



General Assembly

**Substitute Bill No. 6915**

January Session, 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 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*