
OLR Bill Analysis

sHB 6690

AN ACT CONCERNING A STUDENT LOAN REGISTRY, AN OFFICE OF THE STUDENT LOAN OMBUDSMAN AND STUDENT LOAN SERVICERS.

SUMMARY

This bill requires private education lenders and creditors to register with the Department of Banking (DOB) and annually give it certain loan information, beginning with when they register. The DOB commissioner must publish on a public website a summary of the information he receives, registrant contact information, and copies of lender model loan documents.

The bill establishes an Office of the Student Loan Ombudsman and requires the DOB commissioner to appoint a student loan ombudsman. Under current law, the commissioner must designate an ombudsman within the department, but only within available appropriations, and consequently, he has not done so. The bill generally assigns to the office the responsibilities currently set in law for the student loan ombudsman.

The bill extends existing law's registration requirement for federal student loan servicers to also cover subservicers of these loans. It does so by eliminating the definitional requirement that a "federal student loan servicer" be the entity awarded a contract by the U.S. Department of Education (ED). Instead, under the bill, these loan servicers include those who service an ED loan on behalf of another. The bill also requires subservicers to notify the DOB commissioner in writing when a contract awarded by ED expires or is revoked or terminated, which is currently only required of servicers (§§ 3 & 4).

EFFECTIVE DATE: October 1, 2023

PRIVATE EDUCATION LENDERS AND CREDITORS

Registration

The bill generally requires “private education lenders” and “private education creditors” to register with the DOB commissioner and pay a fee, in a way he prescribes, before making or purchasing or assuming, as applicable, private education loans owed by Connecticut residents. These lenders and creditors must annually renew their registration. The bill allows (1) for registration and payment through the National Multistate Licensing System and Registry and (2) the commissioner to require nonprofit postsecondary educational institutions to register through an alternate registration process and fee structure he sets.

The bill applies to any person (1) engaged in the business of making or extending private education loans (a “private education lender”) or (2) to whom a private education loan is sold or assigned or who otherwise acquires one (a “private education loan creditor”). Under the bill, lenders do not include banks, credit unions, or the Connecticut Higher Education Supplemental Loan Authority. Banks and credit unions are similarly exempt as creditors, as are consumer collection agencies; private student loan servicers; and local, state, or federal departments or agencies.

Under the bill, a “private education loan” is credit (1) extended expressly, in whole or part, for a borrower’s postsecondary educational expenses, regardless of whether it is provided by the postsecondary educational institution a student attends, and (2) not made, insured, or guaranteed under certain federal laws (i.e., is not a federally issued education loan). It excludes loans secured by real property.

Submitted Information

The bill requires each registrant to annually give the commissioner certain documents and information, starting when it registers, and upon the commissioner’s request. The information must be in a form and manner the commissioner sets.

Under the bill, both lenders and creditors must provide their name and address and the name and address of each of their officers,

directors, partners, and owners of a controlling interest.

The other private education loan information that each lender must provide under the bill includes the following:

1. a list of all the schools their borrowers attend and, for each school, the number and dollar amount of all loans made to them during the prior year and all outstanding loans;
2. the number and dollar amount of (a) all outstanding loans made to borrowers and (b) the loans made during the prior year;
3. the number of loans made with a cosigner during the prior year;
4. the interest rates spread for loans made during the prior year and the percentage of borrowers that received each rate within the spread;
5. the default rate for borrowers, including the default rate for each school attended by borrowers;
6. the number of borrowers the lender brought legal action against in the prior year to collect a loan debt and the amount sought in each action; and
7. a copy of each model promissory note, agreement, contract, or other instrument the lender used the previous year to substantiate debt (i.e., confirm that a loan was extended or that the borrower owes a debt to the lender).

Similarly, the bill requires the creditors to provide the following:

1. a list of all the schools that have borrowers with outstanding loans the creditor assumed or acquired and, for each school, the number and dollar amount of all loans assumed or acquired during the previous year and all outstanding loans owed to the creditor;
2. the number and dollar amount of all (a) outstanding loans owed by borrowers to the creditor and (b) loans the creditor assumed

- or acquired during the prior year;
3. the number of loans with a cosigner the creditor assumed or acquired during the prior year;
 4. the default rate for borrowers whose loans the creditor assumed or acquired, including the default rate for each school attended by borrowers; and
 5. the number of borrowers the creditor brought legal action against in the prior year to collect a loan debt and the amount sought in each action.

Public Online Resource

The bill requires the DOB commissioner to create and periodically update a publicly available website that includes the following information:

1. each registered lender's and creditor's name, address, telephone number, and website;
2. a summary of the information creditors and lenders must annually provide to the commissioner (e.g., list of schools borrowers attend; number of loans made or owed to, as applicable; interest rates spread, as described above); and
3. copies of the model promissory notes, agreements, contracts, and other proof-of-debt documents registered lenders provide to the commissioner.

Enforcement and Penalties

The bill authorizes the DOB commissioner to enforce its requirements under his existing authority for banking law violations (CGS § 36a-50).

By law, the commissioner may, after an investigation finding that a person committed a violation, (1) conduct an administrative hearing proceeding on the violation, (2) impose a fine of up to \$100,000 per violation, and (3) order restitution or disgorgement. He may also take court action if it appears to him that the person violated, is violating, or

is about to commit a violation. He may seek an injunction or direct compliance, a court order imposing a penalty of up to \$100,000 per violation, or an order of restitution.

The bill also allows the commissioner to bar someone from acting as a private education lender (but not a private education creditor) or as a stockholder, officer, director, partner, or other owner or employee of a lender for up to 10 years if they violate the bill's provisions and cause a consumer financial harm because of it.

STUDENT LOAN OMBUDSMAN OFFICE

Establishment

The new Office of the Student Loan Ombudsman the bill establishes must be within DOB for administrative purposes only. The bill requires the DOB commissioner to appoint a student loan ombudsman to head the office, who must have expertise and experience in a student loan-related field.

Responsibilities

Current law requires the student loan ombudsman to provide timely assistance to student loan borrowers and meet its responsibilities in consultation with the DOB commissioner. The bill assigns the responsibilities solely to the new office which include, among other things (1) reviewing and attempting to resolve student loan borrower complaints; (2) helping student loan borrowers understand their rights and responsibilities; (3) compiling and analyzing student loan borrower complaint data; and (4) providing information to the public, agencies, legislators, and others about these borrowers' problems and concerns.

The bill also (1) requires the office to begin maintaining DOB's existing student loan borrower education course on October 1, 2024, and (2) on January 1, 2024, requires the ombudsman to begin annually submitting a report to the Banking and Higher Education committees on the implementation and effectiveness of the office and the added steps DOB must take to get regulatory control over student loan servicer licensing and enforcement (DOB must report to the these committees through January 1, 2023, on these same topics, but with respect to the

ombudsman position).

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/07/2023)