the program itself.

The act also allows certain updated methods of payment to satisfy a mortgage and provides that a mortgage release must be delivered to the town clerk or the mortgagor or mortgagor's representative if requested in writing.

The act also creates a nine-member working group to address methods of increasing access to buying mobile manufactured homes, with recommendations due to the Banking and Housing Committees by Jan. 1, 2024.

State Assistance Programs

P.A. 23-45

In a boon to the state's home ownership loan program, this act's changes also include now allowing the deferral of principal and interest payments — instead of former principal deferral only — allowing borrower payments to be used to fund additional loans, and allowing the Connecticut Housing Finance Authority to establish interest rates, repayment and loan forgiveness terms.

The act also creates a new Small Multifamily Lending Program, requiring the Connecticut Housing Finance Authority to utilize bonding resources to provide loans to institutions it deems eligible for the acquisition and construction of small multifamily properties, generally those with two to 20 units.

P.A. 23-205

In another substantial policy development, this law that went into effect July 1 authorizes up to \$15 million in general obligation bonds for businesses and industrial development corporations whose principal purpose is to finance and manage assistance for women- and minority-owned small businesses seeking to serve minority communities, including providing education to those communities and working with organizations and lenders.

The act also authorizes the state Department of Economic and Community Development to award grants of up to \$5 million per applicant.

P.A. 23-126

This act, which went into effect July 1, makes changes to the state's community banking program, investing funds with community banks and credit unions.

The act triples the funds available under the program from \$100 million to \$300 million, raises eligibility thresholds for the program, and limits eligibility to institutions formed under Connecticut law.

Municipality Notice Requirements

P.A. 23-33

This act eliminates prior requirements of municipalities to notify lienholders about notices to property owners to make properties safe and sanitary but preserves the notice requirement as to disposing of these properties.

The act also eliminates the prior requirement that lienholders must be included in a municipality's tenement rent receivership proceedings. It went into effect Oct. 1.

Other Changes

In addition to the above changes, Connecticut lawmakers turned their attention to allowing Connecticut banks to use equity capital for certain credit losses and limiting required notarizations on call reports with P.A. 23-126, allowing borrowers to use certain home equity line proceeds by credit cards with P.A. 23-78, and expanding the scope of entities eligible for credit union membership and allowing the Department of Banking to adopt regulations pertaining to virtual currency via P.A. 23-82.

Although the above may read like a "laundry list" of legal changes to the banking and financial institution sphere in Connecticut, it is nevertheless a series of changes that command attention.

As with all changes, these are likely to present a mixture of both risk and opportunity, but overall, ignoring them may not only result in lost opportunities for lenders but also present traps for the unwary.

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