



General Assembly

**Amendment**

January Session, 2021

LCO No. 10489



Offered by:

REP. ELLIOTT, 88<sup>th</sup> Dist.

REP. DOUCETTE, 13<sup>th</sup> Dist.

SEN. LESSER, 9<sup>th</sup> Dist.

To: Senate Bill No. 716

File No. 279

Cal. No. 559

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

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

3 "Section 1. Section 36a-846 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2021*):

5 As used in this section and sections 36a-847 to 36a-854, as amended  
6 by this act, and sections 3 and 4 of this act:

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

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

12 (3) "Consumer report" has the same meaning as provided in Section  
13 603(d) of the Fair Credit Reporting Act, 15 USC, 1681a, as amended from  
14 time to time;

15 ~~[(3)]~~ (4) "Control person" has the same meaning as provided in section  
16 36a-485;

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

19 (6) "Federal student education loan" means any student education  
20 loan (A) (i) made pursuant to the William D. Ford Federal Direct Loan  
21 Program, 20 USC 1087a, et seq., as amended from time to time, or (ii)  
22 purchased by the United States Department of Education pursuant to 20  
23 USC 1087i-1(a), as amended from time to time, and (B) owned by the  
24 United States Department of Education;

25 (7) "Federal student loan servicer" means any student loan servicer  
26 responsible for the servicing of a federal student education loan to a  
27 student loan borrower pursuant to a contract awarded to such person  
28 by the United States Department of Education under 20 USC 1087f, as  
29 amended from time to time;

30 ~~[(4)]~~ (8) "Main office" has the same meaning as provided in section  
31 36a-485;

32 (9) "Private student education loan" means any student education  
33 loan that is not a federal student education loan;

34 (10) "Private student education loan servicer" means any student loan  
35 servicer responsible for the servicing of a private student education loan  
36 to a student loan borrower;

37 ~~[(5)]~~ (11) "Student loan borrower" means any individual who resides  
38 within this state who has agreed to repay a student education loan;

39 ~~[(6)]~~ (12) "Student loan servicer" means any person, wherever located,  
40 responsible for the servicing of any student education loan to any

41 student loan borrower;

42 [(7)] (13) "Servicing" means (A) receiving any scheduled periodic  
43 payments from a student loan borrower pursuant to the terms of a  
44 student education loan; (B) applying the payments of principal and  
45 interest and such other payments with respect to the amounts received  
46 from a student loan borrower, as may be required pursuant to the terms  
47 of a student education loan; (C) maintaining account records for and  
48 communicating with the student loan borrower concerning the student  
49 education loan during the period when no scheduled periodic payments  
50 are required; (D) interacting with a student loan borrower for purposes  
51 of facilitating the servicing of a student education loan, including, but  
52 not limited to, assisting a student loan borrower to prevent such  
53 borrower from defaulting on obligations arising from the student  
54 education loan; or [(C)] (E) performing other administrative services  
55 with respect to a student education loan;

56 [(8)] (14) "Student education loan" means any loan primarily for  
57 personal use to finance education or other school-related expenses;

58 [(9)] (15) "Unique identifier" has the same meaning as provided in  
59 section 36a-485.

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

62 No [person who is required to be licensed and who is subject to the  
63 provisions of sections 36a-846 to 36a-854, inclusive,] student loan  
64 servicer and no control person of a student loan servicer shall, directly  
65 or indirectly:

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

68 (2) Engage in any unfair or deceptive practice toward any person or  
69 misrepresent or omit any material information in connection with the  
70 servicing of a student education loan, including, but not limited to,

71 misrepresenting the amount, nature or terms of any fee or payment due  
72 or claimed to be due on a student education loan, the terms and  
73 conditions of the loan agreement or the borrower's obligations under the  
74 loan;

75 (3) Obtain property by fraud or misrepresentation;

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

78 (5) Knowingly or recklessly provide inaccurate information to a  
79 credit bureau, thereby harming a student loan borrower's  
80 creditworthiness;

81 (6) Fail to report both the favorable and unfavorable payment history  
82 of the student loan borrower to a nationally recognized consumer credit  
83 bureau at least annually if the student loan servicer [licensee] regularly  
84 reports information to a credit bureau;

85 (7) Refuse to communicate with an authorized representative of the  
86 student loan borrower who provides a written authorization signed by  
87 the student loan borrower, provided the student loan servicer [licensee]  
88 may adopt procedures reasonably related to verifying that the  
89 representative is in fact authorized to act on behalf of the student loan  
90 borrower;

91 (8) Negligently make any false statement or knowingly and wilfully  
92 make any omission of a material fact in connection with any information  
93 or reports filed with a governmental agency or in connection with any  
94 investigation conducted by the commissioner or another governmental  
95 agency;

96 (9) [Fail] Unless otherwise required pursuant to federal law, a federal  
97 student loan agreement, or by a contract between a federal student loan  
98 servicer and the United States Department of Education, fail to establish,  
99 enforce and maintain policies and procedures for supervising  
100 employees, agents and office operations that are reasonably designed to

101 achieve compliance with applicable student loan servicing laws and  
102 regulations [;] or fail to comply with the service standards set by the  
103 commissioner in accordance with section 59 of public act 16-65; or

104 [(10) Fail to comply with the service standards set by the  
105 commissioner in accordance with section 59 of public act 16-65.]

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

110 Sec. 3. (NEW) (*Effective July 1, 2021*) In servicing a private student  
111 education loan, a private student education loan servicer shall:

112 (1) Prior to sending the first billing statement on a private student  
113 education loan or immediately upon receipt of a private student  
114 education loan following the transfer or assignment of such private  
115 student education loan, provide to the student loan borrower, and to  
116 any cosigner of such private student education loan, information  
117 concerning the rights and responsibilities of such student loan borrower  
118 and cosigner, including information regarding (A) how such private  
119 student education loan obligation will appear on the cosigner's  
120 consumer report, (B) how the cosigner will be notified if the private  
121 student education loan becomes delinquent, including how the cosigner  
122 can cure the delinquency in order to avoid negative credit furnishing  
123 and loss of cosigner release eligibility, and (C) eligibility for release of  
124 the cosigner's obligation on such private student education loan,  
125 including number of on-time payments and any other criteria required  
126 to approve the release of the cosigner from the loan obligation;

127 (2) Send annual written notice to all student loan borrowers and  
128 cosigners relating to information about cosigner release, including the  
129 criteria the private student education loan servicer requires to approve  
130 the release of a cosigner from a private student education loan  
131 obligation and the process for applying for cosigner release;

132 (3) Upon satisfaction by the student loan borrower of the applicable  
133 consecutive on-time payment requirement for purposes of cosigner  
134 release eligibility, send, in writing, to such student loan borrower and  
135 cosigner (A) a notification that such consecutive on-time payment  
136 requirement has been satisfied and that such cosigner may be eligible  
137 for cosigner release, and (B) information relating to the procedure for  
138 applying for cosigner release and any additional criteria that a cosigner  
139 must satisfy in order to be eligible for cosigner release. Such notification  
140 and information shall be sent by either United States mail or electronic  
141 mail, provided such student loan borrower has elected to receive  
142 electronic communications from the private student education loan  
143 servicer;

144 (4) In the event that an application for a cosigner release is  
145 incomplete, provide, in writing, (A) notice to the student loan borrower  
146 and cosigner that such application is incomplete, and (B) a description  
147 of the information that is missing or the additional information that is  
148 needed to consider the application complete and the date by which the  
149 borrower or cosigner are required to provide such information;

150 (5) Not later than thirty days following the submission of an  
151 application for cosigner release, send to the student loan borrower and  
152 cosigner a written notice of the decision that such application has been  
153 approved or denied. If the application for cosigner release has been  
154 denied, such written notice shall inform such student loan borrower and  
155 cosigner that such student loan borrower and cosigner have the right to  
156 request all documents and information used by the private student  
157 education loan servicer in its decision to deny such application,  
158 including the credit score threshold used by the private student  
159 education loan servicer, the consumer report of such student loan  
160 borrower or cosigner, the credit score of such student loan borrower or  
161 cosigner, and any other documents that are relevant or specific to such  
162 student loan borrower or cosigner. The private student education loan  
163 servicer shall provide such student loan borrower and cosigner with any  
164 adverse action notices required under federal law if the denial of such  
165 application was based in whole or in part on any information contained

166 in a consumer report;

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

169 (7) Refrain from imposing any restrictions on a student loan borrower  
170 or cosigner that may permanently prevent such student loan borrower  
171 or cosigner from qualifying for a cosigner release, including, but not  
172 limited to, restrictions on the number of times a student loan borrower  
173 or cosigner may apply for cosigner release;

174 (8) Refrain from imposing any negative consequences on a student  
175 loan borrower or cosigner during the sixty days following issuance of  
176 the notice described in subdivision (4) of this section, or until a final  
177 decision concerning a student loan borrower or cosigner's application  
178 for cosigner release is made. For purposes of this subdivision, "negative  
179 consequences" includes, but is not limited to, the imposition of  
180 additional eligibility criteria, negative credit reporting, lost eligibility for  
181 a cosigner release, late fees, interest capitalization or other financial  
182 penalties or injury;

183 (9) Refrain from requiring a student loan borrower to make more than  
184 twelve consecutive on-time payments as part of the eligibility criteria  
185 for cosigner release. Such private student education loan servicer shall  
186 consider any student loan borrower who has paid the equivalent of  
187 twelve months of principal and interest during any twelve-month  
188 period to have satisfied the consecutive on-time payment requirement,  
189 even if such student loan borrower has not made payments monthly  
190 during such twelve-month period;

191 (10) Upon receipt of a request by a student loan borrower or cosigner  
192 to a change that results in restarting the count of consecutive on-time  
193 payments required for cosigner release eligibility, provide to such  
194 student loan borrower and cosigner written notification of the impact of  
195 such change on cosigner release eligibility and an opportunity to  
196 withdraw or reverse such change for purposes of avoiding such impact;

197 (11) Provide a student loan borrower or cosigner (A) the right to  
198 request an appeal of a determination to deny a cosigner release  
199 application, (B) an opportunity to submit additional information or  
200 documentation evidencing that such student loan borrower has the  
201 ability, willingness and stability to make his or her payment obligations,  
202 and (C) the right to request that a different employee of the private  
203 student education loan servicer review and make a determination on the  
204 application for a cosigner release;

205 (12) Establish and maintain a comprehensive record management  
206 system reasonably designed to ensure the accuracy, integrity and  
207 completeness of data and other information about cosigner release  
208 applications. Such system shall include the number of cosigner release  
209 applications received, the approval and denial rate of such applications  
210 and the primary reasons for denial of such applications;

211 (13) In the event that a cosigner has a total and permanent disability,  
212 as determined by any federal or state agency or doctor of medicine or  
213 osteopathy legally authorized to practice in the state, and unless  
214 otherwise expressly prohibited under the terms of a private student  
215 education loan agreement, (A) release the cosigner from his or her  
216 obligation to repay the private student education loan upon receipt of  
217 notification that such cosigner has a total and permanent disability, and  
218 (B) refrain from requiring that a new cosigner be added to such private  
219 student education loan after the original cosigner has been released  
220 from such private student education loan;

221 (14) Provide the cosigner of a private student education loan with  
222 access to the same documents and records associated with the private  
223 student education loan that are available to the student loan borrower  
224 of such private student education loan; and

225 (15) If a student loan borrower has electronic access to documents and  
226 records associated with a private student education loan, provide  
227 equivalent electronic access to such documents and records to the  
228 cosigner of such private student education loan.



229       Sec. 4. (NEW) (*Effective July 1, 2021*) The provisions of section 3 of this  
 230 act shall not apply to the following persons: (1) Any bank, out-of-state  
 231 bank that has a physical presence in the state, Connecticut credit union,  
 232 federal credit union or out-of-state credit union; (2) any wholly owned  
 233 subsidiary of any such bank or credit union; (3) any operating  
 234 subsidiary where each owner of such operating subsidiary is wholly  
 235 owned by the same bank or credit union; and (4) the Connecticut Higher  
 236 Education Supplemental Loan Authority."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2021</i>	36a-846
Sec. 2	<i>July 1, 2021</i>	36a-850
Sec. 3	<i>July 1, 2021</i>	New section
Sec. 4	<i>July 1, 2021</i>	New section