



General Assembly

January Session, 2021

Committee Bill No. 716

LCO No. 5521



Referred to Committee on HIGHER EDUCATION AND
EMPLOYMENT ADVANCEMENT

Introduced by:
(HED)

***AN ACT CONCERNING THE FEDERAL STUDENT LOAN
BORROWERS' BILL OF RIGHTS ACT OF 2019.***

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 Section 36a-846 of the general statutes is repealed and the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, 2021*):

3 As used in this section and sections 36a-847 to 36a-854, inclusive, and
4 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 Section
11 603(d) of the Fair Credit Reporting Act, 15 USC, 1681a, as amended from
12 time to time;

13 [(3)] (4) "Control person" has the same meaning as provided in section

14 36a-485;

15 (5) "Cosigner" has the same meaning as provided in 15 USC 1650(a),
16 as amended from time to time;

17 ~~[(4)]~~ (6) "Main office" has the same meaning as provided in section
18 36a-485;

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

22 (8) "Private education loan" has the same meaning as provided in 15
23 USC 1650(a), as amended from time to time;

24 ~~[(5)]~~ (9) "Student loan borrower" means any individual who resides
25 within this state who has agreed to repay a student education loan;

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

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

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

46 [(9)] (13) "Unique identifier" has the same meaning as provided in
47 section 36a-485.

48 Sec. 2. Section 36a-850 of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

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

62 (3) Obtain property by fraud or misrepresentation;

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

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

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

71 reports information to a credit bureau;

72 (7) Refuse to communicate with an authorized representative of the
73 student loan borrower who provides a written authorization signed by
74 the student loan borrower, provided the student loan servicer licensee
75 may adopt procedures reasonably related to verifying that the
76 representative is in fact authorized to act on behalf of the student loan
77 borrower;

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

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

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

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

93 Sec. 3. (NEW) (*Effective October 1, 2021*) In servicing a private
94 education loan, a student loan servicer shall:

95 (1) Prior to sending the first billing statement on a private education
96 loan or immediately upon receipt of a private education loan following
97 the transfer or assignment of such private education loan, provide to the
98 student loan borrower, and to any cosigner of such private education
99 loan, information concerning the rights and responsibilities of such
100 student loan borrower and cosigner, including information regarding

101 (A) how such private education loan obligation will appear on the
102 cosigner's consumer report, (B) how the cosigner will be notified if the
103 private education loan becomes delinquent, including how the cosigner
104 can cure the delinquency in order to avoid negative credit furnishing
105 and loss of cosigner release eligibility, and (C) eligibility for release of
106 the cosigner's obligation on such private education loan, including
107 number of on-time payments and any other criteria required to approve
108 the release of the cosigner from the loan obligation;

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

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

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

131 (5) Not later than thirty days following the submission of an
132 application for cosigner release, send to the student loan borrower and

133 cosigner a written notice of the decision that such application has been
134 approved or denied. If the application for cosigner release has been
135 denied, such written notice shall inform such student loan borrower and
136 cosigner that such student loan borrower and cosigner have the right to
137 request all documents and information used by the student loan servicer
138 in its decision to deny such application, including the credit score
139 threshold used by the student loan servicer, the consumer report of such
140 student loan borrower or cosigner, the credit score of such student loan
141 borrower or cosigner, and any other documents that are relevant or
142 specific to such student loan borrower or cosigner. The student loan
143 servicer shall provide such student loan borrower and cosigner with any
144 adverse action notices required under federal law if the denial of such
145 application was based in whole or in part on any information contained
146 in a consumer report;

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

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

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

163 (9) Refrain from requiring a student loan borrower to make more than
164 twelve consecutive on-time payments as part of the eligibility criteria

165 for cosigner release. Such student loan servicer shall consider any
166 student loan borrower who has paid the equivalent of twelve-months of
167 principal and interest during any twelve-month period to have satisfied
168 the consecutive on-time payment requirement, even if such student loan
169 borrower has not made payments monthly during such twelve-month
170 period;

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

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

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

191 (13) In the event that a cosigner has a total and permanent disability,
192 as determined by any federal or state agency or doctor of medicine or
193 osteopathy legally authorized to practice in the state, and unless
194 otherwise expressly prohibited under the terms of a private education
195 loan agreement, (A) release the cosigner from his or her obligation to
196 repay the private education loan upon receipt of notification that such

197 cosigner has a total and permanent disability, and (B) refrain from
198 requiring that a new cosigner be added to such private education loan
199 after the original cosigner has been released from such private education
200 loan;

201 (14) Provide the cosigner of a private education loan with access to
202 the same documents and records associated with the private education
203 loan that are available to the student loan borrower of such private
204 education loan; and

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	36a-846
Sec. 2	October 1, 2021	36a-850
Sec. 3	October 1, 2021	New section
Sec. 4	October 1, 2020	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.]

Co-Sponsors: SEN. LESSER, 9th Dist.

S.B. 716