



House of Representatives

General Assembly

File No. 237

January Session, 2015

Substitute House Bill No. 6915

House of Representatives, March 26, 2015

The Committee on Banking reported through REP. LESSER of the 100th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A STUDENT LOAN BILL OF RIGHTS.

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

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

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

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

15 Higher Education Supplemental Loan Authority;

16 (2) Compile and analyze data on student loan borrower complaints
17 as described in subdivision (1) of this subsection;

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

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

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

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

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

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

39 (c) On or before October 1, 2016, the Student Loan Ombudsman, in
40 consultation with the commissioner, shall establish and maintain a
41 student loan borrower education course that shall include educational
42 presentations and materials regarding student education loans. Such
43 program shall include, but not be limited to, key loan terms,
44 documentation requirements, monthly payment obligations, income-

45 based repayment options, loan forgiveness and disclosure
46 requirements.

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

57 (e) The Department of Banking shall allocate not more than five
58 hundred thousand dollars of the total annual licensing fees from all
59 nondepository financial institutions, for the implementation of this
60 section.

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

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

67 (2) "Student loan servicer" means any person, wherever located,
68 responsible for the servicing of any student education loan to any
69 student loan borrower.

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

76 administrative services with respect to a student education loan.

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

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

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

90 (b) Any person seeking to act within this state as a student loan
91 servicer shall make a written application to the commissioner for an
92 initial license in such form as the commissioner prescribes. Such
93 application shall be accompanied by (1) a financial statement prepared
94 by a certified public accountant or a public accountant, the accuracy of
95 which is sworn to under oath before a notary public by the proprietor,
96 a general partner or a corporate officer or a member duly authorized to
97 execute such documents, (2) (A) the history of criminal convictions of
98 the (i) applicant; (ii) partners, if the applicant is a partnership; (iii)
99 members, if the applicant is a limited liability company or association;
100 or (iv) officers, directors and principal employees, if the applicant is a
101 corporation, and (B) sufficient information pertaining to the history of
102 criminal convictions of such applicant, partners, members, officers,
103 directors or principal employees as the commissioner deems necessary
104 to make the findings under subsection (c) of this section, (3) a
105 nonrefundable license fee of one thousand dollars, and (4) a
106 nonrefundable investigation fee of eight hundred dollars. The
107 commissioner, in accordance with section 29-17a of the general
108 statutes, may conduct a state and national criminal history records

109 check of the applicant and of each partner, member, officer, director
110 and principal employee of such applicant.

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

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

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

121 (3) (A) If the applicant is an individual, such individual is in all
122 respects properly qualified and of good character, (B) if the applicant is
123 a partnership, each partner is in all respects properly qualified and of
124 good character, (C) if the applicant is a corporation or association, the
125 president, chairperson of the executive committee, senior officer
126 responsible for the corporation's business and chief financial officer or
127 any other person who performs similar functions as determined by the
128 commissioner, each director, each trustee and each shareholder
129 owning ten per cent or more of each class of the securities of such
130 corporation is in all respects properly qualified and of good character,
131 or (D) if the applicant is a limited liability company, each member is in
132 all respects properly qualified and of good character;

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

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

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

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

144 (d) A license issued pursuant to subsection (c) of this section shall
145 expire at the close of business on September thirtieth of the odd-
146 numbered year following its issuance, unless renewed or earlier
147 surrendered, suspended or revoked pursuant to sections 2 to 10,
148 inclusive, of this act. Not later than fifteen days after a licensee ceases
149 to engage in the business of student loan servicing in this state for any
150 reason, including a business decision to terminate operations in this
151 state, license revocation, bankruptcy or voluntary dissolution, such
152 licensee shall provide written notice of surrender to the commissioner
153 and shall surrender to the commissioner its license for each location in
154 which such licensee has ceased to engage in such business. The written
155 notice of surrender shall identify the location where the records of the
156 licensee will be stored and the name, address and telephone number of
157 an individual authorized to provide access to the records. The
158 surrender of a license does not reduce or eliminate the licensee's civil
159 or criminal liability arising from acts or omissions occurring prior to
160 the surrender of the license, including any administrative actions
161 undertaken by the commissioner to revoke or suspend a license, assess
162 a civil penalty, order restitution or exercise any other authority
163 provided to the commissioner.

164 (e) A license may be renewed for the ensuing twenty-four-month
165 period upon the filing of an application containing all required
166 documents and fees as provided in subsection (b) of this section. Such
167 renewal application shall be filed on or before September first of the
168 year in which the license expires. Any renewal application filed with
169 the commissioner after September first shall be accompanied by a one-
170 hundred-dollar late fee and any such filing shall be deemed to be
171 timely and sufficient for purposes of subsection (b) of section 4-182 of
172 the general statutes. If an application for a renewal license has been

173 filed with the commissioner on or before the date the license expires,
174 the license sought to be renewed shall continue in full force and effect
175 until the issuance by the commissioner of the renewal license applied
176 for or until the commissioner has notified the licensee in writing of the
177 commissioner's refusal to issue such renewal license together with the
178 grounds upon which such refusal is based. The commissioner may
179 refuse to issue a renewal license on any ground on which the
180 commissioner might refuse to issue an initial license.

181 (f) If the commissioner determines that a check filed with the
182 commissioner to pay a license or renewal fee has been dishonored, the
183 commissioner shall automatically suspend the license or the renewal
184 license that has been issued but is not yet effective. The commissioner
185 shall give the licensee notice of the automatic suspension pending
186 proceedings for revocation or refusal to renew and an opportunity for
187 a hearing on such actions in accordance with section 36a-51 of the
188 general statutes.

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

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

206 application for a license under the provisions of sections 2 to 10,
207 inclusive, of this act.

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

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

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

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

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

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

244 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

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

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

268 examinations as follows:

269 (1) For purposes of initial licensing, license renewal, license
270 suspension, license revocation or termination, or general or specific
271 inquiry or investigation to determine compliance with sections 2 to 10,
272 inclusive, of this act, the commissioner may access, receive and use any
273 books, accounts, records, files, documents, information or evidence
274 including, but not limited to, (A) criminal, civil and administrative
275 history information; (B) personal history and experience information,
276 including independent credit reports obtained from a consumer
277 reporting agency described in Section 603(p) of the Fair Credit
278 Reporting Act, 15 USC 1681a; and (C) any other documents,
279 information or evidence the commissioner deems relevant to the
280 inquiry or investigation regardless of the location, possession, control
281 or custody of such documents, information or evidence.

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

293 (b) In making any examination or investigation authorized by this
294 section, the commissioner may control access to any documents and
295 records of the student loan servicer licensee or person under
296 examination or investigation. The commissioner may take possession
297 of the documents and records or place a person in exclusive charge of
298 the documents and records in the place where they are usually kept.
299 During the period of control, no person shall remove or attempt to
300 remove any of the documents and records except pursuant to a court

301 order or with the consent of the commissioner. Unless the
302 commissioner has reasonable grounds to believe the documents or
303 records of the student loan servicer licensee or person have been, or
304 are at risk of being, altered or destroyed for purposes of concealing a
305 violation of sections 2 to 10, inclusive, of this act, the student loan
306 servicer licensee or owner of the documents and records shall have
307 access to the documents or records as necessary to conduct its ordinary
308 business affairs.

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

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

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

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

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

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

331 (d) The authority of this section shall remain in effect, whether such

332 student loan servicer licensee or person subject to sections 2 to 10,
333 inclusive, of this act, acts or claims to act under any licensing or
334 registration law of this state, or claims to act without such authority.

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

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

351 (b) Whenever it appears to the commissioner that any person has
352 violated, is violating or is about to violate any of the provisions of
353 sections 2 to 10, inclusive, of this act, or any regulation adopted
354 pursuant to said sections, or any licensee or any owner, director,
355 officer, member, partner, shareholder, trustee, employee or agent of
356 such licensee has committed any fraud, engaged in dishonest activities
357 or made any misrepresentation, the commissioner may take action
358 against such person or licensee in accordance with sections 36a-50 and
359 36a-52 of the general statutes.

360 Sec. 9. (NEW) (*Effective July 1, 2016*) A student loan servicer shall
361 comply with all applicable federal laws and regulations relating to
362 student loan servicing, including, but not limited to, the Truth-in-
363 Lending Act, 15 USC Section 1601 et seq., as from time to time
364 amended, and the regulations promulgated thereunder. In addition to

365 any other remedies provided by law, a violation of any such federal
 366 law or regulation shall be deemed a violation of this section and a basis
 367 upon which the commissioner may take enforcement action pursuant
 368 to section 8 of this act.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>July 1, 2016</i>	New section
Sec. 4	<i>July 1, 2016</i>	New section
Sec. 5	<i>July 1, 2016</i>	New section
Sec. 6	<i>July 1, 2016</i>	New section
Sec. 7	<i>July 1, 2016</i>	New section
Sec. 8	<i>July 1, 2016</i>	New section
Sec. 9	<i>July 1, 2016</i>	New section
Sec. 10	<i>July 1, 2016</i>	New section

Statement of Legislative Commissioners:

In Section 1(e), "creation and" was deleted for conciseness. In Section 6, "student loan" was changed to "student education loan", "borrower" was changed to "student loan borrower", and "loan servicer" was changed to "student loan servicer".

BA Joint Favorable Subst. -LCO

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Banking Dept.	BF - See Below	See Below	See Below

BF=Banking Fund

Municipal Impact: None

Explanation

The bill creates a new student loan ombudsman position in the Banking Department, establishes the ombudsman's duties and requires the implementation and maintenance of a student loan borrowers education course. The associated costs are shown below:

Student Loan Ombudsman Related Costs		
	FY 16 \$	FY 17 \$
Ombudsman salary	91,000	95,095
Fringe Benefit Costs ¹	75,466	78,862
Course Development	-	25,000
Total	166,466	198,957

An Ombudsperson position and fringe benefits result in an estimated cost of \$166,466 in FY 16 and \$198,957 in FY 17. The student loan education course required in FY 17 is anticipated to cost \$25,000 based on previous Department of Education curriculum development and printing costs.

The bill allocates up to \$500,000 of annual licensing fees from all

¹The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, as opposed to the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 82.91% of payroll in FY 16 and FY 17.

nondepository financial institutions for use by the department in implementing the provisions of the bill described above. The bill does not authorize the Banking Department to expend the licensing fee funds therefore it is uncertain how monies will be used for the student loan ombudsman. To the extent that \$500,000 is provided from annual licensing fees from all nondepository financial institutions, annual Banking Fund revenue will be decreased by \$500,000.

The bill expands the scope of services subject to Banking Department licensure to student loan servicers in FY 17. While the number of student loan servicers subject to licensure is not known, it is expected to range from 20 to 50 student loan servicers. Banking Fund revenue from student loan servicers is estimated to range from \$36,000 to \$90,000 from biennial licensure (\$1,000) and initial investigation (\$800) fees in FY 17. It is anticipated that the department's additional licensure and enforcement responsibilities will not result in a fiscal impact .

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of initial and renewal licenses issued.

OLR Bill Analysis**sHB 6915*****AN ACT CONCERNING A STUDENT LOAN BILL OF RIGHTS.*****SUMMARY:**

This bill requires the Banking Commissioner to create a new position in the Banking Department, a student loan borrower ombudsman, to provide timely assistance to "student loan borrowers" (borrowers). It establishes the ombudsman's duties and requires him or her, in consultation with the commissioner, to implement and maintain a prescribed student loan borrower education course.

The bill also requires the commissioner to allocate \$500,000 from certain licensing fees to fund the implementation of the new position and the education course (see COMMENT).

It establishes licensure requirements and standards of conduct for student loan servicers and specifies the scope of services subject to licensure.

The bill provides the commissioner with authority to conduct investigations and examinations and take enforcement action against violators. He must also report annually, starting by January 1, 2016, to the Banking and Higher Education Committees on, among other things, the overall effectiveness of the ombudsman position.

EFFECTIVE DATE: July 1, 2016, except the sections on the implementation of the ombudsman position and the definitions are effective October 1, 2015.

§ 2 – DEFINITIONS

Under the bill, a "student loan borrower" is (1) any Connecticut resident who has received or agreed to pay a student education loan;

or (2) anyone who shares repayment responsibility with such resident.

The bill defines "student education loan" as any loan used mainly for financing education or other school-related expenses.

Under the bill, "student loan servicer" means any person, regardless of location, who is responsible for servicing any student education loan to any student loan borrower.

With regard to a student education loan, "servicing" means:

1. receiving scheduled periodic payments from a student loan borrower according to the terms of a student education loan,
2. applying the payments according to the loan terms, and
3. performing other administrative services.

§ 1 – STUDENT LOAN OMBUDSMAN POSITION

General Duties

Under the bill, the ombudsman, in consultation with the commissioner, must:

1. receive and review complaints from borrowers;
2. attempt to resolve such complaints, including doing so in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending, including the University of Connecticut, the Board of Regents for Higher Education, the Office of Higher Education, or the Connecticut Higher Education Supplemental Loan Authority;
3. compile and analyze complaints data;
4. help borrowers understand their rights and responsibilities under the terms of student education loans;
5. provide information to the public, agencies, legislators, and others about borrowers' problems and concerns, and make

-
- recommendations for resolving those problems and concerns;
6. analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies regarding borrowers and recommend necessary changes;
 7. review the loan history for borrowers who give written consent;
 8. disseminate information about his or her availability to those with servicing concerns, such as borrowers, potential borrowers, state higher education institutions, and student loan servers; and
 9. take any other actions necessary to fulfill his or her duties.

(The ombudsman's duties that pertain to student loan servicers are effective October 1, 2015. However, the student loan servicers' licensure requirements do not become effective until July 1, 2016.)

Student Loan Borrower Education Course

The bill requires the ombudsman, in consultation with the commissioner, to establish and maintain a student loan borrower education course by October 1, 2016. The course must include educational presentations and materials about student education loans. It must cover key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements.

Funding

Under the bill, the department must allocate a maximum of \$500,000 of the annual licensing fees from financial institutions that are not banks or savings associations (i.e., nondepository financial institutions), to establish the ombudsman position and develop the education course (see COMMENT).

§§ 3-6 AND 9 – STUDENT LOAN SERVICER

§ 3 – Licensure

The bill generally requires any person acting as a student loan servicer, to obtain a license from the commissioner. (Under the bill, the licensing requirements are not effective until July 1, 2016.)

Exemptions. The bill exempts the following from the student loan servicer licensing requirements:

1. any bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union;
2. any wholly-owned subsidiary of any such bank or credit union;
and
3. any operating subsidiary where each owner of such operating subsidiary is wholly-owned by the same bank or credit union.

Application. An applicant for a student loan servicer license must file a written application form, prescribed by the commissioner, along with:

1. a \$1,000 nonrefundable license fee;
2. a notarized financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is attested to by someone authorized to execute such documents;
3. information related to any administrative, civil, or criminal findings by any governmental jurisdiction against the applicant;
and
4. an \$800 nonrefundable investigation fee.

The bill allows the commissioner to conduct a state and national criminal history records check of the applicant and each partner, member, officer, director, and principal employee of such applicant.

Under the bill, the commissioner, upon receipt of the application and the fees, must investigate the applicant's (1) financial condition and responsibility, (2) financial and business experience, and (3)

character and general fitness.

The bill allows the commissioner to issue a student loan servicer license if he finds that the:

1. applicant's financial condition is sound;
2. business will be conducted honestly, fairly, equitably, carefully, efficiently, and consistent with the purposes of the law;
3. applicant and the applicant's control persons (e.g., partner or senior executive) are qualified and of good character;
4. no one on behalf of the applicant has made a material misstatement or omission in the application; and
5. other similar requirements determined by the commissioner.

License Expiration and Surrender. A student loan servicer license expires at the close of business on September 30 of the odd-numbered year following its issuance, unless it was renewed, surrendered, suspended, or revoked.

Within 15 days after a licensee stops engaging, for any reason, in student loan servicing in any location in the state, such licensee must (1) surrender its license for such location and (2) notify the commissioner in writing. The bill requires the written surrender notice to identify the location where the licensee's records will be stored and the name, address and telephone number of an individual authorized to provide access to the records. Under the bill, a license surrender does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the license surrender.

License Renewal. Under the bill, a student loan servicer license may be renewed after the 24-month period following the initial application filing. The renewal application must be filed on or before September 1 of the year in which the license expires. Any renewal application filed after that date must include a \$100 late fee and any

such filing is deemed to be timely and sufficient.

If a license renewal application is filed on or before the license expiration date, it remains effective until the commissioner (1) issues the renewal license or (2) notifies the licensee in writing of his refusal to renew the license, including the grounds for denial. The commissioner may refuse to renew a license for the same reasons he may deny an initial license application.

Automatic Suspension. The commissioner may automatically suspend the license or the renewal license if payment of the required fees is returned or not accepted. The commissioner must give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew and an opportunity for a hearing set out in law.

Information Update. Under the bill, an applicant or licensee must notify the commissioner, in writing, of any change in the information provided in its initial license application or its most recent license renewal application, as applicable, within 10 business days after the information changed.

Abandoned Application. The bill allows the commissioner to deem an application abandoned if the applicant fails to respond to any request for information required by law. The commissioner must notify the applicant, in writing, that if the information is not submitted within 60 days from the request date, the application will be deemed abandoned. Application fees for abandoned applications must not be refunded. However, the bill allows the applicant to submit a new application with another fee.

§ 4 – Name and Location

A student loan servicer licensee must use the name and business address stated in its license. The licensee must (1) maintain one place of business under the license and (2) notify the commissioner, in writing, of any location change. The bill allows the commissioner to issue more than one license to a compliant licensee. A license is not

transferable or assignable.

§ 5 – Records Retention

Student loan servicer licensees, as well as persons exempt from licensure, must maintain adequate records of each student education loan transaction for (1) at least two years following the final payment on the loan or the assignment of such loan, whichever occurs first, or (2) a longer period as required under law.

Under the bill, if requested by the commissioner, a student loan servicer must make such records available or send them to the commissioner within five business days of the request. The commissioner may allow additional time, if requested. The records must be sent by (1) registered or certified mail, return receipt requested, or (2) any express delivery carrier that provides a dated delivery receipt.

§ 9 – Compliance with Federal law

A student loan servicer must comply with all applicable federal laws and regulations, including the federal Truth-in-Lending Act and its implementing regulations. The bill (1) considers a violation of any such federal law or regulation to be a violation of its provisions and (2) authorizes the commissioner to take enforcement action against any violator, in addition to any other remedies available under the law.

§ 6 – Prohibited Practices

The bill prohibits a student loan servicer from:

1. employing, directly or indirectly, any scheme, device, or artifice to defraud or mislead borrowers;
2. engaging in any unfair or deceptive practice toward any person or misrepresenting or omitting any material information in connection with the servicing of a student education loan, including any fees on payments due;
3. obtaining property by fraud or misrepresentation;

4. knowingly misapplying or recklessly applying student education loan payments to the outstanding balance of a student education loan;
5. knowingly or recklessly providing inaccurate information to a credit bureau, causing harm to a borrower's creditworthiness;
6. failing to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to a credit bureau;
7. refusing to communicate with an authorized representative of the borrower who provides a written authorization signed by the borrower (the student loan servicer is allowed to adopt procedures to verify that the representative is authorized to act on behalf of the borrower); and
8. negligently making any false statement or knowingly and willfully omitting a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the commissioner or another government agency.

§§ 7-10 – COMMISSIONER’S OVERSIGHT AND AUTHORITY

§ 7 – *Investigation and Examination*

The bill allows the commissioner to conduct investigations and examinations for purposes of initial licensing, license renewal, license suspension, license revocation or termination, or any general or specific inquiry or investigation to determine compliance with the law.

It requires the commissioner to have full access to any books, accounts, records, files, documents, information, or evidence relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence. These include the applicant’s criminal, civil, administrative, personal, and credit history. The bill allows the commissioner to direct, subpoena, or

order the attendance of and examine under oath any person whose testimony may be required or any books, accounts, records, files, or documents he deems relevant.

The commissioner may (1) control access to any documents and records of the student loan servicer licensee or person under examination or investigation and (2) 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. The bill prohibits the removal or attempted removal of any of the documents and records during the control period, except by court order or with the commissioner's consent. The student loan servicer licensee or owner of the documents and records must have access to the documents or records as needed to conduct its ordinary business affairs, unless the commissioner has reason to believe that the documents or records risk being altered or destroyed.

Under the bill, the commissioner may:

1. retain attorneys, accountants, 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 his authority;
3. use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the student loan servicer licensee;
4. accept and rely on examination or investigation reports made by other government officials; and
5. accept audit reports made by an independent certified public

accountant for the student loan servicer licensee in the course of the part of the examination covering the same general subject matter as the audit, and incorporate the audit report in the commissioner's report of examination, report of investigation, or other writing.

A student loan servicer licensee or person subject to investigation or examination under this bill may not knowingly withhold, abstract, remove, mutilate, destroy, or hide any books, records, computer records, or other information.

§§ 8-10 – Enforcement

The commissioner may suspend, revoke, or refuse to renew any student loan servicer license or take any other action for any reason that would be sufficient grounds for him to deny an application for the license. If the license is surrendered, revoked, or suspended before it expires, the commissioner may not refund any portion of the license fee.

The commissioner may take any action allowed under state banking laws against any person whenever it appears to him that the person has violated, is violating, or is about to violate the law. By law such actions include sending notice of a violation after holding an investigation, offering a hearing on the matter, imposing civil penalties up to \$100,000 per violation, issuing orders of restitution, and other actions.

The bill requires the commissioner to adopt implementing regulations.

§ 1 – COMMISSIONER'S REPORTING

The commissioner must report annually, starting by January 1, 2016, to the Banking and Higher Education Committees on:

1. the implementation of the ombudsman position and the borrower education course,

2. the overall effectiveness of the ombudsman position, and
3. additional steps needed for the department to gain regulatory control over the licensing and oversight of student loan servicers.

COMMENT

Funding

The bill does not establish an account for the commissioner to use for the funding allocated from the fees that will pay for the Student Loan Ombudsman position and the development of the student loan borrower education course.

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 17 Nay 0 (03/10/2015)