



General Assembly

January Session, 2015

Raised Bill No. 6915

LCO No. 4234



Referred to Committee on BANKING

Introduced by:
(BA)

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 creation and
60 implementation of this 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 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 loan, the terms and conditions of
242 the loan agreement or the borrower's obligations under the loan;

243 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

257 (8) Negligently make any false statement or knowingly and wilfully
258 make any omission of a material fact in connection with any
259 information or reports filed with a governmental agency or in

260 connection with any investigation conducted by the Banking
261 Commissioner or another governmental agency.

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

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

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

290 (b) In making any examination or investigation authorized by this

291 section, the commissioner may control access to any documents and
292 records of the student loan servicer licensee or person under
293 examination or investigation. The commissioner may take possession
294 of the documents and records or place a person in exclusive charge of
295 the documents and records in the place where they are usually kept.
296 During the period of control, no person shall remove or attempt to
297 remove any of the documents and records except pursuant to a court
298 order or with the consent of the commissioner. Unless the
299 commissioner has reasonable grounds to believe the documents or
300 records of the student loan servicer licensee or person have been, or
301 are at risk of being, altered or destroyed for purposes of concealing a
302 violation of sections 2 to 10, inclusive, of this act, the student loan
303 servicer licensee or owner of the documents and records shall have
304 access to the documents or records as necessary to conduct its ordinary
305 business affairs.

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

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

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

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

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

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

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

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

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

348 (b) Whenever it appears to the commissioner that any person has
349 violated, is violating or is about to violate any of the provisions of
350 sections 2 to 10, inclusive, of this act, or any regulation adopted
351 pursuant to said sections, or any licensee or any owner, director,
352 officer, member, partner, shareholder, trustee, employee or agent of

353 such licensee has committed any fraud, engaged in dishonest activities
 354 or made any misrepresentation, the commissioner may take action
 355 against such person or licensee in accordance with sections 36a-50 and
 356 36a-52 of the general statutes.

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

366 Sec. 10. (NEW) (*Effective July 1, 2016*) The Banking Commissioner
 367 shall adopt such regulations, in accordance with chapter 54 of the
 368 general statutes, to implement the provisions of this section and
 369 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 Purpose:

To (1) ensure that borrowers who take on student loans have adequate resources at their disposal, and (2) regulate student loan servicers in Connecticut.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]