



General Assembly

February Session, 2020

**Raised Bill No. 381**

LCO No. 2352



Referred to Committee on BANKING

Introduced by:  
(BA)

***AN ACT EXPANDING THE STUDENT LOAN BILL OF RIGHTS.***

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

1 Section 1. Section 36a-846 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 As used in this section, [and] sections 36a-847 to 36a-854, inclusive,  
4 and sections 3 and 4 of this act:

5 (1) "Advertise" or "advertising" has the same meaning as provided in  
6 section 36a-485;

7 (2) "Branch office" means a location other than the main office at  
8 which a licensee or any person on behalf of a licensee acts as a student  
9 loan servicer;

10 (3) "Consumer report" has the same meaning as provided in 15 USC  
11 1681a(d);

12 [(3)] (4) "Control person" has the same meaning as provided in section  
13 36a-485;

14 (5) "Cosigner" has the same meaning as provided in 15 USC 1650(a);

15 ~~[(4)]~~ (6) "Main office" has the same meaning as provided in section  
16 36a-485;

17 (7) "Person" means a natural person, corporation, limited liability  
18 company, trust, partnership, incorporated or unincorporated  
19 association, or any other legal entity;

20 (8) "Private education loan" has the same meaning as provided in 15  
21 USC 1650(a);

22 ~~[(5)]~~ (9) "Student loan borrower" means any individual who resides  
23 within this state who has agreed to repay a student education loan;

24 ~~[(6)]~~ (10) "Student loan servicer" means any person, wherever located,  
25 responsible for the servicing of any student education loan to any  
26 student loan borrower;

27 ~~[(7)]~~ (11) "Servicing" means (A) receiving any scheduled periodic  
28 payments from a student loan borrower pursuant to the terms of a  
29 student education loan [; (B)] and applying the payments of principal  
30 and interest and such other payments with respect to the amounts  
31 received from a student loan borrower, as may be required pursuant to  
32 the terms of a student education loan; (B) maintaining account records  
33 for and communicating with the student loan borrower concerning the  
34 student education loan during the period when no scheduled periodic  
35 payments are required; (C) interacting with a student loan borrower for  
36 purposes of facilitating that servicing of a student education loan,  
37 including, but not limited to, assisting a student loan borrower to  
38 prevent such borrower from defaulting on obligations arising from the  
39 student education loan; or [(C)] (D) performing other administrative  
40 services with respect to a student education loan;

41 ~~[(8)]~~ (12) "Student education loan" means any loan, including private  
42 education loans, primarily for personal use to finance education or other  
43 school-related expenses;

44 [(9)] (13) "Unique identifier" has the same meaning as provided in  
45 section 36a-485.

46 Sec. 2. Section 36a-850 of the general statutes is repealed and the  
47 following is substituted in lieu thereof (*Effective October 1, 2020*):

48 No person who is required to be licensed and who is subject to the  
49 provisions of sections 36a-846 to 36a-854, inclusive, as amended by this  
50 act, and no control person shall, directly or indirectly:

51 (1) Employ any scheme, device or artifice to defraud or mislead  
52 student loan borrowers;

53 (2) Engage in any unfair or deceptive practice toward any person or  
54 misrepresent or omit any material information in connection with the  
55 servicing of a student education loan, including, but not limited to,  
56 misrepresenting the amount, nature or terms of any fee or payment due  
57 or claimed to be due on a student education loan, the terms and  
58 conditions of the loan agreement or the borrower's obligations under the  
59 loan;

60 (3) Obtain property by fraud or misrepresentation;

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

63 (5) Knowingly or recklessly provide inaccurate information to a  
64 credit bureau, thereby harming a student loan borrower's  
65 creditworthiness;

66 (6) Fail to report both the favorable and unfavorable payment history  
67 of the student loan borrower to a nationally recognized consumer credit  
68 bureau at least annually if the student loan servicer licensee regularly  
69 reports information to a credit bureau;

70 (7) Refuse to communicate with an authorized representative of the  
71 student loan borrower who provides a written authorization signed by  
72 the student loan borrower, provided the student loan servicer licensee

73 may adopt procedures reasonably related to verifying that the  
74 representative is in fact authorized to act on behalf of the student loan  
75 borrower;

76 (8) Negligently make any false statement or knowingly and wilfully  
77 make any omission of a material fact in connection with any information  
78 or reports filed with a governmental agency or in connection with any  
79 investigation conducted by the commissioner or another governmental  
80 agency;

81 (9) Fail to establish, enforce and maintain policies and procedures for  
82 supervising employees, agents and office operations that are reasonably  
83 designed to achieve compliance with applicable student loan servicing  
84 laws and regulations; [or]

85 (10) Fail to comply with the service standards set by the  
86 commissioner in accordance with section 59 of public act 16-65; or

87 (11) Engage in an abusive act or practice, as described in Section 1031  
88 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,  
89 P.L. 111-203, as amended from time to time, when servicing a student  
90 education loan.

91 Sec. 3. (NEW) (*Effective October 1, 2020*) In servicing a private  
92 education loan, a student loan servicer shall:

93 (1) Prior to sending the first billing statement on a private education  
94 loan or immediately upon receipt of a private education loan following  
95 the transfer or assignment of such private education loan, provide to the  
96 student loan borrower and any cosigner of such private education loan  
97 information concerning the rights and responsibilities of such student  
98 loan borrower and cosigner, including information regarding (A) how  
99 such private education loan obligation will appear on the cosigner's  
100 consumer report, (B) how the cosigner will be notified if the private  
101 education loan becomes delinquent, including how the cosigner can  
102 cure the delinquency in order to avoid negative credit furnishing and  
103 loss of cosigner release eligibility, and (C) eligibility for release of the

104 cosigner's obligation on such private education loan, including number  
105 of on-time payments and any other criteria required to approve the  
106 release of the cosigner from the loan obligation;

107 (2) Send annual written notice to all student loan borrowers and  
108 cosigners relating to information about cosigner release, including the  
109 criteria the student loan servicer requires to approve the release of a  
110 cosigner from a private education loan obligation and the process for  
111 applying for cosigner release;

112 (3) Upon satisfaction by the student loan borrower of the applicable  
113 consecutive on-time payment requirement for purposes of cosigner  
114 release eligibility, send, in writing, such student loan borrower and  
115 cosigner (A) notification that such consecutive on-time payment  
116 requirement has been satisfied and that such cosigner may be eligible  
117 for cosigner release, and (B) information relating to the procedure for  
118 applying for cosigner release and any additional criteria that a cosigner  
119 must satisfy in order to be eligible for cosigner release. Such notification  
120 and information shall be sent by either United States mail or electronic  
121 mail, provided such student loan borrower has elected to receive  
122 electronic communications from the student loan servicer;

123 (4) In the event that an application for a cosigner release is  
124 incomplete, provide, in writing, (A) notice to the student loan borrower  
125 and cosigner that such application is incomplete, and (B) a description  
126 of the information that is missing or the additional information that is  
127 needed to consider the application complete and the date that such  
128 borrower or cosigner shall provide such information;

129 (5) Not later than thirty days following the submission of an  
130 application for cosigner release, send the student loan borrower and  
131 cosigner written notice of the decision that such application has been  
132 approved or denied. If the application for cosigner release has been  
133 denied, such written notice shall inform such student loan borrower and  
134 cosigner that such student loan borrower and cosigner have the right to  
135 request all documents and information used by the student loan servicer

136 in its decision to approve or deny such application, including the credit  
137 score threshold used by the student loan servicer, the consumer report  
138 of such student loan borrower or cosigner, the credit score of such  
139 student loan borrower or cosigner, and any other documents that are  
140 relevant or specific to such student loan borrower or cosigner. The  
141 student loan servicer shall provide such student loan borrower and  
142 cosigner with any adverse action notices required under federal law if  
143 the denial of such application was based in whole or in part on any  
144 information contained in a consumer report;

145 (6) Include the information described in subdivision (2) of this section  
146 in any response to an application for cosigner release;

147 (7) Refrain from imposing any restrictions on a student loan borrower  
148 or cosigner that may permanently prevent such student loan borrower  
149 or cosigner from qualifying for a cosigner release, including, but not  
150 limited to, restrictions on the number of times a student loan borrower  
151 or cosigner may apply for cosigner release;

152 (8) Refrain from imposing any negative consequences on a student  
153 loan borrower or cosigner during the sixty days following issuance of  
154 the notice described in subdivision (4) of this section, or until a final  
155 decision concerning a student loan borrower or cosigner's application  
156 for cosigner release is made. For purposes of this subdivision, "negative  
157 consequences" includes, but is not limited to, the imposition of  
158 additional eligibility criteria, negative credit reporting, lost eligibility for  
159 a cosigner release, late fees, interest capitalization or other financial  
160 penalties or injury;

161 (9) Refrain from requiring a student loan borrower to make more than  
162 twelve consecutive on-time payments as part of the eligibility criteria  
163 for cosigner release. Such student loan servicer shall consider any  
164 student loan borrower who has paid the equivalent of twelve-months of  
165 principal and interest during any twelve-month period to have satisfied  
166 the consecutive on-time payment requirement, even if such student loan  
167 borrower has not made payments monthly during such twelve month

168 period;

169 (10) Upon receipt of a request by a student loan borrower or cosigner  
170 to a change that results in restarting the count of consecutive on-time  
171 payments required for cosigner release eligibility, provide to such  
172 student loan borrower and cosigner written notification of the impact of  
173 such change on cosigner release eligibility and an opportunity to  
174 withdraw or reverse such change for purposes of avoiding such impact;

175 (11) Provide a student loan borrower or cosigner (A) the right to  
176 request an appeal of a determination to deny a cosigner release  
177 application, (B) an opportunity to submit additional information or  
178 documentation evidencing that such student loan borrower has the  
179 ability, willingness and stability to make his or her payment obligations,  
180 and (C) the right to request that a different employee of the student loan  
181 servicer review and make a determination on the application for a  
182 cosigner release;

183 (12) Establish and maintain a comprehensive record management  
184 system reasonably designed to ensure the accuracy, integrity and  
185 completeness of data and other information about cosigner release  
186 applications. Such system shall include the number of cosigner release  
187 applications received, the approval and denial rate of such applications  
188 and the primary reasons for denial of such applications;

189 (13) In the event that a cosigner has a total and permanent disability,  
190 as determined by any federal or state agency or doctor of medicine or  
191 osteopathy legally authorized to practice in the state, and unless  
192 otherwise expressly prohibited under the terms of a private education  
193 loan agreement, (A) release the cosigner from his or her obligation to  
194 repay the private education loan upon receipt of notification that such  
195 cosigner has a total and permanent disability, and (B) refrain from  
196 requiring that a new cosigner be added to such private education loan  
197 after the original cosigner has been released from such private education  
198 loan;

199 (14) Provide the cosigner of a private education loan with access to

200 the same documents and records associated with the private education  
201 loan that are available to the student loan borrower of such private  
202 education loan; and

203 (15) If a student loan borrower has electronic access to documents and  
204 records associated with a private education loan, provide equivalent  
205 electronic access to such documents and records to the cosigner of such  
206 private education loan.

207 Sec. 4. (NEW) (*Effective October 1, 2020*) (a) Any student loan  
208 borrower, class of student loan borrowers, or the legal representative of  
209 such borrower or borrowers aggrieved by a violation of sections 36a-846  
210 to 36a-854, inclusive, of the general statutes, as amended by this act, or  
211 section 3 of this act, by a student loan servicer, may bring an action in  
212 the Superior Court. Upon finding that a student loan servicer has  
213 committed a violation of said sections, the court may award a prevailing  
214 party actual damages, reasonable attorneys' fees and court costs, and  
215 may, in its discretion, award punitive damages and restitution of  
216 property and may provide such equitable relief as it deems necessary.

217 (b) In addition to the judicial relief permitted under subsection (a) of  
218 this section, in any civil action brought under this section in which the  
219 student loan borrower prevails, the court shall award treble damages  
220 upon a finding that the student loan servicer has engaged in conduct  
221 that substantially interferes with (1) such student loan borrower's right  
222 to an alternative payment arrangement, loan forgiveness, cancellation  
223 or discharge of the student education loan, or (2) any other financial  
224 benefit (A) established under the terms of such student loan borrower's  
225 promissory note, or (B) pursuant to the Higher Education Act of 1965,  
226 as amended from time to time, or the regulations adopted thereunder.

227 (c) Any student loan borrower, or the legal representative of such  
228 borrower, entitled to bring an action under subsection (a) of this section  
229 may, pursuant to rules established by the judges of the Superior Court,  
230 bring a class action on behalf of themselves and other similarly situated  
231 student loan borrowers to recover damages.

232 (d) The remedies provided under this section are in addition to any  
233 other remedies provided by state or federal law, and a student loan  
234 borrower shall not be required to exhaust any administrative remedies  
235 established pursuant to sections 36a-846 to 36a-854, inclusive, of the  
236 general statutes, as amended by this act, and section 3 of this act, prior  
237 to bringing an action under this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	36a-846
Sec. 2	<i>October 1, 2020</i>	36a-850
Sec. 3	<i>October 1, 2020</i>	New section
Sec. 4	<i>October 1, 2020</i>	New section

**Statement of Purpose:**

To provide additional protections for student loan borrowers and cosigners of private education loans and to create a cause of action against student loan servicers who engage in abusive acts or practices while servicing a student education loan.

*[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.]*