



# House of Representatives

General Assembly

**File No. 327**

February Session, 2022

Substitute House Bill No. 5317

*House of Representatives, April 6, 2022*

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE OFFICE OF THE ATTORNEY GENERAL AND THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.***

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

1 Section 1. Section 3-129e of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) The Attorney General may bring a civil action in any court of  
4 competent jurisdiction to enforce any provision of the Dodd-Frank Wall  
5 Street Reform and Consumer Protection Act, Public Law 111-203, that a  
6 state attorney general is authorized by said act to enforce and to seek  
7 any relief that a state attorney general is authorized by said act to seek.

8 (b) (1) Whenever, during the course of an investigation, the Attorney  
9 General, his or her deputy, or any assistant attorney general the  
10 Attorney General may designate as his or her designee, has reason to  
11 believe that any person has violated any of the provisions of the Dodd-  
12 Frank Wall Street Reform and Consumer Protection Act, Public Law

13 111-203, that a state attorney general is authorized by said act to enforce,  
14 within this state, the Attorney General or such designee may, prior to  
15 instituting any action or proceeding against such person, issue in  
16 writing and cause to be served upon any person within or outside the  
17 state, by subpoena or subpoena duces tecum, a demand requiring such  
18 person to (A) submit to the Attorney General or such designee any  
19 documentary material, (B) appear before the Attorney General or such  
20 designee and give testimony within or outside the state, or (C) respond  
21 to written interrogatories as to any matters relevant to the scope of the  
22 alleged violation. For the purposes of this subsection, "documentary  
23 material" includes, but is not limited to, any information in a written,  
24 recorded or electronic form.

25 (2) Any subpoena for documentary material issued under this  
26 subsection shall (A) state the nature of the alleged violation, (B) describe  
27 the class or classes of documentary material to be reproduced  
28 thereunder with such definiteness and certainty as to be accurately  
29 defined, and (C) prescribe a date that would allow a reasonable time to  
30 respond. All testimony taken in accordance with an action or  
31 proceeding brought under this section shall be under oath and a written  
32 transcript shall be made of the same, a copy of which shall be furnished  
33 to such person appearing, and shall not be available for public  
34 disclosure. All written interrogatories shall prescribe a return date that  
35 would allow a reasonable time to respond, which responses shall be  
36 under oath and not be available for public disclosure. No subpoena  
37 issued under this subsection shall require the submission of that portion  
38 of any documentary material, testimony or responses to interrogatories  
39 that would be privileged or precluded from disclosure if demanded in  
40 a grand jury investigation.

41 (3) Service of subpoenas ad testificandum, subpoenas duces tecum,  
42 notices of deposition and written interrogatories, as provided in this  
43 subsection, may be made: (A) By personal service or service at the usual  
44 place of abode, (B) through a registered agent, or (C) by registered or  
45 certified mail, return receipt requested, a duly executed copy thereof  
46 addressed to the person to be served at such person's principal place of

47 business in this state, or, if such person has no principal place of  
48 business in this state, at such person's principal office or such person's  
49 residence.

50 (4) All documentary material and responses to interrogatories  
51 furnished to, and all transcripts of testimony taken by, the Attorney  
52 General or such designee, pursuant to a subpoena issued under this  
53 subsection or voluntarily, and all information obtained, collected or  
54 prepared in connection with an investigation conducted pursuant to this  
55 subsection, including the identity of the person furnishing such  
56 documentary information or testimony, shall be held in the custody of  
57 the Attorney General or such designee, and shall not be available to the  
58 public or be subject to inspection or disclosure under the Freedom of  
59 Information Act, as defined in section 1-200. Any documentary material  
60 furnished to the Attorney General or such designee shall be returned to  
61 the person furnishing such documentary material, or erased if furnished  
62 in electronic format, upon the termination of the Attorney General's  
63 investigation or final determination of any action or proceeding  
64 commenced thereunder. Except as prohibited by applicable court order,  
65 nothing in this subsection shall prohibit a person upon whom a  
66 subpoena has been served from disclosing the existence of such  
67 subpoena or any information such person furnishes in response to such  
68 subpoena.

69 (5) Notwithstanding the prohibition against public disclosure of  
70 documentary material and other information provided in this  
71 subsection, any confidential material may be used by the Attorney  
72 General or such designee, in connection with the taking of oral  
73 testimony conducted pursuant to this subsection, when the Attorney  
74 General or such designee, reasonably determines that it is necessary to  
75 disclose such confidential material to a person providing oral testimony  
76 in order to adduce evidence of a suspected violation of a provision of  
77 the Dodd-Frank Wall Street Reform and Consumer Protection Act,  
78 Public Law 111-203, that a state attorney general is authorized by said  
79 act to enforce, and reasonably believes that the person providing any  
80 such oral testimony: (A) Is an author or recipient of the confidential

81 material, (B) has read the confidential material, or (C) is otherwise aware  
82 of the substance of the confidential material. No copy or original of the  
83 confidential material described or shown to a person providing oral  
84 testimony pursuant to this subsection shall be retained by such person.  
85 For purposes of this subsection, "confidential material" means  
86 documentary material, responses to interrogatories or written  
87 transcripts of oral testimony, or copies thereof, or other information  
88 produced pursuant to a subpoena issued under this subsection.

89 (6) The Attorney General or such designee, may, without waiving any  
90 privilege, disclose any confidential material described in this subsection  
91 for any appropriate supervisory, governmental, law enforcement or  
92 other public purpose, including, but not limited to, a civil action brought  
93 pursuant to subsection (a) of this section, and may cooperate with  
94 officials of the federal government, the state and other states, including,  
95 but not limited to, the sharing and disclosure of information and  
96 evidence obtained pursuant to a subpoena issued under this subsection.  
97 Any such disclosure shall be made under safeguards designed to  
98 prevent further dissemination of such confidential material. In any  
99 proceeding before a court, the court may issue a protective order in  
100 appropriate circumstances to protect the confidentiality of any such  
101 confidential material and order that any such confidential material on  
102 file with the court or filed in connection with the court proceeding be  
103 sealed and that the public be excluded from any portion of the  
104 proceeding at which any such confidential material is disclosed.

105 (7) In the event any person refuses to comply with or obey, or  
106 otherwise fails to comply with or obey, a subpoena served in accordance  
107 with the provisions of this subsection, the Attorney General or such  
108 designee, may apply (A) to the superior court for the judicial district of  
109 Hartford for compliance, which court may, upon notice to such person,  
110 issue an order requiring such compliance, which shall be served upon  
111 such person, and (B) to the superior court for the judicial district of  
112 Hartford for an order, which court may, after notice to such person and  
113 hearing thereon, issue an order requiring payment to the state of a civil  
114 penalty of not more than ten thousand dollars.

115     (8) The Attorney General's power of subpoena and investigation  
 116     under this subsection shall not abate or terminate as to any person by  
 117     reason of any civil action or proceeding brought by the Attorney  
 118     General under this section.

119     (9) Notwithstanding any provision of this section, nothing shall limit  
 120     the authority of the Banking Commissioner to enforce the Dodd-Frank  
 121     Wall Street Reform and Consumer Protection Act, Public Law 111-203,  
 122     or any other state or federal law or regulation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	3-129e

**BA**           *Joint Favorable Subst.*

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill expands the investigative authority of the Office of the Attorney General (OAG) to enforce the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) by authorizing the issuance of subpoenas.

The bill also allows OAG to apply to Hartford Superior Court to enforce a subpoena, including requesting the court impose a civil penalty of up to \$10,000. Currently, OAG may: (1) bring a civil action in a court to enforce the provisions of the Dodd-Frank Act; and (2) allows OAG to seek any relief under the Dodd-Frank Act.

This is not anticipated to result in a fiscal impact in FY 23 or FY 24, as there is no party currently identified for enforcement.

### **The Out Years**

The bill may result in a revenue gain to the Resources of the General Fund in the outyears to the extent a party for enforcement is identified, subpoenaed, and civil actions result in penalties.

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**OLR Bill Analysis**

**sHB 5317**

***AN ACT CONCERNING THE OFFICE OF THE ATTORNEY GENERAL AND THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.***

**SUMMARY**

This bill expands the attorney general's pre-trial investigative authority to enforce the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) by, among other things, authorizing him (or his designee) to issue subpoenas for documentary material, testimony, or responses to written interrogatories. It generally makes information he collects under subpoenas confidential, and specifies when and to whom it may be disclosed. The bill also allows him to apply to Hartford Superior Court to enforce a subpoena, including requesting the court impose a civil penalty of up to \$10,000.

Under existing law, the attorney general may bring a civil action in a court of competent jurisdiction to enforce the provisions of the Dodd-Frank Act that state attorneys general are authorized to enforce. He may also seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

The bill expressly provides that (1) the attorney general's subpoena and investigation powers under the bill will not lessen or end for any person because of any Dodd-Frank Act-related civil action or proceeding he may bring and (2) nothing in it limits the banking commissioner's authority to enforce the Dodd-Frank Act or any other state or federal law or regulation.

EFFECTIVE DATE: October 1, 2022

**SUBPOENA POWER**

The bill allows the attorney general, during an investigation, to subpoena anyone in or outside the state who he has reason to believe has violated the provisions of the Dodd-Frank Act that he is authorized to enforce under existing law.

Before starting an action or proceeding against a person, the attorney general may specifically demand, in writing and by subpoena, for him or her to:

1. submit documentary material (including written, recorded, or electronic information);
2. appear before the attorney general and testify in or outside the state; or
3. respond to written interrogatories on relevant matters within the scope of an alleged violation.

The bill requires that subpoenas for documentary material state:

1. the nature of the alleged violation;
2. the types of documentary material to be reproduced, specific enough to allow the material to be accurately identified; and
3. a date that allows a reasonable time to respond.

Similarly, the bill requires that all written interrogatories provide a return date that allows a reasonable time to respond.

Additionally, all testimony taken in accordance with a Dodd-Frank Act-related action or proceeding and all written interrogatory responses provided must be under oath and not be publicly disclosed. Also, a written transcript must be made of the testimony, with a copy furnished to the person testifying. Subpoenas issued under the bill cannot require anything that would be privileged or precluded from disclosure if demanded in a grand jury investigation.

Subpoenas, notices of deposition, and written interrogatories may be



served:

1. on the person or at his or her usual residence;
2. through a registered agent; or
3. by registered or certified mail, return receipt requested, with a copy addressed to the person to be served at his or her (a) principal place of business in Connecticut, (b) principal office, or (c) residence.

The bill requires that the following information be held in the attorney general's custody and not be disclosed to the public or subject to inspection or disclosure under the state's Freedom of Information Act:

1. the identity of individuals who submit documentary information or testimony to the attorney general and what they submit, whether they do so in response to a subpoena issued under the bill or voluntarily, and
2. and all information the attorney general obtains, collects, or prepares in connection with a Dodd-Frank Act investigation.

Under the bill, documentary material that is given must be returned, or erased if it's electronic, when the investigation ends or on the final determination of an action or proceeding. The bill allows a person who is served a subpoena to disclose its existence and any information he or she provides in response to it, unless prohibited by court order.

### ***Use and Disclosure of Confidential Information***

The bill allows the attorney general to disclose confidential material (i.e., original or copies of documentary material, interrogatory responses, or written transcripts of oral testimony or other information produced under a subpoena) to a person orally testifying in a Dodd-Frank Act investigation when he reasonably:

1. determines its use is necessary to bring out evidence of a

suspected Dodd-Frank Act violation that he is authorized by law to enforce, and

- 2. believes the person testifying (a) is an author or recipient of the confidential material or (b) has read it or is aware of its substance.

The bill prohibits the person testifying from keeping any of the confidential material.

The bill further allows the attorney general, without waiving any privilege, to disclose any confidential material for any appropriate supervisory, governmental, law enforcement, or other public purpose, including, in a civil action to enforce the Dodd-Frank Act. The attorney general may also cooperate with federal or state officials (including officials from other states), such as by sharing and disclosing information and evidence he obtains. However, the bill requires that any disclosure of confidential material must be made under safeguards designed to prevent its further distribution. In any court proceeding, the bill allows the court to issue a protective order in appropriate circumstances to protect the material’s confidentiality and order that it be sealed, and that the public be excluded from any portion of the proceeding at which the material is disclosed.

**Compliance**

If a person refuses or otherwise fails to comply with or obey a subpoena, the attorney general may apply to Hartford Superior Court for an order (1) requiring compliance, after a notice and serving the order on their person, or (2) imposing a civil penalty of up to \$10,000, after notice and hearing.

**COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute  
Yea 13 Nay 4 (03/22/2022)