

Act Number: 09-189

Bill Number: 5099

Senate Pages: 5675, 5701-5703

4

House Pages: 7992-7996

5

Committee: Banks: 49, 103, 104

3

Page Total:

12

S - 593

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2009**

**VOL. 52
PART 17
5352 - 5682**

mhr
SENATE

271
June 2, 2009

SENATOR LOONEY:

-- 7?

THE CHAIR:

No, sir. All -- and through -- have -- you got
704 through 708, sir.

SENATOR LOONEY:

Yes. We might skip that item, Mr. President.
We'll --

THE CHAIR:

Yes, sir.

SENATOR LOONEY:

-- return to that. Moving to Calendar Page 21.
Mr. President, Calendar Page 21, Calendar 711, House
Bill 5099. Mr. President, would move to place that
item on the Consent Calendar.

THE CHAIR:

Motion on the floor to place Item 711 on the
Consent Calendar. Seeing no objection, so ordered.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Continuing
Calendar Page 21, Calendar 712, House Bill 6025.
Mr. President, move to place that item on the Consent
Calendar.

THE CHAIR:

Motion to place Calendar Number 712 on the

S – 594

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2009**

**VOL. 52
PART 18
5683 – 5943**

mhr
SENATE

297
June 2, 2009

Mr. Clerk, please call Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the chamber.

Mr. President, those items placed on the Second Consent Calendar --

THE CHAIR:

Mr. Clerk, please hold for a second.

I'm trying to hear the Clerk call the Consent Calendar and I'm sure you don't want to miss that vote either, so if I could have your attention and quiet, please.

Mr. Clerk.

THE CLERK:

The items placed on the Second Consent Calendar begin on Senate Agenda 1, substitute for House Bill 6486, substitute for House Bill 6649. Senate Agenda Number 3, House Bill 6394. Today's Calendar, Calendar Page 3, Calendar 317, Senate Bill 586; Calendar Page 4, Calendar 455, House Bill 5018; Calendar Page 7, Calendar Number 593, Substitute House Bill 5286; Calendar Page 8, Calendar 606, substitute

mhr
SENATE

298
June 2, 2009

for House Bill 5883; Calendar Page 9, Calendar 619,
House Bill 6343; Calendar 626, House Bill 6476;
Calendar 629, substitute for House Bill 6232; Calendar
Page 10, Calendar 634, House Bill 6544; Calendar 636,
substitute for House Bill 6483; Calendar Page 11,
Calendar 649, substitute for House Bill 6466; Calendar
Page 13, Calendar 663, substitute for House Bill 5254;
Calendar Page 15, Calendar 680, substitute for House
Bill 5821; Calendar Page 16, Calendar 684, House
Bill 6231; Calendar Page 17, Calendar 689, substitute
for House Bill 5421; Calendar Page 18, Calendar 695,
substitute for House Bill 6419; Calendar Page 19,
Calendar 699, substitute for House Bill 6284; Calendar
Page 21, Calendar 711, House Bill 5099; Calendar 712,
substitute for House Bill 6025; Calendar Page 22,
Calendar 718, substitute for House Bill 5861; Calendar
Page 23, Calendar 720, substitute for House Bill 5108;
Calendar Page 32, Calendar 450, House Bill 6233;
Calendar 467, substitute for Senate Bill 1031; and,
Calendar Page 35, Calendar 205, substitute for Senate
Bill 948. Mr. President, that completes the items
placed on the Second Consent Calendar.

THE CHAIR:

Will you please call the Consent Calendar? The
machine will be open.

mhr
SENATE

299
June 2, 2009

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the chamber. The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar
Number 2:

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, would move for immediate transmittal to the House of Representatives of any items voted on, on Consent Calendar Number 2, requiring additional action by the

H – 1061

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2009**

**VOL.52
PART 25
7878 – 8157**

pat
HOUSE OF REPRESENTATIVES

16
May 29, 2009

Have all the Members voted? Have all the Members voted? Please check the Roll Call board to make sure your vote has been properly cast.

If all the Members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Senate Bill Number 951 as amended by Senate "A" in concurrence with the Senate.

Total Number Voting	131
Necessary for Passage	66
Those voting Yea	131
Those voting Nay	0
Those absent and not voting	20

SPEAKER DONOVAN:

The Bill as amended is passed.

Will the Clerk please call Calendar Number 167.

THE CLERK:

On Page 34, Calendar Number 167, House Bill Number 5099 AN ACT CONCERNING REPOSESSION OF MOTOR VEHICLES FROM RETAIL BUYERS. Favorable Report of the Committee on Judiciary.

SPEAKER DONOVAN:

Representative Ryan Barry.

pat
HOUSE OF REPRESENTATIVES

May 29, 2009

17

REP. BARRY (12th):

Thank you very much, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the Bill.

SPEAKER DONOVAN:

The question before the Chamber is acceptance of the Joint Committee's Favorable Report and passage of the Bill.

Will you remark, sir?

REP. BARRY (12th):

Yes, Mr. Speaker. This is a Bill that says that when a buyer defaults on a retail installment contract or an installment loan contract, the contract holder can repossess, basically under current law, the contract holder can repossess the goods if the contract expressly allows him or her to do so, if it's in the contract.

Under this particular Bill, if a retail buyer files for bankruptcy under Chapter 7 or Chapter 11, the debtor status cannot be considered as a default under the contract or grounds for repossession of the vehicle.

And I just want to make it clear to the Chamber that we're not accepting contracts that exist today.

pat
HOUSE OF REPRESENTATIVES

May 29, 2009

18

This Bill will only apply to contracts that are put into effect or executed on or after October 1, 2009.

And I urge passage of the Bill.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further on the Bill? Remark further on the Bill? Representative Hamzy.

REP. HAMZY: (78th):

Thank you, Mr. Speaker, and I also rise in support of this Bill. The intent of the Bill is to remedy a problem that we have currently.

When people file Chapter 7 bankruptcy, and do not choose to reaffirm that debt, even though they are current with their payments, the auto finance companies still have the right to repossess the vehicle.

This Bill is intended to change that procedure. I want to thank Chairman Barry for his help in getting the Bill to this point, and would urge the Chamber to vote it out. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Will you remark further on the Bill? Remark further on the Bill? If not, staff and guests please

pat
HOUSE OF REPRESENTATIVES

May 29, 2009

19

come to the Well of the House. Members take their seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber, please.

SPEAKER DONOVAN:

Have all the Members voted? Have all the Members voted?

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber, please.

SPEAKER DONOVAN:

Have all Members voted? Have all the Members voted? Please check the Roll Call board to make sure, you may have already voted already, folks. Check the Roll Call board. That's why we have a Roll Call board.

If all the Members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

pat
HOUSE OF REPRESENTATIVES

20
May 29, 2009

THE CLERK:

House Bill Number 5099.

Total Number Voting	133
Necessary for Passage	67
Those voting Yea	133
Those voting Nay	0
Those absent and not voting	18

SPEAKER DONOVAN:

The Bill passes.

Are there any announcements or introductions?

Representative Wood.

REP. WOOD (141st):

Yes, thank you, Mr. Speaker. I would like to rise on a point of personal privilege.

SPEAKER DONOVAN:

Please proceed, Madam.

REP. WOOD (141st):

Thank you. Excuse me, guys, the Handley School is here, sixth graders from Darien, Connecticut and I would hope everyone would give them a very wonderful warm welcome.

(Applause.)

SPEAKER DONOVAN:

Will the Clerk please call Calendar Number 408.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**BANKS
PART 1
1 – 281**

**2009
INDEX**

Okay. Thanks a lot.

REP. AYALA: All right, I appreciate it.

REP. BARRY: Raphael Podolsky.

Good afternoon.

RAPHAEL PODOLSKY: Ah, okay. Thank you very much. I'm -- I'm here to tell -- I want to speak to four bills, primarily to one, which is Senate Bill Number 619. And then I would just want to briefly note that we support House Bill 5099 which deals with -- by state law declaring that bankruptcy -- the filing of bankruptcy in and of itself does not constitute a default in a retail sales contract. And also to indicate our opposition to House Bill 5315 and 5313, which deal with check cashing companies. I'll come back to that at the end if I have time.

In regard, though, to Senate Bill 619, which deals with the Foreclosure Mediation Program, the Foreclosure Mediation Program is really the the single greatest success from last year's bill, Public Act 08-176. It has worked very well. It has really helped move things in a very positive way to induce lenders to be more receptive to making modifications.

The bill that you have in front of you proposes two small changes. We support both of those changes. And the one that I, and particularly want to call your attention to, is that it would provide that the judgments of foreclosure could be reopened by mutual agreement of the lender and the debtor after a judgment has already been entered and title has passed. And the circumstance that would arise would be where, after the title has gone



CONNECTICUT BANKERS ASSOCIATION

February 17, 2009

To: Members of the Banks Committee SB873 HB5099 HB6091 HB6092
 Fr: Connecticut Bankers Association HB6093 HB6233 SB242 SB248
SB447 SB620 HB5265 HB5316
 Contacts: Gerry Noonan, Tom Mongellow or Fritz Conway HB5683 HB5911 HB5912

Re: Positions and Statements on Various Legislation Before the Committee

The CBA appreciates the opportunity to provide the below testimony to the Committee and respectfully asks that the Members consider our positions on each of the Bills commented upon.

S.B. No. 619 AN ACT CONCERNING MINOR CHANGES TO FORECLOSURE PROCEDURES

Position: Support with Certain Revisions

This Bill contains two provisions related to foreclosure assistance and/or prevention. The first provision deals with the paperwork that a borrower receives when served with a foreclosure complaint. Currently, that paperwork must include a notice alerting the borrower to the availability of the State's new *foreclosure mediation program*. Section 1 of the Bill would clarify that this notice should appear at the very beginning of the paperwork (in front of the writ, summons and complaint). This procedural change will enhance the visibility of the notice and, hopefully, increase the number of eligible borrowers who elect to participate in the mediation program. In this regard, the CBA is optimistic about the results that are being achieved through the mediation program. The mediation program helps to bring lenders and borrowers together at a very early stage in the foreclosure to see whether a mutually acceptable settlement can be reached. We support this measure and hope that it will help to keep people in their homes, or promote other reasonable settlements where feasible.

The second provision would allow for the reopening of a judgment of foreclosure in cases involving strict foreclosure (for up to four months). This provision would address situations where, after title has legally vested in the lender's name, the lender and borrower continue to engage in discussions in an effort to reinstate the loan or modify the debt. If there is a successful resolution to those discussions (e.g., allowing the borrower to stay in the home and pay a restructured debt), this provision would allow for the parties to reopen the judgment and implement the settlement.

The CBA supports that type of mechanism, provided all the parties consent to the reopening. We are, however, concerned about the wording of the Bill and the potential impact on title during the four month period following the vesting of title. Questions will arise from a subsequent purchaser looking to buy the house during that four month period as to whether the title transfer might not be unwound by a reopened judgment. We would urge the inclusion of additional language that attempts to resolve this title uncertainty.

More specifically, we would suggest and support language to make it clear that the right to reopen the judgment will terminate upon the earlier of two months or the subsequent conveyance of title. We would also suggest that the four month period be shortened to two.

S.B. No. 873 AN ACT CONCERNING STATE CHARTERED BANKS**Position: Support**

This Bill would clarify Public Act 2008-167 to clearly state that the Department of Banking has authority to oversee the compliance with that Act with respect to state banking institutions, and that a Bank's compliance with the Federal Gramm-Leach-Bliley security safeguards is deemed to be compliance with the Act. Last year's bill contained ambiguities that prevented clear regulatory oversight by the Department of Banking and created confusion with the federal laws concerning the protection of personal information.

H.B. No. 5099 AN ACT CONCERNING REPOSSESSION OF MOTOR VEHICLES FROM RETAIL BUYERS**Position: Oppose**

This bill would eliminate the ability of a lender to use a standard default provision in auto lending allowing the lender, in the event that the borrower declares bankruptcy, to have the car returned to the lender. We oppose the concept for several reasons. First, the auto industry, including dealers, manufacturers and specialized auto lenders, is in the midst of a nationwide crisis and is fighting for survival. This is particularly due to the lack of availability of loans for customers who have impaired credit. To institute a new law, which would prevent lenders from having the collateral (the car), returned to them in the event of the borrower declaring bankruptcy, would only increase the overall risk of car lending in the Connecticut marketplace and exacerbate the auto lending credit crunch. Additionally, in order for the auto credit market to expand and return to normal, the State must retain a consistency in its creditor rights that makes portfolios of Connecticut auto loans attractive for investors to purchase. Those investor purchases will recapitalize local lenders and allow them to continue to make auto loans. Now is not the time to be creating more risk and less availability in the credit markets.

H.B. No. 6091 AN ACT CONCERNING NEGATIVE ACCOUNT BALANCES; H.B. No. 6092 AN ACT CONCERNING OVERDRAFT FEES; H.B. No. 6093 AN ACT CONCERNING AUTOMATIC OVERDRAFT PROTECTION**Position: Oppose**

These bills cover a variety of overdraft pricing controls and operational issues and we are in opposition to them for the following reasons.

Overdraft protection programs provide a valuable service for depositors. If an individual engages in a transaction (e.g., writing a check), which exceeds the balance in a deposit account, an automatic overdraft program allows the transaction to proceed using the bank's money to cover the difference. Among other things, this service avoids the hassle and potential embarrassment of a denied transaction (e.g., a bounced check). These services can also help a consumer avoid a merchants' return check fee and the reporting of a bounced check to a consumer reporting agency (which can harm the consumer's credit history). These services have value to consumers, which is why consumers enroll in them. The bank providing the services deserves to be compensated for them, even in cases where the "negative balance" is later cured through repayment. If a consumer engages in transactions that cause *multiple* overdrafts on a single day, each overdraft event would give rise to a separate, valuable service for which the bank should be compensated.