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Administrative Procedures

ARTICLE 1

GENERAL

Sec. 36a-1-1. Definitions

(a) As used in sections 36a-1-1 to 36a-1-89, inclusive, of the Regulations of Connecticut State Agencies, “agency”, “contested case”, “final decision”, “hearing officer”, “intervenor”, “license”, “party”, “person”, “proposed final decision”, “proposed regulation”, “regulation” and “regulation-making” shall have the same meanings as set forth in section 4-166 of the Connecticut General Statutes.

(b) As used in sections 36a-1-1 to 36a-1-89, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) “Applicant” means any person who applies for any license, registration or approval pursuant to any provision of title 36a or 36b of the Connecticut General Statutes;

(2) “Commissioner” means the Banking Commissioner;

(3) “Counsel” means an attorney that has filed an appearance in accordance with section 36a-1-32 of the Regulations of Connecticut State Agencies;

(4) “Department” means the Department of Banking;

(5) “In camera inspection” means a review by the commissioner or presiding officer of records received as evidence, or a proceeding during which such records are reviewed in which unauthorized persons are not permitted to inspect, copy or otherwise learn of the contents of such records;

(6) “Petition” means a request to the commissioner to take formal action pursuant to chapter 54 of the Connecticut General Statutes, including a request for the commissioner to issue a declaratory ruling or adopt, amend or repeal a regulation, or a request to be admitted as a party or intervenor pursuant to section 4-177a of the Connecticut General Statutes;

(7) “Petitioner” means a person who has filed a petition;

(8) “Presiding officer” means the commissioner when the commissioner presides at a hearing or the hearing officer designated by the commissioner to preside at a hearing;

(9) “Representative” means a party’s agent or authorized representative that has filed an appearance in accordance with section 36a-1-32 of the Regulations of Connecticut State Agencies; and

(10) “Rules of practice” means sections 36a-1-1 to 36a-1-89, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-2. Duties and authority of the department

The commissioner is charged with administering title 36a of the Connecticut General Statutes, the “Banking Law of Connecticut”, and title 36b of the Connecticut General Statutes, the “Securities and Business Investments Law of Connecticut”. Pursuant to such authority, the department is responsible for the regulation and examination of individuals and entities in the financial services industry as provided in sections 36a-1 and 36b-1 of the Connecticut General Statutes. The commissioner also has the authority to administer the laws of this state concerning rental security deposits and has responsibilities under various other laws including determining the deposit index for calculating the minimum interest rate required to be paid on certain funds.

(Adopted effective August 31, 2004)

Sec. 36a-1-3. Basic organization

The commissioner, assisted by a deputy commissioner, heads the department, which consists of the following operating divisions:

(1) The Financial Institutions Division examines and supervises Connecticut banks and state branches and state agencies established and maintained by foreign banks in Connecticut. The division analyzes and processes various applications including applications for the establishment of new banks, bank branches, mergers and consolidations, acquisitions, conversions and holding company formations. The division licenses and regulates business and industrial development corporations and certain nonbanking corporations that exercise fiduciary powers. The division also examines and supervises Connecticut credit unions and analyzes and processes applications for the organization of new credit unions, credit union branches, mergers, acquisitions, conversions and field of membership changes or expansions.

(2) The Consumer Credit Division licenses and regulates consumer collection agencies, debt adjusters, nondepository first and secondary mortgage lenders and brokers, sales finance companies, small loan companies, issuers and sellers of money orders, travelers checks and electronic payment instruments, money transmitters and check cashing services, and registers loan originators. The division also enforces the Truth-in-Lending Act and other consumer credit laws.

(3) The Securities and Business Investments Division registers securities and business opportunities that are offered for sale in Connecticut, broker-dealers, agents, investment advisers, investment adviser agents and broker-dealer and investment adviser branch offices; examines broker-dealer, investment adviser and branch office registrants; and enforces the securities, business opportunity and tender offer laws of this state.

(4) The Business Office is responsible for the department's accounting, budgeting, fiscal, payroll, purchasing, mail and financial reporting functions.

(5) The Government Relations and Consumer Affairs Division coordinates the department's legislative programs, manages media relations, helps to educate the public about financial services, receives and reviews consumer complaints concerning issues relating to banks, credit unions, consumer credit, securities and business opportunities, and serves as the department's liaison in labor relations.

(6) The Legal Division provides legal advice and related services to the commissioner and to the divisions of the department on issues that arise in regulating the banking, credit union and securities industries as well as the consumer credit and landlord tenant areas. The division drafts, monitors and analyzes legislation; drafts regulations; analyzes legal issues pertaining to the interpretation and enforcement of statutes within the commissioner's jurisdiction and the legal sufficiency of documents filed by regulated entities; and drafts notices of hearing in contested cases and participates in administrative hearings.

(7) The Personnel Division is responsible for the department's human resources function.

(Adopted effective August 31, 2004)

Sec. 36a-1-4. Location of office, contact information and business hours

The department is located at 260 Constitution Plaza, Hartford, Connecticut 06103-1800. The department shall provide notice in the Connecticut Law Journal if the location of its office is changed. The general information number for the department is 860-240-8299 and the toll free number is 1-800-831-7225. The department's web

site is located at <http://www.state.ct.us/dob/>. The business hours of the department are 8:00 a.m. to 5:00 p.m. each day except Saturdays, Sundays and holidays.

(Adopted effective August 31, 2004)

Sec. 36a-1-5. Public information

(a) The department shall make available for public inspection all public records or files maintained or kept on file by the department in accordance with the Freedom of Information Act, and shall provide copies, including certified copies, of such records and files that are not protected by law.

(b) Requests to inspect or copy public records or files of the department shall be directed to the division that administers the matter to which the request pertains. There is no prescribed form for requests to inspect or copy information. Requests shall be sufficiently specific to permit easy identification of the information requested.

(c) Upon receipt of a request for inspection or a written request for a copy of public records or files of the department, the department shall respond in accordance with law, provided the department may initially request clarification, as appropriate, or indicate that a search for responsive documents is underway. The department shall complete a search for responsive documents and shall respond as promptly as practicable, in accordance with law, taking into consideration the need to review the documents to determine whether they contain information protected by law.

(d) The department may require prepayment of the fee for copying documents in accordance with subsection (c) of section 1-212 of the Connecticut General Statutes.

(e) The fee for using a hand-held scanner to copy public records at the department pursuant to subsection (g) of section 1-212 of the Connecticut General Statutes shall be ten dollars.

(Adopted effective August 31, 2004)

Sec. 36a-1-6. Submissions and filings

(a) Applications, motions, petitions, requests for advisory opinions or interpretations and other materials submitted to the department shall be filed with the commissioner at the office of the department or with any person authorized or designated by the commissioner to receive a filing.

(b) Materials submitted to the department may be subject to disclosure to the public under the Freedom of Information Act. Persons submitting materials may request that some or all of the materials submitted be held confidential. Such materials shall be marked "confidential" and the reasons or legal authority supporting the request for confidential treatment shall be provided in a cover letter. The commissioner, in accordance with sections 1-210 and 36a-21 of the Connecticut General Statutes, shall determine whether such material will be held confidential.

(c) A filing may be made by personal delivery, first-class, registered or certified mail or any express delivery service. Where permitted by the commissioner or presiding officer, a filing may be made by facsimile or any other electronic means provided the department can print such filing. The commissioner or presiding officer may require that a signed original of any document filed by electronic means be filed with the department.

(d) All applications, petitions, correspondence, motions or other documents shall be deemed filed when received by the commissioner or any person authorized or designated by the commissioner to receive a filing.

(e) Upon the filing of any application or petition, the commissioner shall require publication or notice of such filing as may be required by law or as the commissioner may deem appropriate.

(Adopted effective August 31, 2004)

Sec. 36a-1-7. Fees, fines, civil penalties or other payments

(a) Any fee, fine, civil penalty or other payment required or authorized by law to be paid to the commissioner shall be paid by check or money order, payable to "Treasurer, State of Connecticut".

(b) Any fee for an application, license, registration, notice or other request for approval shall be paid at the time the application or request for approval is filed, unless otherwise required by law.

(Adopted effective August 31, 2004)

Sec. 36a-1-8. Advisory opinions or other legal interpretations

The commissioner or any authorized employee of the department may issue advisory opinions or other legal interpretations regarding any laws or regulations that the commissioner is charged with administering. Such opinions or interpretations may take the form of a no-action letter or confirmation of the applicability of an exclusion or exemption. Requests for written opinions or interpretations of the laws or regulations that the commissioner is charged with administering shall be in writing and shall state the facts and questions of law that are the subject of the request. The commissioner may, in accordance with section 3-125 of the Connecticut General Statutes, submit questions of law to the Attorney General.

(Adopted effective August 31, 2004)

Sec. 36a-1-9. Construction and waiver of rules

The rules of practice shall be construed by the commissioner and the presiding officer to secure a just, speedy and efficient determination of the issues presented. Where good cause exists, the commissioner or presiding officer may permit deviation from the rules of practice, except where precluded by statute.

(Adopted effective August 31, 2004)

Sec. 36a-1-10. Computation of time

Except as otherwise provided by law, computation of any period of time referenced in the rules of practice begins with the first day following the day on which the act that triggers such period of time occurs, and ends on the last day of the period so computed. If the last day falls on a day the department is closed, the period shall run to the end of the next business day.

(Adopted effective August 31, 2004)

Sec. 36a-1-11. Extensions of time

Except as otherwise provided by law, the commissioner or presiding officer may, for good cause shown, extend any time limit prescribed or allowed by the rules of practice or by any notice or order issued in a contested case or other proceeding. The commissioner or presiding officer may grant extensions upon motion of a party or the department, after notice and opportunity to respond is afforded to all non-moving parties and the department, if the department is not the movant, or on the commissioner's or presiding officer's own motion. All motions for extensions shall be made before the expiration of the period prescribed.

(Adopted effective August 31, 2004)

Sec. 36a-1-12. Effect of filing

The filing with the commissioner or presiding officer of any application, petition, request for declaratory ruling or any other document shall not relieve any person of the obligation to comply with any statute, regulation or order of the commissioner. Acceptance of such filing by the commissioner or presiding officer shall not constitute a waiver of any failure to comply with the rules of practice. Where appropriate, the commissioner or presiding officer may require the amendment of any filing.

(Adopted effective August 31, 2004)

Sec. 36a-1-13. Service

(a) Service of all documents by the commissioner or presiding officer pursuant to the rules of practice shall be by personal service, first-class, registered or certified mail, any express delivery service, facsimile or by any other electronic means, except as otherwise provided by law. The commissioner or presiding officer may make service to the address last known to the commissioner.

(b) A copy of any document served by the commissioner or presiding officer showing the addresses to which the document or other paper was served shall be placed in the department's files and shall be prima facie evidence of such service and the date of such service.

(c) A party, intervenor or the department filing documents with the commissioner or presiding officer in a contested case shall serve a copy of such documents upon the counsel or representative of record for all parties or intervenors that are represented by counsel or representative, upon any party or intervenor not represented and upon counsel for the department. Certification of such service shall be endorsed on all documents when filed with the commissioner or presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-14. Activities of former commissioners and employees

Former commissioners, deputy commissioners and employees of the department shall comply with section 1-84b of the Connecticut General Statutes regarding restrictions on activities of former public officials and employees.

(Adopted effective August 31, 2004)

Sec. 36a-1-15. Witnesses and subpoenas

The commissioner or any authorized employee of the department may at any time summon and examine under oath such witnesses and may direct the production and examination of such books, records, financial statements, vouchers, memoranda, documents, correspondence, agreements, diaries, logs, notes, ledgers, journals, visual, audio, magnetic or electronic recordings, computer printouts and software, contracts or other papers relative to the affairs of any person subject to the general supervision of the commissioner, as the commissioner finds advisable.

(Adopted effective August 31, 2004)

Sec. 36a-1-16. Rights of witnesses

(a) Any person who appears and testifies in a deposition or a contested case may be accompanied, represented and advised by counsel. The right to be accompanied, represented and advised by counsel means the right of a person testifying to have counsel present at all times while testifying and to have counsel:

(1) Advise the person before and after the conclusion of testimony;

(2) Question the person briefly at the conclusion of testimony to clarify any of the answers given; and

(3) Make summary notes during the testimony solely for the use of the person.

(b) Any person who has given or will give testimony and counsel representing the person may be excluded from a deposition during the taking of testimony of any other witness.

(c) The commissioner may take such action as the circumstances warrant against a person who engages in dilatory or obstructionist conduct during the course of a deposition, including exclusion of the offending person from participation in the deposition or contested case.

(Adopted effective August 31, 2004)

Secs. 36a-1-17 to 36a-1-18. Reserved

ARTICLE 2

RULES OF PRACTICE IN CONTESTED CASES

Sec. 36a-1-19. Scope

Except as otherwise required by law, the rules of practice govern practice and procedure applicable to contested cases under titles 36a and 36b and all other laws within the jurisdiction of the commissioner including:

- (1) Proceedings under section 36a-24 of the Connecticut General Statutes;
- (2) Civil penalty proceedings under section 36a-50 of the Connecticut General Statutes;
- (3) Suspension, revocation or refusal to renew license proceedings under section 36a-51 of the Connecticut General Statutes;
- (4) Cease and desist proceedings under section 36a-52 of the Connecticut General Statutes;
- (5) Removal proceedings under section 36a-53 of the Connecticut General Statutes;
- (6) Proceedings to organize a Connecticut bank under section 36a-70 of the Connecticut General Statutes;
- (7) Hearings concerning an application by a Connecticut bank for a name change under section 36a-82 of the Connecticut General Statutes;
- (8) Proceedings under subdivision (4) of subsection (d) of section 36a-684 of the Connecticut General Statutes;
- (9) Denial, suspension, revocation or cancellation of registration proceedings under section 36b-15 of the Connecticut General Statutes;
- (10) Stop order proceedings under section 36b-20 of the Connecticut General Statutes;
- (11) Denial or revocation of exemption proceedings under section 36b-21 of the Connecticut General Statutes;
- (12) Cease and desist, restitution, disgorgement and fine proceedings under section 36b-27 of the Connecticut General Statutes;
- (13) Hearings concerning tender offers under section 36b-44 of the Connecticut General Statutes;
- (14) Stop order proceedings under section 36b-68 of the Connecticut General Statutes; and
- (15) Cease and desist and fine proceedings under section 36b-72 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-20. Commencement of contested case

A matter that is a contested case by operation of law commences when the agency so designates, but in no event not later than the date when the commissioner

issues a notice of hearing in accordance with section 4-177 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-21. Notice of hearings

(a) All notices of hearing in all contested cases shall comply with the provisions of subsection (b) of section 4-177 of the Connecticut General Statutes.

(b) Unless otherwise provided by statute, notice of a hearing shall be given at least fourteen days prior to the hearing.

(c) The commissioner may issue a notification of hearing and designation of hearing officer that acknowledges receipt of a request for a hearing, designates a presiding officer and sets the date of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-22. Amendment of notice of hearing

The commissioner may amend the notice of hearing at any stage of the contested case prior to the close of evidence. The presiding officer shall provide parties and intervenors with notice of the amendment and shall provide them with sufficient time to prepare their case in light of the amendment. A party that has requested a hearing on the original notice need not request a hearing on the amended notice and any such hearing shall proceed on the amended notice as if it were the original notice.

(Adopted effective August 31, 2004)

Sec. 36a-1-23. Hearing location

Unless by direction of the commissioner a different place is designated, all hearings of the department shall be held at the office of the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-24. Bill of particulars

Not later than seven days after a party requests a hearing in a contested case, the party may apply to the presiding officer for a bill of particulars containing a more definite and detailed statement of any facts alleged. If the presiding officer determines that a more definite and detailed statement of any facts alleged is necessary or appropriate, a bill of particulars shall be prepared as directed by the presiding officer and served on all parties and intervenors.

(Adopted effective August 31, 2004)

Sec. 36a-1-25. Hearings

(a) A hearing shall be held in all contested cases whenever required by statute, when requested by any party that files a notice of appearance and a request for a hearing, and otherwise as the commissioner may authorize pursuant to section 36a-24 of the Connecticut General Statutes.

(b) Hearings shall be conducted in accordance with the contested case provisions of the Uniform Administrative Procedure Act, chapter 54, sections 4-177 to 4-182, inclusive, of the Connecticut General Statutes.

(c) All hearings shall be open to the public, except that the presiding officer may hold an executive session as provided in subsection (f) of section 1-225 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-26. Recording, broadcasting or photographing hearings

Any person may record, photograph, broadcast or record for broadcast any part of a hearing that is open to the public, in accordance with the provisions of subsection

(a) of section 1-226 of the Connecticut General Statutes, provided such person notifies the commissioner at least five days prior to the commencement of the hearing and the recording or broadcasting would not so disturb the hearing as to impair any person's ability to hear or be heard or to present evidence or argument. In order to minimize disruption of the hearing, the presiding officer may impose reasonable limits on any person engaged in recording, photographing, broadcasting or recording for broadcast. Any such recordings shall not be deemed to be an official record of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-27. Powers of the presiding officer

The presiding officer shall have all the powers necessary to conduct the proceeding in a fair and impartial manner and to avoid unnecessary delay. The powers of the presiding officer include, but are not limited to, the following:

- (1) Administering oaths and affirmations;
- (2) Issuing subpoenas as authorized by section 4-177b of the Connecticut General Statutes and section 36a-1-42 of the Regulations of Connecticut State Agencies and quashing or modifying any such subpoenas;
- (3) Regulating the course of the hearing and the conduct of the parties and their counsel or representative, including the power to receive relevant, material and nonrepetitious evidence, rule upon the admissibility of evidence and offers of proof, and exclude or suspend a party's counsel or representative from the proceedings for dilatory, obstructionist, egregious, contemptuous or contumacious conduct;
- (4) Scheduling and holding prehearing conferences and conferences prior to and during the course of a hearing as set forth in section 36a-1-41 of the Regulations of Connecticut State Agencies;
- (5) Considering and ruling upon all procedural and other motions appropriate in a proceeding, including petitions to add a party or intervenor pursuant to section 4-177a of the Connecticut General Statutes, provided only the commissioner shall have the power to grant any motion to dismiss the matter or to decide any other motion that requires a final determination on the merits of the proceeding;
- (6) Recusing for bias or conflict of interest himself or herself on a motion made by the presiding officer, a party or the department;
- (7) Establishing time, place and manner limitations on the attendance of the public and the media for any public hearing;
- (8) Preparing and presenting to the commissioner a proposed decision pursuant to section 4-179 of the Connecticut General Statutes; and
- (9) Performing all other functions necessary and appropriate to discharge the duties of a presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-28. Consolidation and severance

(a) The presiding officer may, for good cause, upon the presiding officer's own motion or upon motion by a party or the department, consolidate proceedings involving related questions of law or fact.

(b) The presiding officer may, for good cause, upon the presiding officer's own motion or upon motion by a party or the department, sever the proceeding for separate resolution of the matter as to any party or issue. In determining whether to sever the proceeding, the presiding officer shall consider whether any undue prejudice or injustice that would result from not severing the proceeding outweighs

the interests of judicial economy and expeditiousness in the complete and final resolution of the proceeding.

(Adopted effective August 31, 2004)

Sec. 36a-1-29. Motions

(a) (1) A motion may be made in writing or orally, unless the presiding officer directs that such motion be reduced to writing.

(2) All written motions shall state with particularity the relief sought and may be accompanied by a proposed order.

(3) No oral arguments may be held on written motions except as otherwise directed by the presiding officer. Written memoranda, briefs, affidavits or other relevant materials or documents may be filed in support of or in opposition to a motion.

(b) Motions shall be filed with the presiding officer, except that following the filing of the proposed final decision, motions shall be filed with the commissioner.

(c) (1) Not more than seven days after service of any motion, or such longer period of time as may be permitted by the presiding officer or the commissioner for good cause, any party or the department may file a written response to a written motion.

(2) The presiding officer shall not rule on any oral or written motion before each party and the department have had an opportunity to respond.

(3) The failure of a party or the department to oppose a motion is deemed consent by that party or the department to the entry of an order granting the relief sought.

(Adopted effective August 31, 2004)

Sec. 36a-1-30. Continuances

The presiding officer may continue the hearing on the motion of the presiding officer, any party or the department on such terms as the presiding officer may require. A hearing may be continued three times prior to the commencement of a hearing. The presiding officer may grant any additional requests for a continuance for settlement purposes or in the event that the denial of a continuance request would substantially prejudice a party's or the department's case.

(Adopted effective August 31, 2004)

Sec. 36a-1-31. Failure to request or appear at a hearing

(a) When a party fails to request a hearing within the time specified in the notice, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, the commissioner shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and section 36a-1-52 of the Regulations of Connecticut State Agencies, provided the commissioner may, if deemed necessary, receive evidence from the department, as part of the record, concerning the appropriateness of the amount of any civil penalty, fine, restitution or disgorgement sought in the notice.

(b) When a party fails to appear at a scheduled hearing, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, the presiding officer shall submit to the commissioner a proposed final decision containing the relief sought in the notice, provided the presiding officer may, if deemed necessary, receive evidence from the department, as part of the record, concerning the appropriateness of the amount of any civil penalty, fine or restitution sought in the notice. The commissioner shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and section 36a-1-52 of the Regulations of Connecticut State Agencies.

(c) A party that failed to request or appear at a hearing may file a petition for reconsideration of a final decision pursuant to section 4-181a of the Connecticut General Statutes and section 36a-1-53 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-32. Appearances and withdrawals

(a) Attorneys duly admitted to practice law in the state of Connecticut and in good standing may represent others before the department.

(b) Attorneys in good standing from other jurisdictions may request and, for good cause shown, be allowed to appear in a contested case, provided an attorney admitted to practice in Connecticut is present during the entire proceeding, signs all pleadings and other papers filed in the proceeding and agrees to take full responsibility for supervising the conduct of the attorney.

(c) An individual may appear on his or her own behalf in a contested case; a partner, member or manager of a partnership or limited liability company may appear and represent the partnership or limited liability company; and a duly authorized officer, director or employee of any agency, institution, corporation or authority may appear and represent the agency, institution, corporation or authority.

(d) Each person making an appearance before the commissioner as counsel or representative in connection with any contested case shall promptly notify the commissioner or presiding officer in writing by filing a notice of appearance at or before the time such person submits papers or otherwise appears on behalf of a party in the contested case. The notice of appearance shall include a declaration that the individual is currently qualified as provided in this section and is authorized to represent and accept service on behalf of the represented party.

(e) Any party acting pro se shall so notify the commissioner or presiding officer in writing by filing a notice of appearance with the commissioner.

(f) After a notice of appearance is filed by a party, counsel or representative, copies of all subsequent pleadings, notices, rulings or decisions shall be provided to the person named in the notice of appearance and designated to represent the department.

(g) A person that has filed a notice of appearance may withdraw the notice of appearance by filing a written notice of withdrawal with the presiding officer and by providing a copy to all parties, intervenors and the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-33. Ex parte communications

(a) For purposes of this section, an “ex parte communication” means a communication prohibited by section 4-181 of the Connecticut General Statutes. “Ex parte communication” does not include inquiries about the status of a proceeding or administrative functions or procedures.

(b) If an ex parte communication occurs between the time the commissioner issues a notice of hearing and the time the final decision is issued by the commissioner, the presiding officer shall cause such written communication, or if the communication is oral, a memorandum stating the substance of the communication, to be placed on the record of the proceeding and served on all parties and the department who shall have an opportunity to promptly file a response to the written communication or memorandum with the presiding officer, and to recommend any sanctions in accordance with subsection (c) of this section that such parties or the department believe to be appropriate under the circumstances.

(c) Any party or any party's counsel or representative who makes an ex parte communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction imposed by the commissioner or the presiding officer, including, but not limited to, exclusion from the proceedings and an adverse ruling on the issue which is the subject of the prohibited communication.

(Adopted effective August 31, 2004)

Sec. 36a-1-34. Record in a contested case

In a contested case, the agency shall create a record of the proceeding in accordance with subsection (d) of section 4-177 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-35. Requests for inspection and copying

(a) In a contested case, a party, the department or an intervenor who pursuant to section 4-177a of the Connecticut General Statutes has been granted the right to inspect and copy records by the presiding officer, may, in accordance with section 4-177c of the Connecticut General Statutes and the provisions of this section, inspect and copy records, papers and documents relevant and material to the subject matter of the proceeding, except as otherwise provided by federal law or any other provision of the Connecticut General Statutes. A request to inspect or copy records made upon or by an intervenor shall be limited as defined by the presiding officer pursuant to section 4-177a of the Connecticut General Statutes.

(b) At the earliest possible time in a contested case, a party, the department or an intervenor granted the right to inspect and copy records may serve upon any other party, intervenor or the department a request to inspect or copy designated records, papers and documents in the possession, custody or control of the requestee. A person who files a petition for intervenor or party status not more than ten calendar days prior to the commencement of a hearing and who wishes to serve a request to inspect or copy records, papers or documents shall serve the request at the same time the petition is filed.

(c) The request shall clearly designate the items to be inspected either individually or by category and shall specify a reasonable time, place and manner of making the inspection or copies.

(d) The requester shall file a notice with the presiding officer which states that the requester has served a request for inspection or copying, the name of the requestee that has been served and the date service was made.

(Adopted effective August 31, 2004)

Sec. 36a-1-36. Responses to requests for inspection and copying; objections

(a) The requestee to whom the request for inspection or copying is directed pursuant to section 36a-1-35 of the Regulations of Connecticut State Agencies shall serve a written response upon the requester not more than thirty calendar days after the filing of the notice required by subsection (d) of section 36a-1-35 of the Regulations of Connecticut State Agencies, or not more than thirty calendar days after the mailing by the presiding officer of a notice that the requestee has been made a party or intervenor with inspection and copying rights, whichever is later, unless the requester or, upon motion, the presiding officer allows a longer time.

(b) The response shall state, with respect to each item or category, that inspection and copying will be permitted as requested, unless the request or any part of the request is objected to, in which event the reasons for objection shall be stated in

the response. Objection by a requestee to certain parts of the request shall not relieve that requestee from the obligation to respond to those portions to which no objection was made within the thirty-day period.

(Adopted effective August 31, 2004)

Sec. 36a-1-37. Motions for compliance

(a) A requester serving a request for inspection and copying pursuant to section 36a-1-35 of the Regulations of Connecticut State Agencies may move for an order by the presiding officer under this section to require the production of those records, papers and documents not provided by the requestee or with respect to any disagreement over objections filed to the request.

(b) If the presiding officer orders compliance as to any part of a request for inspection and copying, compliance with the order shall be made at the time set by the presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-38. Rulings on motions for compliance

(a) The presiding officer shall consider the following factors in ruling on a motion for compliance with a request to inspect or copy records, papers and documents:

(1) The timeliness of the request or the motion for compliance, and whether granting the request would prejudice any party, intervenor or the department, or would interfere with the orderly conduct of the proceedings;

(2) The relevance and materiality of the requested material;

(3) The failure of the requestee to file timely and proper objections;

(4) The existence of any privilege or other bar to disclosure pursuant to federal or state law; and

(5) Any other relevant factors.

(b) The presiding officer may order an in camera inspection of a requested document if, in the presiding officer's discretion, such inspection is necessary to rule on a motion for compliance.

(Adopted effective August 31, 2004)

Sec. 36a-1-39. Failure to comply with an order on a motion for compliance

(a) If a requestee fails to comply with an order of the presiding officer requiring production of records, papers and documents, the presiding officer may make such orders as the ends of justice require. Such orders may include the following:

(1) The entry of an order that the matters relating to the records, papers or documents sought or other related facts shall be taken to be established for the purposes of the action in accordance with the claim of the requester;

(2) The entry of an order prohibiting the requestee from introducing designated matters or items into evidence;

(3) The limitation of participation by the requestee in the hearing on issues or facts relating to the records, papers or documents sought; and

(4) An adverse ruling on the issue that is the subject of the request.

(b) The presiding officer shall report to the commissioner the requestee's failure to comply with the presiding officer's order. The commissioner may deny the petition or application that is the subject of the hearing filed by the requestee or seek enforcement of the order in Superior Court pursuant to section 4-177b of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-40. Continuing duty to disclose

(a) If after complying with any request for the inspection and copying of records, papers and documents pursuant to section 4-177c of the Connecticut General Statutes and section 36a-1-35 of the Regulations of Connecticut State Agencies, and prior to or during a hearing, a requestee discovers additional or new material or information previously requested or discovers that prior compliance was totally or partially incorrect, or though correct when made is no longer correct, the requestee shall promptly notify the requester and shall file and serve a supplemental or corrected response not more than five days after such discovery to the requester that made the initial request.

(b) A requester may file a motion for sanctions with the presiding officer if a requestee fails to comply with subsection (a) of this section. The presiding officer may issue such orders or sanctions as the ends of justice require, including those specified in subsection (a) of section 36a-1-39 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-41. Conferences

(a) Prior to the hearing, the parties, the department and their counsel or representative may meet with the presiding officer, at the direction of the presiding officer or by mutual consent, in person at a specified time and place or confer with the presiding officer by telephone for the purpose of scheduling the course and conduct of the proceeding. The identification of potential witnesses, the time for and manner of inspecting and copying documents, and the exchange of any prehearing materials including witness lists, exhibits and any other materials may also be determined at the scheduling conference.

(b) The presiding officer may, in addition to the scheduling conference, upon motion by the presiding officer, any party or the department, order the parties, the department and their counsel or representative to meet with the presiding officer in person or by telephone at a prehearing conference or may recess the hearing to address any or all of the following:

- (1) Simplification and clarification of the issues;
- (2) Exchange of witness and exhibit lists and copies of exhibits;
- (3) Stipulations, admissions of fact, and the contents, authenticity and admissibility into evidence of documents;
- (4) Matters of which official notice may be taken pursuant to section 4-178 of the Connecticut General Statutes and subsection (e) of section 36a-1-46 of the Regulations of Connecticut State Agencies;
- (5) Issues relating to witnesses and exhibits;
- (6) Summary disposition of any and all issues;
- (7) Resolution of document production issues or disputes;
- (8) Amendments to pleadings; and
- (9) Such other matters as may aid in the orderly disposition of the proceeding.

(c) At or within a reasonable time following the conclusion of the scheduling conference or any prehearing conference, the presiding officer may serve on each party and the department an order setting forth any agreements reached and any procedural determinations made. If the presiding officer has ordered a party to disclose all witnesses or exhibits, no witness may testify and no exhibit may be introduced at the hearing if such witness or exhibit was not disclosed pursuant to

such order, unless the presiding officer allows a party or the department sufficient time to prepare in light of the undisclosed witness or exhibit.

(d) Following any discussion among the presiding officer, the parties and the department addressing any issues in a contested case that occurs during a hearing recess, the presiding officer shall place the substance of the communication on the record including any action taken and any agreements made by the parties and the department as to any matters that were discussed.

(Adopted effective August 31, 2004)

Sec. 36a-1-42. Hearing subpoenas

(a) (1) Upon application for a hearing subpoena by a pro se party or pro se intervenor showing general relevance and reasonableness of scope of the testimony or other evidence sought, the presiding officer may issue a subpoena requiring the attendance of a witness at the hearing or the production of documentary or physical evidence at such hearing. The application for the hearing subpoena may also contain a proposed subpoena specifying the attendance of a witness or the production of evidence at any designated place where the hearing is being conducted.

(2) If a pro se party applies for a hearing subpoena during a hearing, such application may be made orally on the record before the presiding officer.

(3) If the presiding officer grants an application for a hearing subpoena requested pursuant to this section, the presiding officer shall promptly issue the hearing subpoena. If the presiding officer determines that the application does not set forth a valid basis for the issuance of the subpoena, or that any of its terms are unreasonable, vague, oppressive, excessive in scope or unduly burdensome, the presiding officer may refuse to issue the subpoena or may issue it in modified form.

(b) Any person to whom a hearing subpoena is directed may file with the presiding officer a motion to modify or quash such subpoena, accompanied by a statement of the basis for quashing or modifying the subpoena.

(c) Any motion to quash or modify a hearing subpoena shall be filed with the presiding officer prior to the time specified in the subpoena for compliance.

(d) If a subpoenaed person fails to comply with any subpoena issued pursuant to this section or any order of the presiding officer which directs compliance with all or any portion of a subpoena, the presiding officer shall report to the commissioner the failure to comply with the presiding officer's subpoena. The commissioner may seek enforcement of the subpoena in Superior Court pursuant to section 4-177b of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-43. Conduct of hearings

(a) Hearings shall be conducted so as to provide a fair and expeditious presentation of the relevant disputed issues. The department and each party has the right to present its case or defense by oral examination and documentary evidence and to conduct such cross-examination as may be required for full disclosure of the facts.

(b) The department shall present its case-in-chief first, unless otherwise ordered by the presiding officer or expressly specified by law. The department shall be the first to present an opening statement and a closing statement, and may make a rebuttal statement after the party's closing statement or, in the case of multiple parties, after the closing statements of all parties.

(c) The commissioner or presiding officer may, at any time prior to the rendering of a final decision, reopen the hearing upon the motion of the commissioner, presiding officer, any party or the department for good cause shown. The parties, intervenors

and the department shall be notified of the reopening and the hearing shall be convened not less than five days after the sending of such notice unless waived by the parties and the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-44. Recording of hearings

All hearings shall be recorded either stenographically or electronically. The presiding officer shall serve notice upon the department and all parties of receipt of the certified transcript. Any party may request a copy of the transcript from the court reporter and such copy shall be made available to any party upon payment of the cost of the transcript.

(Adopted effective August 31, 2004)

Sec. 36a-1-45. Transcript corrections

The presiding officer shall have the authority to order the transcript corrected upon a motion to correct, upon stipulation of the department and the parties, or upon the presiding officer's own motion following notice to the department and the parties. The presiding officer may call for the submission of proposed corrections and may order the corrections at appropriate times during the course of the proceedings. Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. Transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence, but not more than ten days from the date of receipt of the transcript by the presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-46. Evidence

(a) The rules of evidence shall be as prescribed in section 4-178 of the Connecticut General Statutes.

(b) The presiding officer may allow witnesses to use existing or newly created charts, exhibits, calendars, calculations, outlines or other graphic material to summarize, illustrate or simplify the presentation of testimony, provided that upon request by the presiding officer, a party or the department, the witness shall provide the books, papers, documents or sources from which the information contained in such materials is derived prior to its use or admission as evidence.

(c) Formal exceptions to rulings on evidence and procedure are unnecessary. It is sufficient that a party or the department, at the time a ruling of the presiding officer is made or sought, makes known to the presiding officer the action that the party or the department desires taken or the objections to such action and the grounds for such action or objection. Failure to object to the admission of evidence or any ruling constitutes a waiver of the objection.

(d) Any offer of proof made in connection with an objection taken to a ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence that would be adduced by such testimony. If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

(e) Pursuant to subdivision (6) of section 4-178 of the Connecticut General Statutes, the presiding officer may take administrative notice of judicially cognizable facts and generally recognized technical or scientific facts within the agency's specialized knowledge.

(f) The presiding officer shall afford the parties and the department an opportunity to contest the material noticed before or during the hearing.

(g) The presiding officer and the commissioner shall have the authority to employ the agency's experience, technical competence and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making findings of fact and arriving at a decision in any contested case.

(h) The parties and the department may stipulate as to any relevant matters of fact or the authentication of any relevant documents that may be entered as evidence at the commencement of or during the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-47. In camera inspection and nonpublic information

(a) Any party or the department may file a motion with the presiding officer requesting an in camera inspection of any document claimed to be exempt from disclosure in a contested case or confidential, and the presiding officer may order and make such an inspection to determine whether or not such document is exempt from disclosure or confidential. If an in camera inspection is ordered, the person having custody of the document claimed to be exempt or confidential shall submit a copy of the document to the presiding officer.

(b) If the presiding officer determines that a document filed in connection with a proceeding is confidential, the presiding officer may continue the hearing in executive session and shall provide adequate safeguards designed to prevent further dissemination of such document in accordance with law, including making any proper order for its protection.

(Adopted effective August 31, 2004)

Sec. 36a-1-48. Filing of additional evidence

At any stage of the hearing, the commissioner or presiding officer may call for further evidence upon any issue and require that such evidence be produced by the party or parties concerned or by the department, or may authorize any party or the department to file specific documentary evidence as part of the record, either at the hearing or within a specified time, provided every other party and the department shall be afforded a reasonable opportunity to review and rebut or object to such evidence.

(Adopted effective August 31, 2004)

Sec. 36a-1-49. Briefs

Briefs may be filed by a party or the department either before or during the course of a hearing or within such time as the commissioner or presiding officer designates. Failure to file a brief shall in no way prejudice the rights of any party or the department. The order of filing briefs or reply briefs shall be designated by the presiding officer. The presiding officer shall provide the parties and the department at least seven days to file a brief after it is requested. A party or the department may request an extension of the briefing schedule set by the presiding officer prior to the due date. Late briefs may be returned by the presiding officer to the filing party or the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-50. Review by commissioner of rulings

If a hearing is held before a presiding officer other than the commissioner, a party, before rendition of the final decision, may, in accordance with section 4-178a of the Connecticut General Statutes, request a review by the commissioner of any

preliminary, procedural or evidentiary ruling made at the hearing. The commissioner may make an appropriate order, including the reconvening of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-51. Proposed final decision

(a) If the presiding officer has been designated by the commissioner as the hearing officer, the presiding officer shall submit to the commissioner a proposed final decision made in accordance with section 4-179 of the Connecticut General Statutes. The commissioner shall consider the proposed final decision when rendering the agency's final decision and may, if required by justice, order the taking of additional evidence on the record or preside over such a proceeding on the record.

(b) The commissioner may adopt, modify in whole or in part, or reject the proposed final decision submitted by a presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-52. Final decision

A final decision in a contested case shall be rendered in accordance with the provisions of section 4-180 of the Connecticut General Statutes. All decisions and orders of the commissioner concluding a contested case shall be in writing. If a final decision is adverse to a party, the decision shall include all findings of fact and conclusions of law relied upon by the commissioner in arriving at the decision, the findings of fact and conclusions of law to be separately stated. The findings of fact shall also set forth a concise and explicit statement of the underlying facts supporting the findings of fact, where appropriate.

(Adopted effective August 31, 2004)

Sec. 36a-1-53. Reconsideration

A party or the department may file a petition for reconsideration of a final decision and the commissioner may reconsider, reverse, modify or correct a final decision in accordance with section 4-181a of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-54. Right to appeal

A person who is aggrieved by the final decision of the commissioner may seek judicial review of the decision in accordance with the provisions of section 4-183 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-55. Voluntary termination of proceeding

(a) Pursuant to subsection (c) of section 4-177 of the Connecticut General Statutes, unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default. Any party may, at any time in the proceeding, submit to counsel for the department, oral or written offers or proposals for settlement of the proceeding, without prejudice to the rights of any of the parties. The presiding officer shall proceed with a hearing in a contested case unless there has been a continuance, default or a written stipulation, settlement agreement or consent order that has been executed by the commissioner and a party or, in the case of a party that is an entity such as a partnership, limited liability company, institution, corporation, agency or institution, a party's authorized representative. By submitting an offer of settlement, the party making the offer waives, subject to acceptance of the offer, (1) all hearings pursuant to the statutory provisions under which the proceeding is to be or has been instituted, (2) proceedings before and a proposed

final decision by a presiding officer, (3) a final decision by the commissioner, (4) all post-hearing procedures, and (5) judicial review by any court. Any informal disposition of a contested case by the commissioner is without prejudice to the right of the commissioner to take any enforcement action against a party to enforce a stipulation, agreed settlement or consent order if the commissioner determines that a party is not fully complying with any term or condition stated in such stipulation, agreed settlement or consent order. A consent order shall contain all provisions required by law including, if applicable, subsection (f) of section 36b-27 or subsection (d) of section 36b-72 of the Connecticut General Statutes.

(b) The commissioner may withdraw an order at any time before a final decision is issued. A respondent to an order may withdraw the request for hearing at any time, an applicant may withdraw a request for hearing at any time, and a petitioner for a declaratory ruling or a regulation-making may withdraw the petition at any time. Nothing in the rules of practice shall preclude the commissioner from withdrawing an order after a proceeding has terminated.

(Adopted effective August 31, 2004)

Sec. 36a-1-56. Stays pending judicial review

(a) Unless the proceeding has been stayed by a court, if a preliminary, procedural or intermediate agency action or ruling is appealed to any court, the challenged proceeding shall continue without regard to the pendency of the appeal or collateral attack. No default or failure to act as directed in the proceeding shall be excused based on the pendency of the appeal or collateral attack.

(b) The filing of an appeal to the Superior Court of a final decision of the commissioner shall not, unless specifically ordered by the commissioner or a reviewing court, operate as a stay of any decision issued by the commissioner. The commissioner may, in the commissioner's discretion, and on such terms as the commissioner finds just, stay the effectiveness of all or any part of a decision pending a final decision on a petition for review of that decision.

(Adopted effective August 31, 2004)

Sec. 36a-1-57. Commissioner's right to conduct an examination

Nothing contained in the rules of practice limits in any manner the right of the commissioner to conduct, or continue during the pendency of a contested case, any examination, inspection or investigation of any party.

(Adopted effective August 31, 2004)

Secs. 36a-1-58 to 36a-1-62. Reserved

ARTICLE 3

PETITIONS AND APPLICATIONS

Sec. 36a-1-63. General rule

Petitions and applications shall include all forms of proposals, requests, applications, notices, petitions and filings of any nature that are placed before the commissioner pursuant to law, including, but not limited to, petitions for declaratory ruling, petitions for a regulation, applications for any license or registration, and applications for establishment of branches, mergers and consolidations, acquisitions, conversions and bank holding company formations.

(Adopted effective August 31, 2004)

Sec. 36a-1-64. Form

The form to be followed in the filing of petitions and applications pursuant to the rules of practice will vary to the extent necessary to provide for the nature of

the legal rights, duties or privileges involved therein. Except as otherwise provided by law or the commissioner otherwise determines, the petitions and applications shall include the following:

(1) Each petition or application shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the commissioner. In addition to the specific requirements for particular types of petitions and applications, the petition or application shall further set forth:

(A) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, limited liability company, partnership, trust, association or other organized group, it shall also specify the state under the laws of which it was created or organized.

(B) The name, title, address and telephone number of the attorney or other person to whom correspondence or communications in regard to the petition or application are to be addressed. Notice, orders and other papers may be served upon the person so named and such service shall be deemed to be service upon the petitioner or applicant.

(C) A concise and explicit statement of the facts on which the commissioner is expected to rely in granting the authorization or other relief sought.

(D) An explanation of any unusual circumstances involved in the petition or application to which the commissioner will be expected to direct particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order during the pendency of the petition or application.

(2) There shall be attached to the petition or application any exhibits, sworn written testimony, data, models, illustrations or other materials that the petitioner or applicant deems necessary or desirable to support the granting of the petition or application or that any statute or regulation may require for the lawful determination of the petition or application.

(Adopted effective August 31, 2004)

Sec. 36a-1-65. Deficiencies in filing application or petition

(a) The department may reject any application or petition if it is incomplete or otherwise inadequate to permit processing or disposition of an application or petition.

(b) Any application submitted without the proper fee shall be considered incomplete and shall not be approved.

(c) Written notice by the department to any applicant that its application is incomplete or has not been made current shall stop the running of any period of time that by law begins to run when the department receives an application. Any such period of time shall begin anew when the deficiency in the application is corrected.

(d) If an application is incomplete six months after the applicant was provided written notice of the deficiency, the commissioner may notify the applicant that the application is deemed withdrawn and will no longer be processed.

(e) Nothing shall preclude the commissioner from requiring additional information from an applicant or petitioner if the application or petition is not rejected under this section.

(Adopted effective August 31, 2004)

Sec. 36a-1-66. Forms and instructions

(a) Copies of forms and instructions for the preparation of requests or applications for certain approvals, authorizations or licenses are available on the department's web site, the Connecticut Licensing Info Center web site at <http://www.ct-clic.com> or may be obtained upon request from the office of the commissioner.

(b) The commissioner may from time to time adopt additional forms and instructions, and alter, amend or discontinue any form or instruction.

(Adopted effective August 31, 2004)

Secs. 36a-1-67 to 36a-1-69. Reserved

Personal Data

(Transferred from § 36-1-48)

Sec. 36a-1-70. Personal data

(a) Authority

These Regulations are promulgated pursuant to the provisions of section 4-196 of the General Statutes.

(b) Definitions

(1) "Department" means the Department of Banking and includes the Banking Commissioner.

(2) "Financial institutions" includes all institutions, corporations, partnerships, organizations, associations, sole proprietorships, other individuals and enterprises regulated by the Department, and also includes applicants to become financial institutions.

(3) "Licensee or registrant" means any individual who, or personnel of any financial institution which, has been granted by the Department or has applied to the Department for a permit, certificate, approval, registration, license, charter or similar form of permission required by law.

(4) "Personal data" means any information, as set forth in Section 4-190 (9) of the General Statutes, and other data, as defined in subsection (7) of this section concerning any individual.

(5) "Category of personal data" means the classification of personal information set forth in the Personal Data Act, Section 4-190 (9) of the General Statutes.

(6) "Personnel of financial institutions" includes all organizers, directors, incorporators, officers and employees of financial institutions.

(7) "Other data" means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(c) General Nature and Purpose of Personal Data Systems

(1) Personnel Records.

(A) All personnel records are maintained and under the control of the Connecticut Department of Banking, which is located at 260 Constitution Plaza, Hartford, Connecticut.

(B) Personnel records are maintained in both automated and manual form.

(C) Personnel records are maintained for the purpose of providing a history of payroll, promotion, discipline and related personnel information concerning Department employees.

(D) Personnel records are the responsibility of the Personnel Officer, whose business address is the Connecticut Department of Banking, 260 Constitution Plaza, Hartford, Connecticut. All requests for disclosure or amendment of these records should be made to the Personnel Officer.

(E) Routine sources for information maintained in personnel records are generally the employee, previous employers of the employee, references provided by applicants for employment, the employee's supervisor, the Comptroller's Office, the Department of Administrative Services, Division of Personnel and Labor Relations and State insurance carriers.

(F) Personal data in personnel records are collected, maintained and used under authority of the State Personnel Act, Chapter 67 of the General Statutes.

(2) Records maintained in connection with licensees, registrants and personnel of financial institutions.

(A) These records are maintained at the Connecticut Department of Banking, 260 Constitution Plaza, Hartford, Connecticut.

(B) These records are maintained in both automated and manual form.

(C) As authorized by the applicable state statutes, these records are maintained for the purpose of fulfilling the Department's licensing and other regulatory responsibilities.

(D) The Director of the Securities and Business Investments Division is responsible for the records pertaining to securities registration and licensing. The Director of the Bank Examination Division is responsible for the records relating to banking institutions. The Director of the Consumer Credit Division is responsible for the records regarding mortgage lenders, consumer collection agencies, small loan companies, sales finance companies and debt adjusters. Requests for disclosure or amendment of these records should be made to the appropriate director as mentioned above. The business address for each of these Directors is the Connecticut Department of Banking, 260 Constitution Plaza, Hartford, Connecticut.

(E) Routine sources for information maintained in these records are generally the licensee, the registrant, the applicant, State Police background checks, applicable licensing authorities in other states, the State Police Bureau of Identification and employers.

(F) Personal data in these records are collected, maintained and used under authority of the General Statutes: (i) Chapters 664 to 667, inclusive (Banking Institutions); (ii) Chapters 672 to 672c, inclusive (Securities); and (iii) Chapters 668 to 669, inclusive (Consumer Credit).

(d) Categories of Personal Data

(1) Personnel Records.

(A) The following categories of personal data are maintained in personnel records:

(i) Educational records.

(ii) Medical or emotional condition or history.

(iii) Employment records.

(iv) Marital status.

(B) The following categories of other data may be maintained in personnel records:

(i) Addresses.

(ii) Telephone numbers.

(C) Personnel records are maintained on employees of the Department of Banking.

(2) Records maintained in connection with licensees, registrants and personnel of financial institutions.

(A) The following categories of personal data are maintained in these records:

(i) Educational records.

(ii) Medical or emotional condition or history.

(iii) Employment records.

(iv) Marital status.

(v) Financial records.

(vi) Reputation or character.

(B) The following categories of other data may be maintained in these records:

(i) Addresses.

(ii) Telephone numbers.

(iii) Complaints and/or inquiries.

(C) These records are maintained on licensees, registrants and personnel of financial institutions.

(e) **Maintenance of Personal Data—General**

(1) The Department shall maintain only such personal data as is relevant and necessary to accomplish the lawful purposes of the Department. Where the Department finds irrelevant or unnecessary public records in its possession, the Department shall dispose of the records in accordance with its records retention schedule, and with the approval of the Public Records Administrator pursuant to Section 11-8a of the General Statutes, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Section 11-8a of the General Statutes.

(2) The Department will collect and maintain all records with accurateness and completeness.

(3) Insofar as it is consistent with the needs and mission of the Department, the Department, wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(4) All employees who function as custodians of the Department's personal data systems or who have access thereto are to be given a copy of the provisions of Chapter 55 of the General Statutes, Section 36a-21 of the General Statutes and these regulations, and a copy of the Freedom of Information Act, Chapter 3 of the General Statutes and any other state or federal statute or regulation concerning maintenance or disclosure of personal data kept by the agency,

(5) All such departmental employees are to take reasonable precautions to protect personal data under their supervision from the danger of fire, theft, flood, natural disaster and other physical threats.

(6) The Department shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the Department or on its behalf.

(7) The Department shall have an independent obligation to insure that personal data requested from any other state agency is properly maintained.

(8) Only employees of the Department who have a specific need to review personal data records for lawful purposes of the Department will be entitled to access to such records under the Personal Data Act.

(9) The Department will keep a written up-to-date list of individuals entitled to access to each of the Department's personal data systems.

(10) The Department will insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartment mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(11) The Department will insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(f) Maintenance of Personal Data—Automated System

(1) To the greatest extent practical, automated equipment and records shall be located in a limited access area.

(2) To the greatest extent practical, the Department shall require visitors to such limited access area to sign a visitor's log and permit access to said area on a bona fide need-to-enter basis only.

(3) To the greatest extent practical, the Department will insure that regular access to automated equipment is limited to operations personnel.

(4) The Department shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(g) Maintenance of Personal Data—Disclosure

(1) Within four business days of receipt of a written request therefor, the Department shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the Department maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(2) Except where nondisclosure is required or specifically permitted by law, the Department shall disclose to any person upon written request all personal data concerning that individual which is maintained by the Department. The procedures for disclosure shall be in accordance with Sections 1-15 through 1-21k of the General Statutes. If the personal data is maintained in coded form, the Department shall transcribe the data into a commonly understandable form before disclosure.

(3) The Department is responsible for verifying the identity of any person requesting access to his/her own personal data.

(4) The Department is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(5) The Department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Department determines that such disclosure would be detrimental to that person.

(6) In any case where the Department refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.

(7) If the Department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Department shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the Department shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the Department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(8) The Department shall maintain a complete log of each person, individual, agency or organization who has obtained access to, or to whom disclosure has been made of, personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(h) Contesting the Content of Personal Data Records

(1) Any person who believes that the Department is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the Department for correction of said personal data.

(2) Within thirty days of receipt of such request, the Department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the Department shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(3) Following such denial by the Department, the person requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Department's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(i) Uses to be Made of the Personal Data

(1) Employees of the Department who are assigned personnel and payroll responsibilities use the personal data contained in the Department's personnel records in processing promotions, reclassifications, transfers to another agency, retirement and other personnel actions. Supervisors use that personal data when promotion, career counseling or disciplinary action against such employee is contemplated, and for other employment related purposes.

(2) Authorized employees of the Department use records in connection with licensees, registrants and personnel of financial institutions in processing registration and license applications, processing financial institution applications, processing consumer complaints and as otherwise needed in enforcing regulations regarding those entities subject to the jurisdiction of the Department.

(3) The Department retains personnel records and records in connection with licensees, registrations and personnel of financial institutions according to schedules published by the Public Records Administrator, Connecticut State Library.

(4) When an individual is asked to supply personal data to the Department, the Department shall disclose to that individual, upon request, the name of the agency and the division within the agency which is requesting the data, the legal authority under which the agency is empowered to collect and maintain the personal data, the individual's rights pertaining to such records under the Personal Data Act and the Department's regulations, the known consequences arising from supplying or refusing to supply the requested personal data, and the proposed use to be made of the requested personal data.

(Effective May 20, 1987, transferred April 24, 1995, amended January 30, 1996)

ARTICLE 4

REGULATION-MAKING

Sec. 36a-1-71. General rules

The rules of practice set forth the procedure to be followed by the commissioner in the promulgation, amendment or repeal of a regulation.

(Adopted effective August 31, 2004)

Sec. 36a-1-72. Form of petitions

(a) Any interested person may at any time petition the commissioner to adopt, amend or repeal any regulation.

(b) The petition shall conform to the rules of practice where applicable, and shall set forth clearly and concisely the text of the proposed regulation, amendment or the provisions sought to be repealed. The petition shall also state the facts and arguments that favor the action the petitioner proposes by including such data, facts and arguments either in the petition or in a brief annexed to the petition. The petition shall be signed by the petitioner and shall include the address of the petitioner and the name and address of the petitioner's attorney, if any.

(Adopted effective August 31, 2004)

Sec. 36a-1-73. Procedure after petition filed

(a) Not more than thirty days after receipt of the petition, the commissioner shall determine whether to deny the petition or to initiate regulation-making proceedings in accordance with law.

(b) If the commissioner denies the petition, the commissioner shall give the petitioner notice in writing, stating the reasons for the denial.

(Adopted effective August 31, 2004)

Sec. 36a-1-74. Notice of intent to adopt regulations

Prior to the adoption of any regulation, the commissioner shall give such notice as is required by section 4-168 of the Connecticut General Statutes or other applicable statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-75. Procedure after notice of intent to adopt regulations

(a) All interested persons may submit data, views and arguments in writing to the commissioner not more than thirty days after notice of intent to adopt the regulation has been published. Oral presentations may be allowed by the commissioner in the commissioner's discretion, but an opportunity to present oral argument shall be granted if requested by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members, provided notice of such request is made to the commissioner not later than fourteen days after the date of publication of the notice of intent to adopt regulations in the Connecticut Law Journal. Upon completion of the hearing, the commissioner may permit additional written material to be filed during such period as the commissioner may determine.

(b) Upon reaching a decision whether to proceed with a proposed regulation or to alter its text from that initially proposed, the commissioner shall give notice as required by subsection (d) of section 4-168 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-76. Availability of regulation, fiscal note and regulation-making record

(a) All the regulations and currently pending proposed regulations of the commissioner shall be available for inspection during normal business hours at the office of the department. Copies of all such regulations shall be available to any person upon request. The commissioner may charge a reasonable fee for each copy in accordance with the provisions of section 1-212 of the Connecticut General Statutes.

(b) All interested persons may inspect and copy a fiscal note prepared pursuant to subdivision (5) of section 4-168 of the Connecticut General Statutes during normal business hours at the office of the department.

(c) The official regulation-making record that is maintained by the department pursuant to section 4-168b of the Connecticut General Statutes shall be available

for public inspection and copying during normal business hours at the office of the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-77. Advance notice of regulation-making proceedings

(a) Any person or group may file a request with the commissioner for advance notice of regulation-making proceedings. The request shall be clearly titled "Request for Advance Notice of Regulation-Making Proceedings" and shall state in order:

- (1) The name of the person or group making the request;
- (2) The address of the person or group to which responses shall be mailed; and
- (3) The date of the request.

(b) The commissioner shall give at least thirty days' notice of the adoption of a regulation in accordance with section 4-168 of the Connecticut General Statutes. The notice shall include:

(1) Either a statement of the terms or of the substance of the proposed regulation or description sufficiently detailed so as to apprise persons likely to be affected by the issues and subjects involved in such proposed regulation;

(2) A statement of the purpose for which the regulation is proposed;

(3) A reference to the statutory authority for such proposed regulation; and

(4) The time, place and the manner in which interested persons may present their views on the proposed regulation, and such additional information as may be required by law.

(Adopted effective August 31, 2004)

Sec. 36a-1-78. Emergency regulations

When the commissioner finds that an imminent peril to the public health, safety or welfare so requires, the commissioner may adopt emergency regulations, in accordance with the provisions of subsection (b) of section 4-168 of the Connecticut General Statutes. If the commissioner adopts emergency regulations, the commissioner shall take appropriate measures to make the emergency regulations known in accordance with section 4-172(b) of the Connecticut General Statutes, including giving notice by mail, electronic means, publication in a newspaper or the Connecticut Law Journal.

(Adopted effective August 31, 2004)

Secs. 36a-1-79 to 36a-1-82—Reserved.

ARTICLE 5

DECLARATORY RULINGS

Sec. 36a-1-83. General rule

The rules of practice set forth the procedure to be followed by the commissioner in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability to specified circumstances of any statutory provision, regulation or final decision of the commissioner on a matter within the jurisdiction of the agency in accordance with section 4-176 of the Connecticut General Statutes. A ruling of the commissioner disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the commissioner in a contested case.

(Adopted effective August 31, 2004)

Sec. 36a-1-84. Form and content of petition for declaratory ruling; filing procedure

Any person may request a declaratory ruling from the commissioner with respect to the validity of any regulation or applicability to specified circumstances of any statute, regulation or final decision on a matter within the jurisdiction of the agency. Such request shall be in writing, addressed to the commissioner and filed at the office of the department. It shall give the address of the person seeking the declaratory ruling inquiring and the name and address of such person's attorney, if any. The request shall state clearly and concisely the substance and nature of the request, identify the statute, regulation or final decision concerning which the request is made and identify the particular aspect thereof to which the request is directed. The request for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the person making the inquiry.

(Adopted effective August 31, 2004)

Sec. 36a-1-85. Notice of declaratory ruling petition or declaratory ruling proceeding

(a) Not more than thirty days after the commissioner receives a petition for declaratory ruling filed in accordance with section 36a-1-84 of the Regulations of Connecticut State Agencies, the commissioner shall give notice of the petition to (1) any person who has requested notice under section 36a-1-86 of the Regulations of Connecticut State Agencies, (2) any person who has been given status in the declaratory ruling proceeding as a party or an intervenor pursuant to section 36a-1-89 of the Regulations of Connecticut State Agencies, and (3) any person to whom notice is required by any provision of law.

(b) The commissioner may, on the commissioner's own initiative, commence a proceeding for the issuance of a declaratory ruling as provided by section 4-176 of the Connecticut General Statutes. Not less than thirty days before a hearing is held in such proceeding or, if no hearing is held, not less than thirty days before the commissioner issues the declaratory ruling, the commissioner shall give notice of the proceeding to (1) any person who has requested notice under section 36a-1-86 of the Regulations of Connecticut State Agencies and (2) any person to whom notice is required by any provision of law. Such notice shall provide information about the opportunity to file comments and to request intervenor or party status pursuant section 36a-1-88 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-86. Requests for notice of declaratory ruling petitions or proceedings

Any person may request that the department provide notice of the filing of declaratory ruling petitions, or the commencement by the commissioner on the commissioner's own initiative of declaratory ruling proceedings, on a particular subject matter. A request for such notice shall be made in writing, addressed to the commissioner, filed at the office of the department, and contain a specific statement of the subject matter with which the requester is concerned. A request under this section shall be effective only for the calendar year in which it is made and shall expire on December 31 of such calendar year.

(Adopted effective August 31, 2004)

Sec. 36a-1-87. Proceedings on declaratory rulings

(a) Not more than sixty days after the commissioner receives a petition for declaratory ruling filed in accordance with section 36a-1-84 of the Regulations of

Connecticut State Agencies, or issues a notice pursuant to section 36a-1-85 of the Regulations of Connecticut State Agencies that the commissioner, on the commissioner's own initiative, has commenced a proceeding for a declaratory ruling, the commissioner shall take action in accordance with subsection (e) of section 4-176 of the Connecticut General Statutes. The commissioner's decision under such subsection, and any declaratory ruling subsequently issued, shall be delivered to (1) any person granted status as a party or intervenor under section 36a-1-89 of the Regulations of Connecticut State Agencies; (2) any person who filed comments under subsection (c) of this section; (3) the petitioner, if applicable; and (4) any other person who has filed a written request for notice of the declaratory ruling with the commissioner.

(b) The commissioner may order that a hearing be held in a declaratory ruling proceeding if the commissioner deems a hearing necessary or helpful to determine any issue concerning the request for declaratory ruling or when, in the commissioner's judgment, a hearing is otherwise appropriate. If the commissioner schedules a hearing in a declaratory ruling proceeding, the commissioner shall provide notice of the hearing pursuant to subsection (f) of section 4-176 of the Connecticut General Statutes. A hearing in a declaratory ruling proceeding shall be governed by the provisions of sections 36a-1-19 to 36a-1-62, inclusive, of the Regulations of Connecticut State Agencies.

(c) Whether or not a hearing is held in a proceeding for a declaratory ruling, any person may file written comments in connection with such proceeding. Comments shall be directed to the commissioner, signed by the commenter or by the commenter's attorney or other representative, if any, and contain the name and telephone number of the commenter and the commenter's attorney or other representative, if any. Unless the commissioner provides otherwise, comments shall be filed with the commissioner at the office of the department not more than thirty days after the commissioner has given notice pursuant to section 36a-1-85 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-88. Petition for party or intervenor status in proceedings for declaratory rulings

Any person may apply to be made a party to or an intervenor in a proceeding for a declaratory ruling. Any person who proposes to be admitted as an intervenor or party in a proceeding for a declaratory ruling shall file a written petition to be so designated with the commissioner at the office of the department, and shall mail copies of the request to all parties and intervenors not later than five days before the date of the hearing of the declaratory ruling proceeding. The petition shall state:

(1) The name, address and telephone number of the person filing the petition and that of the person's authorized legal representative, if any;

(2) The manner in which the petitioner's legal rights, duties or privileges shall be specifically affected by the proceeding and any facts demonstrating that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings; and

(3) A summary of any evidence that the person making the request intends to present.

(Adopted effective August 31, 2004)

Sec. 36a-1-89. Determination of party or intervenor status

The commissioner may grant a timely petition to become a party or an intervenor if the commissioner finds that the petitioner has satisfied the standards of subsection

(d) of section 4-176 of the Connecticut General Statutes. The commissioner may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Secs. 36a-1-90 to 36a-1-92. Reserved