



House of Representatives

File No. 721

General Assembly

January Session, 2015

(Reprint of File No. 237)

Substitute House Bill No. 6915
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 16, 2015

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, within available appropriations, designate a
3 Student Loan Ombudsman within the Department of Banking to
4 provide timely assistance to any student loan borrower, as defined in
5 section 2 of this act, of any student education loan, as defined in
6 section 2 of this act.

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

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

- 16 Higher Education Supplemental Loan Authority;
- 17 (2) Compile and analyze data on student loan borrower complaints
18 as described in subdivision (1) of this subsection;
- 19 (3) Assist student loan borrowers to understand their rights and
20 responsibilities under the terms of student education loans;
- 21 (4) Provide information to the public, agencies, legislators and
22 others regarding the problems and concerns of student loan borrowers
23 and make recommendations for resolving those problems and
24 concerns;
- 25 (5) Analyze and monitor the development and implementation of
26 federal, state and local laws, regulations and policies relating to
27 student loan borrowers and recommend any changes the Student Loan
28 Ombudsman deems necessary;
- 29 (6) Review the complete student education loan history for any
30 student loan borrower who has provided written consent for such
31 review;
- 32 (7) Disseminate information concerning the availability of the
33 Student Loan Ombudsman to assist student loan borrowers and
34 potential student loan borrowers, as well as public institutions of
35 higher education, student loan servicers and any other participant in
36 student education loan lending, with any student loan servicing
37 concerns; and
- 38 (8) Take any other actions necessary to fulfill the duties of the
39 Student Loan Ombudsman as set forth in this subsection.
- 40 (c) On or before October 1, 2016, the Student Loan Ombudsman, in
41 consultation with the commissioner, shall, within available
42 appropriations, establish and maintain a student loan borrower
43 education course that shall include educational presentations and
44 materials regarding student education loans. Such program shall
45 include, but not be limited to, key loan terms, documentation

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

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

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

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

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

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

74 (2) "Student loan servicer" means any person, wherever located,
75 responsible for the servicing of any student education loan to any
76 student loan borrower.

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

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

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

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

97 (b) Any person seeking to act within this state as a student loan
98 servicer shall make a written application to the commissioner for an
99 initial license in such form as the commissioner prescribes. Such
100 application shall be accompanied by (1) a financial statement prepared
101 by a certified public accountant or a public accountant, the accuracy of
102 which is sworn to under oath before a notary public by the proprietor,
103 a general partner or a corporate officer or a member duly authorized to
104 execute such documents, (2) (A) the history of criminal convictions of
105 the (i) applicant; (ii) partners, if the applicant is a partnership; (iii)
106 members, if the applicant is a limited liability company or association;
107 or (iv) officers, directors and principal employees, if the applicant is a
108 corporation, and (B) sufficient information pertaining to the history of

109 criminal convictions of such applicant, partners, members, officers,
110 directors or principal employees as the commissioner deems necessary
111 to make the findings under subsection (c) of this section, (3) a
112 nonrefundable license fee of one thousand dollars, and (4) a
113 nonrefundable investigation fee of eight hundred dollars. The
114 commissioner, in accordance with section 29-17a of the general
115 statutes, may conduct a state and national criminal history records
116 check of the applicant and of each partner, member, officer, director
117 and principal employee of such applicant.

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

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

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

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

140 (4) No person on behalf of the applicant knowingly has made any

141 incorrect statement of a material fact in the application, or in any
142 report or statement made pursuant to sections 2 to 10, inclusive, of this
143 act;

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

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

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

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

171 (e) A license may be renewed for the ensuing twenty-four-month
172 period upon the filing of an application containing all required

173 documents and fees as provided in subsection (b) of this section. Such
174 renewal application shall be filed on or before September first of the
175 year in which the license expires. Any renewal application filed with
176 the commissioner after September first shall be accompanied by a one-
177 hundred-dollar late fee and any such filing shall be deemed to be
178 timely and sufficient for purposes of subsection (b) of section 4-182 of
179 the general statutes. If an application for a renewal license has been
180 filed with the commissioner on or before the date the license expires,
181 the license sought to be renewed shall continue in full force and effect
182 until the issuance by the commissioner of the renewal license applied
183 for or until the commissioner has notified the licensee in writing of the
184 commissioner's refusal to issue such renewal license together with the
185 grounds upon which such refusal is based. The commissioner may
186 refuse to issue a renewal license on any ground on which the
187 commissioner might refuse to issue an initial license.

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

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

202 (h) The commissioner may deem an application for a license
203 abandoned if the applicant fails to respond to any request for
204 information required under sections 2 to 10, inclusive, of this act, or
205 any regulations adopted pursuant to said sections. The commissioner

206 shall notify the applicant, in writing, that if the applicant fails to
207 submit such information not later than sixty days after the date on
208 which such request for information was made, the application shall be
209 deemed abandoned. An application filing fee paid prior to the date an
210 application is deemed abandoned pursuant to this subsection shall not
211 be refunded. Abandonment of an application pursuant to this
212 subsection shall not preclude the applicant from submitting a new
213 application for a license under the provisions of sections 2 to 10,
214 inclusive, of this act.

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

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

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

239 licensee additional time to make such records available or send the
240 records to the commissioner.

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

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

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

251 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

267 (8) Negligently make any false statement or knowingly and wilfully

268 make any omission of a material fact in connection with any
269 information or reports filed with a governmental agency or in
270 connection with any investigation conducted by the Banking
271 Commissioner or another governmental agency.

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

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

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

300 (b) In making any examination or investigation authorized by this
301 section, the commissioner may control access to any documents and
302 records of the student loan servicer licensee or person under
303 examination or investigation. The commissioner may take possession
304 of the documents and records or place a person in exclusive charge of
305 the documents and records in the place where they are usually kept.
306 During the period of control, no person shall remove or attempt to
307 remove any of the documents and records except pursuant to a court
308 order or with the consent of the commissioner. Unless the
309 commissioner has reasonable grounds to believe the documents or
310 records of the student loan servicer licensee or person have been, or
311 are at risk of being, altered or destroyed for purposes of concealing a
312 violation of sections 2 to 10, inclusive, of this act, the student loan
313 servicer licensee or owner of the documents and records shall have
314 access to the documents or records as necessary to conduct its ordinary
315 business affairs.

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

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

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

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

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

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

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

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

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

358 (b) Whenever it appears to the commissioner that any person has
359 violated, is violating or is about to violate any of the provisions of
360 sections 2 to 10, inclusive, of this act, or any regulation adopted
361 pursuant to said sections, or any licensee or any owner, director,
362 officer, member, partner, shareholder, trustee, employee or agent of
363 such licensee has committed any fraud, engaged in dishonest activities

364 or made any misrepresentation, the commissioner may take action
 365 against such person or licensee in accordance with sections 36a-50 and
 366 36a-52 of the general statutes.

367 Sec. 9. (NEW) (*Effective July 1, 2016*) A student loan servicer shall
 368 comply with all applicable federal laws and regulations relating to
 369 student loan servicing, including, but not limited to, the Truth-in-
 370 Lending Act, 15 USC Section 1601 et seq., as from time to time
 371 amended, and the regulations promulgated thereunder. In addition to
 372 any other remedies provided by law, a violation of any such federal
 373 law or regulation shall be deemed a violation of this section and a basis
 374 upon which the commissioner may take enforcement action pursuant
 375 to section 8 of this act.

376 Sec. 10. (NEW) (*Effective July 1, 2016*) The Banking Commissioner
 377 shall adopt such regulations, in accordance with chapter 54 of the
 378 general statutes, to implement the provisions of this section and
 379 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

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 - Potential Cost	See Below	See Below
Banking Dept.	BF (Student Loan Ombudsman account) - Revenue Gain	None	36,000 - 90,000

Note: 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 borrower's education course.

The bill requires that the above be provided within available appropriations. It does not appear that this mandates that the agency perform the activity regardless of available funding, therefore the potential costs are described below.

Student Loan Ombudsman Related Costs		
	FY 16 \$	FY 17 \$
Ombudsman salary	91,000	95,095
Fringe Benefit Costs ¹	75,466	78,862

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.

Course Development	-	25,000
Total	166,466	198,957

An Ombudsman 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 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 bill establishes a separate nonlapsing student loan ombudsman account within the Banking Fund. Beginning in FY 17, fees from the licensure of student loan servicers will be deposited in the account and used to pay for the administration of the student loan ombudsman duties and responsibilities. The amount estimated to be deposited in FY 17 ranges from \$36,000 to \$90,000 as described above.

It should be noted that while the bill establishes the ombudsman position in FY 16, the revenue from the licensing fees does not start until FY 17. Further, in FY 17 the ombudsman costs are higher than the anticipated licensing fee revenue. Therefore, in FY 16 the agency may either: 1) not hire an ombudsman until the nonlapsing student loan ombudsman account has sufficient funding, or 2) utilize existing agency Personal Services funding, if available.

House "A" strikes the underlying bill and its associated fiscal

impact and results in the impact described above.

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.

Sources: Core-CT Financial Accounting System

OLR Bill Analysis**sHB 6915 (as amended by House "A")******AN ACT CONCERNING A STUDENT LOAN BILL OF RIGHTS.*****SUMMARY:**

This bill requires the banking commissioner, within available appropriations, 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, within available appropriations, to implement and maintain a prescribed student loan borrower education course.

It also establishes a separate non-lapsing account, within the Banking Fund, called the student loan ombudsman account to be funded by student loan servicers' licensing and investigation fees and any other money required by law. The bill authorizes the commissioner to use the money in the account to implement the ombudsman position and the education course.

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

The bill authorizes the commissioner 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.

*House Amendment "A" replaces the underlying bill with similar provisions. In doing so, the amendment eliminates the requirement

for the commissioner to allocate \$500,000 of nondepository financial institutions' licensing fees to fund the implementation of the ombudsman position and the education course. Instead, it (1) establishes, within the Banking Fund, a "student loan ombudsman account" to be funded by student loan servicers' licensing and investigation fees and any other money required by law and (2) authorizes the commissioner to use the money in the new account to implement the position and course within available appropriations.

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, Board of Regents for Higher Education, Office of Higher Education, or 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, within available appropriations, to establish and

maintain a student loan borrower education course by October 1, 2016. The course must include educational presentations and material about student education loans. It must cover key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements.

§§ 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 is wholly owned by the same bank or credit union.

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

1. a \$1,000 nonrefundable license fee;
2. an \$800 nonrefundable investigation fee;
3. 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; and
4. information on any administrative, civil, or criminal findings by any government jurisdiction against the applicant.

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:

1. the applicant's financial condition is sound;
2. the business will be conducted honestly, fairly, equitably, carefully, efficiently, and consistent with the law's purposes;
3. the 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. the applicant meets 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 anywhere 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 before 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 – Record 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 government 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.

COMMITTEE ACTION

Banking Committee

Joint Favorable
Yea 17 Nay 0 (03/10/2015)