



General Assembly

Amendment

January Session, 2015

LCO No. 6170



Offered by:

REP. LESSER, 100th Dist.
SEN. WINFIELD, 10th Dist.
REP. SIMANSKI, 62nd Dist.
SEN. MARTIN, 31st Dist.

To: Subst. House Bill No. 6915

File No. 237

Cal. No. 168

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

11 (1) Receive, review and attempt to resolve any complaints from
12 student loan borrowers, including, but not limited to, attempts to

13 resolve such complaints in collaboration with institutions of higher
14 education, student loan servicers, as defined in section 2 of this act,
15 and any other participants in student loan lending, including, but not
16 limited to, The University of Connecticut, the Board of Regents for
17 Higher Education, the Office of Higher Education or the Connecticut
18 Higher Education Supplemental Loan Authority;

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

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

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

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

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

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

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

42 (c) On or before October 1, 2016, the Student Loan Ombudsman, in
43 consultation with the commissioner, shall, within available
44 appropriations, establish and maintain a student loan borrower
45 education course that shall include educational presentations and
46 materials regarding student education loans. Such program shall
47 include, but not be limited to, key loan terms, documentation
48 requirements, monthly payment obligations, income-based repayment
49 options, loan forgiveness and disclosure requirements.

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

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

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

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

72 (1) "Student loan borrower" means (A) any resident of this state who

73 has received or agreed to pay a student education loan; or (B) any
74 person who shares responsibility with such resident for repaying the
75 student education loan.

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

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

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

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

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

99 (b) Any person seeking to act within this state as a student loan
100 servicer shall make a written application to the commissioner for an
101 initial license in such form as the commissioner prescribes. Such
102 application shall be accompanied by (1) a financial statement prepared
103 by a certified public accountant or a public accountant, the accuracy of

104 which is sworn to under oath before a notary public by the proprietor,
105 a general partner or a corporate officer or a member duly authorized to
106 execute such documents, (2) (A) the history of criminal convictions of
107 the (i) applicant; (ii) partners, if the applicant is a partnership; (iii)
108 members, if the applicant is a limited liability company or association;
109 or (iv) officers, directors and principal employees, if the applicant is a
110 corporation, and (B) sufficient information pertaining to the history of
111 criminal convictions of such applicant, partners, members, officers,
112 directors or principal employees as the commissioner deems necessary
113 to make the findings under subsection (c) of this section, (3) a
114 nonrefundable license fee of one thousand dollars, and (4) a
115 nonrefundable investigation fee of eight hundred dollars. The
116 commissioner, in accordance with section 29-17a of the general
117 statutes, may conduct a state and national criminal history records
118 check of the applicant and of each partner, member, officer, director
119 and principal employee of such applicant.

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

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

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

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

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

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

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

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

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

153 (d) A license issued pursuant to subsection (c) of this section shall
154 expire at the close of business on September thirtieth of the odd-
155 numbered year following its issuance, unless renewed or earlier
156 surrendered, suspended or revoked pursuant to sections 2 to 10,
157 inclusive, of this act. Not later than fifteen days after a licensee ceases
158 to engage in the business of student loan servicing in this state for any
159 reason, including a business decision to terminate operations in this
160 state, license revocation, bankruptcy or voluntary dissolution, such
161 licensee shall provide written notice of surrender to the commissioner
162 and shall surrender to the commissioner its license for each location in
163 which such licensee has ceased to engage in such business. The written
164 notice of surrender shall identify the location where the records of the
165 licensee will be stored and the name, address and telephone number of
166 an individual authorized to provide access to the records. The

167 surrender of a license does not reduce or eliminate the licensee's civil
168 or criminal liability arising from acts or omissions occurring prior to
169 the surrender of the license, including any administrative actions
170 undertaken by the commissioner to revoke or suspend a license, assess
171 a civil penalty, order restitution or exercise any other authority
172 provided to the commissioner.

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

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

198 (g) The applicant or licensee shall notify the commissioner, in
199 writing, of any change in the information provided in its initial

200 application for a license or its most recent renewal application for such
201 license, as applicable, not later than ten business days after the
202 occurrence of the event that results in such information becoming
203 inaccurate.

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

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

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

233 first, or such longer period as may be required by any other provision
234 of law.

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

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

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

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

253 (3) Obtain property by fraud or misrepresentation;

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

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

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

262 regularly reports information to a credit bureau;

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

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

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

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

291 (2) For the purposes of investigating violations or complaints arising
292 under sections 2 to 10, inclusive, of this act or for the purposes of

293 examination, the commissioner may review, investigate or examine
294 any student loan servicer licensee or person subject to said sections as
295 often as necessary in order to carry out the purposes of said sections.
296 The commissioner may direct, subpoena or order the attendance of
297 and examine under oath all persons whose testimony may be required
298 about the student education loan or the business or subject matter of
299 any such examination or investigation, and may direct, subpoena or
300 order such person to produce books, accounts, records, files and any
301 other documents the commissioner deems relevant to the inquiry.

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

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

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

323 (2) Enter into agreements or relationships with other government
324 officials or regulatory associations in order to improve efficiencies and

325 reduce regulatory burden by sharing resources, standardized or
326 uniform methods or procedures, and documents, records, information
327 or evidence obtained under this section;

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

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

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

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

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

348 Sec. 8. (NEW) (*Effective July 1, 2016*) (a) The commissioner may
349 suspend, revoke or refuse to renew any license issued under the
350 provisions of subsection (c) of section 3 of this act, or take any other
351 action, in accordance with section 36a-51 of the general statutes, if the
352 commissioner finds that (1) the licensee has violated any provision of
353 sections 2 to 10, inclusive, of this act or any regulation or order
354 lawfully made pursuant to and within the authority of said sections, or
355 (2) any fact or condition exists which, if it had existed at the time of the

356 original application for the license, clearly would have warranted a
 357 denial of such license. No abatement of the license fee shall be made if
 358 the license is surrendered, revoked or suspended prior to the
 359 expiration of the period for which it was issued.

360 (b) Whenever it appears to the commissioner that any person has
 361 violated, is violating or is about to violate any of the provisions of
 362 sections 2 to 10, inclusive, of this act, or any regulation adopted
 363 pursuant to said sections, or any licensee or any owner, director,
 364 officer, member, partner, shareholder, trustee, employee or agent of
 365 such licensee has committed any fraud, engaged in dishonest activities
 366 or made any misrepresentation, the commissioner may take action
 367 against such person or licensee in accordance with sections 36a-50 and
 368 36a-52 of the general statutes.

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

378 Sec. 10. (NEW) (*Effective July 1, 2016*) The Banking Commissioner
 379 shall adopt such regulations, in accordance with chapter 54 of the
 380 general statutes, to implement the provisions of this section and
 381 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