



**Substitute House Bill No. 6915**

**Public Act No. 15-162**

**AN ACT CONCERNING A STUDENT LOAN BILL OF RIGHTS.**

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

Section 1. (NEW) (*Effective October 1, 2015*) (a) The Banking Commissioner shall, within available appropriations, designate a Student Loan Ombudsman within the Department of Banking to provide timely assistance to any student loan borrower, as defined in section 2 of this act, of any student education loan, as defined in section 2 of this act.

(b) The Student Loan Ombudsman, in consultation with the commissioner, shall:

(1) Receive, review and attempt to resolve any complaints from student loan borrowers, including, but not limited to, attempts to resolve such complaints in collaboration with institutions of higher education, student loan servicers, as defined in section 2 of this act, and any other participants in student loan lending, including, but not limited to, The University of Connecticut, the Board of Regents for Higher Education, the Office of Higher Education or the Connecticut Higher Education Supplemental Loan Authority;

(2) Compile and analyze data on student loan borrower complaints

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as described in subdivision (1) of this subsection;

(3) Assist student loan borrowers to understand their rights and responsibilities under the terms of student education loans;

(4) Provide information to the public, agencies, legislators and others regarding the problems and concerns of student loan borrowers and make recommendations for resolving those problems and concerns;

(5) Analyze and monitor the development and implementation of federal, state and local laws, regulations and policies relating to student loan borrowers and recommend any changes the Student Loan Ombudsman deems necessary;

(6) Review the complete student education loan history for any student loan borrower who has provided written consent for such review;

(7) Disseminate information concerning the availability of the Student Loan Ombudsman to assist student loan borrowers and potential student loan borrowers, as well as public institutions of higher education, student loan servicers and any other participant in student education loan lending, with any student loan servicing concerns; and

(8) Take any other actions necessary to fulfill the duties of the Student Loan Ombudsman as set forth in this subsection.

(c) On or before October 1, 2016, the Student Loan Ombudsman, in consultation with the commissioner, shall, within available appropriations, establish and maintain a student loan borrower education course that shall include educational presentations and materials regarding student education loans. Such program shall include, but not be limited to, key loan terms, documentation

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requirements, monthly payment obligations, income-based repayment options, loan forgiveness and disclosure requirements.

(d) On or before January 1, 2016, and annually thereafter, the Banking Commissioner shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to banking and higher education. The commissioner shall report on: (1) The implementation of this section; (2) the overall effectiveness of the Student Loan Ombudsman position; and (3) additional steps that need to be taken for the Department of Banking to gain regulatory control over the licensing and enforcement of student loan servicers.

(e) (1) There is established an account to be known as the "student loan ombudsman account" which shall be a separate, nonlapsing account within the Banking Fund. The account shall contain the moneys described in subdivision (2) of this subsection and any other moneys required by law to be deposited in the account. Moneys in the account shall be expended by the Banking Commissioner for the purpose of administering the provisions of this section.

(2) The account established under subdivision (1) of this subsection shall contain any licensing or investigation fees collected pursuant to subsection (b) of section 3 of this act.

Sec. 2. (NEW) (*Effective October 1, 2015*) As used in this section and sections 3 to 10, inclusive, of this act:

(1) "Student loan borrower" means (A) any resident of this state who has received or agreed to pay a student education loan; or (B) any person who shares responsibility with such resident for repaying the student education loan.

(2) "Student loan servicer" means any person, wherever located,

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responsible for the servicing of any student education loan to any student loan borrower.

(3) "Servicing" means (A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; and (C) performing other administrative services with respect to a student education loan.

(4) "Student education loan" means any loan primarily for personal use to finance education or other school-related expenses.

Sec. 3. (NEW) (*Effective July 1, 2016*) (a) (1) No person shall act as a student loan servicer, directly or indirectly, without first obtaining a license from the Banking Commissioner under subsection (b) of this section, unless such person is exempt from licensure pursuant to subdivision (2) of this subsection.

(2) The following persons are exempt from student loan servicer licensing requirements: (A) Any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union; (B) any wholly owned subsidiary of any such bank or credit union; and (C) any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

(b) Any person seeking to act within this state as a student loan servicer shall make a written application to the commissioner for an initial license in such form as the commissioner prescribes. Such application shall be accompanied by (1) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to

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execute such documents, (2) (A) the history of criminal convictions of the (i) applicant; (ii) partners, if the applicant is a partnership; (iii) members, if the applicant is a limited liability company or association; or (iv) officers, directors and principal employees, if the applicant is a corporation, and (B) sufficient information pertaining to the history of criminal convictions of such applicant, partners, members, officers, directors or principal employees as the commissioner deems necessary to make the findings under subsection (c) of this section, (3) a nonrefundable license fee of one thousand dollars, and (4) a nonrefundable investigation fee of eight hundred dollars. The commissioner, in accordance with section 29-17a of the general statutes, may conduct a state and national criminal history records check of the applicant and of each partner, member, officer, director and principal employee of such applicant.

(c) Upon the filing of an application for an initial license and the payment of the fees for license and investigation, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The commissioner may issue a license if the commissioner finds that:

(1) The applicant's financial condition is sound;

(2) The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of sections 2 to 10, inclusive, of this act, and in a manner commanding the confidence and trust of the community;

(3) (A) If the applicant is an individual, such individual is in all respects properly qualified and of good character, (B) if the applicant is a partnership, each partner is in all respects properly qualified and of good character, (C) if the applicant is a corporation or association, the president, chairperson of the executive committee, senior officer responsible for the corporation's business and chief financial officer or

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any other person who performs similar functions as determined by the commissioner, each director, each trustee and each shareholder owning ten per cent or more of each class of the securities of such corporation is in all respects properly qualified and of good character, or (D) if the applicant is a limited liability company, each member is in all respects properly qualified and of good character;

(4) No person on behalf of the applicant knowingly has made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to sections 2 to 10, inclusive, of this act;

(5) No person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the commissioner any information lawfully required by the commissioner;

(6) The applicant has paid the investigation fee and the license fee required under subsection (b) of this section; and

(7) The applicant has met any other similar requirements as determined by the commissioner.

(d) A license issued pursuant to subsection (c) of this section shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to sections 2 to 10, inclusive, of this act. Not later than fifteen days after a licensee ceases to engage in the business of student loan servicing in this state for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall provide written notice of surrender to the commissioner and shall surrender to the commissioner its license for each location in which such licensee has ceased to engage in such business. The written notice of surrender shall identify the location where the records of the

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licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative actions undertaken by the commissioner to revoke or suspend a license, assess a civil penalty, order restitution or exercise any other authority provided to the commissioner.

(e) A license may be renewed for the ensuing twenty-four-month period upon the filing of an application containing all required documents and fees as provided in subsection (b) of this section. Such renewal application shall be filed on or before September first of the year in which the license expires. Any renewal application filed with the commissioner after September first shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182 of the general statutes. If an application for a renewal license has been filed with the commissioner on or before the date the license expires, the license sought to be renewed shall continue in full force and effect until the issuance by the commissioner of the renewal license applied for or until the commissioner has notified the licensee in writing of the commissioner's refusal to issue such renewal license together with the grounds upon which such refusal is based. The commissioner may refuse to issue a renewal license on any ground on which the commissioner might refuse to issue an initial license.

(f) If the commissioner determines that a check filed with the commissioner to pay a license or renewal fee has been dishonored, the commissioner shall automatically suspend the license or the renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for

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a hearing on such actions in accordance with section 36a-51 of the general statutes.

(g) The applicant or licensee shall notify the commissioner, in writing, of any change in the information provided in its initial application for a license or its most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in such information becoming inaccurate.

(h) The commissioner may deem an application for a license abandoned if the applicant fails to respond to any request for information required under sections 2 to 10, inclusive, of this act, or any regulations adopted pursuant to said sections. The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information not later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under the provisions of sections 2 to 10, inclusive, of this act.

Sec. 4. (NEW) (*Effective July 1, 2016*) No person licensed to act within this state as a student loan servicer shall do so under any other name or at any other place of business than that named in the license. Any change of location of a place of business of a licensee shall require prior written notice to the commissioner. Not more than one place of business shall be maintained under the same license but the commissioner may issue more than one license to the same licensee upon compliance with the provisions of sections 2 to 10, inclusive, of this act as to each new licensee. A license shall not be transferable or assignable.

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Sec. 5. (NEW) (*Effective July 1, 2016*) (a) Each student loan servicer licensee and persons exempt from licensure pursuant to subdivision (2) of subsection (a) of section 3 of this act shall maintain adequate records of each student education loan transaction for not less than two years following the final payment on such student education loan or the assignment of such student education loan, whichever occurs first, or such longer period as may be required by any other provision of law.

(b) If requested by the commissioner, each student loan servicer shall make such records available or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a licensee additional time to make such records available or send the records to the commissioner.

Sec. 6. (NEW) (*Effective July 1, 2016*) No student loan servicer shall:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead student loan borrowers;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

(3) Obtain property by fraud or misrepresentation;

(4) Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;

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(5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

(6) Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau;

(7) Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower; or

(8) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the Banking Commissioner or another governmental agency.

Sec. 7. (NEW) (*Effective July 1, 2016*) (a) In addition to any authority provided under title 36a of the general statutes, the Banking Commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 2 to 10, inclusive, of this act, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to, (A) criminal, civil and administrative history information; (B) personal history and experience information,

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including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a; and (C) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

(2) For the purposes of investigating violations or complaints arising under sections 2 to 10, inclusive, of this act or for the purposes of examination, the commissioner may review, investigate or examine any student loan servicer licensee or person subject to said sections as often as necessary in order to carry out the purposes of said sections. The commissioner may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the student education loan or the business or subject matter of any such examination or investigation, and may direct, subpoena or order such person to produce books, accounts, records, files and any other documents the commissioner deems relevant to the inquiry.

(b) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the student loan servicer licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the student loan servicer licensee or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 2 to 10, inclusive, of this act, the student loan servicer licensee or owner of the documents and records shall have

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access to the documents or records as necessary to conduct its ordinary business affairs.

(c) In order to carry out the purposes of this section, the commissioner may:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the student loan servicer licensee or person subject to sections 2 to 10, inclusive, of this act;

(4) Accept and rely on examination or investigation reports made by other government officials, within or without this state; and

(5) Accept audit reports made by an independent certified public accountant for the student loan servicer licensee or person subject to sections 2 to 10, inclusive, of this act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of examination, report of investigation or other writing of the commissioner.

(d) The authority of this section shall remain in effect, whether such student loan servicer licensee or person subject to sections 2 to 10, inclusive, of this act, acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

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(e) No student loan servicer licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

Sec. 8. (NEW) (*Effective July 1, 2016*) (a) The commissioner may suspend, revoke or refuse to renew any license issued under the provisions of subsection (c) of section 3 of this act, or take any other action, in accordance with section 36a-51 of the general statutes, if the commissioner finds that (1) the licensee has violated any provision of sections 2 to 10, inclusive, of this act or any regulation or order lawfully made pursuant to and within the authority of said sections, or (2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted a denial of such license. No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued.

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 2 to 10, inclusive, of this act, or any regulation adopted pursuant to said sections, or any licensee or any owner, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, engaged in dishonest activities or made any misrepresentation, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52 of the general statutes.

Sec. 9. (NEW) (*Effective July 1, 2016*) A student loan servicer shall comply with all applicable federal laws and regulations relating to student loan servicing, including, but not limited to, the Truth-in-Lending Act, 15 USC Section 1601 et seq., as from time to time amended, and the regulations promulgated thereunder. In addition to any other remedies provided by law, a violation of any such federal

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law or regulation shall be deemed a violation of this section and a basis upon which the commissioner may take enforcement action pursuant to section 8 of this act.

Sec. 10. (NEW) (*Effective July 1, 2016*) The Banking Commissioner shall adopt such regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section and sections 2 to 9, inclusive, of this act.

Approved July 2, 2015