



Senate

General Assembly

File No. 112

January Session, 2021

Substitute Senate Bill No. 890

Senate, March 23, 2021

The Committee on Banking reported through SEN. KASSER of the 36th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING STUDENT LOAN SERVICERS.

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 Section 36a-846 of the general statutes is repealed and the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 July 1, 2021*):

3 As used in this section and sections 36a-847 to 36a-854, as amended
4 by this act, and sections 3, 4 and 17 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) "Control person" has the same meaning as provided in section 36a-
11 485;

12 (4) "Federal student education loan" means any student education

13 loan (A) (i) made pursuant to the William D. Ford Federal Direct Loan
14 Program, 20 USC 1087a, et seq., as amended from time to time, or (ii)
15 purchased by the United States Department of Education pursuant to 20
16 USC 1087i-1(a), as amended from time to time, and (B) owned by the
17 United States Department of Education;

18 (5) "Federal student loan servicer" means any student loan servicer
19 responsible for the servicing of a federal student education loan to a
20 student loan borrower pursuant to a contract awarded to such person
21 by the United States Department of Education under 20 USC 1087f, as
22 amended from time to time;

23 [(4)] (6) "Main office" has the same meaning as provided in section
24 36a-485;

25 (7) "Private student education loan" means any student education
26 loan that is not a federal student education loan;

27 (8) "Private student education loan servicer" means any student loan
28 servicer responsible for the servicing of a private student education loan
29 to a student loan borrower;

30 [(5)] (9) "Student loan borrower" means any individual who resides
31 within this state who has agreed to repay a student education loan;

32 [(6)] (10) "Student loan servicer" means any person, wherever located,
33 responsible for the servicing of any student education loan to any
34 student loan borrower;

35 [(7)] (11) "Servicing" means (A) receiving any scheduled periodic
36 payments from a student loan borrower pursuant to the terms of a
37 student education loan; (B) applying the payments of principal and
38 interest and such other payments with respect to the amounts received
39 from a student loan borrower, as may be required pursuant to the terms
40 of a student education loan; or (C) performing other administrative
41 services with respect to a student education loan;

42 [(8)] (12) "Student education loan" means any loan primarily for

43 personal use to finance education or other school-related expenses;

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

46 Sec. 2. Section 36a-847 of the general statutes is repealed and the
47 following is substituted in lieu thereof (*Effective July 1, 2021*):

48 (a) [(1) No] Except as provided in section 4 of this act, no person shall
49 act as a private student loan servicer, directly or indirectly, [without first
50 obtaining] unless such person obtains from the commissioner pursuant
51 to subsection (b) of this section a license for [its] such person's main
52 office and for each branch office where such business is conducted,
53 [from the commissioner under subsection (b) of this section, unless such
54 person is exempt from licensure pursuant to subdivision (2) of this
55 subsection.] Any activity subject to licensure pursuant to sections 36a-
56 846 to 36a-854, inclusive, as amended by this act, shall be conducted
57 from an office located in a state, as defined in section 36a-2.

58 [(2) The following persons are exempt from student loan servicer
59 licensing requirements: (A) Any bank, out-of-state bank, Connecticut
60 credit union, federal credit union or out-of-state credit union; (B) any
61 wholly owned subsidiary of any such bank or credit union; and (C) any
62 operating subsidiary where each owner of such operating subsidiary is
63 wholly owned by the same bank or credit union.]

64 (b) (1) An application for a license as a private student loan servicer
65 or for renewal of such license shall be made and processed on the system
66 pursuant to section 36a-24b, as amended by this act, in the form
67 prescribed by the commissioner. Each such form shall contain content
68 as set forth by instruction or procedure of the commissioner and may be
69 changed or updated as necessary by the commissioner in order to carry
70 out the purposes of sections 36a-846 to 36a-854, inclusive, as amended
71 by this act. The applicant shall, at a minimum, furnish to the system
72 information concerning the identity of the applicant, any control person
73 of the applicant, the qualified individual and any branch manager
74 responsible for the actions of the licensee, including, but not limited to,

75 information related to such person's personal history and experience,
76 and any administrative, civil or criminal findings by any governmental
77 jurisdiction. As part of the application the commissioner may (A) in
78 accordance with section 29-17a, conduct a state or national criminal
79 history records check of the applicant, any control person of the
80 applicant, the qualified individual or any branch manager, and (B) in
81 accordance with section 36a-24b, as amended by this act, (i) require the
82 submission of fingerprints of the applicant, any control person of the
83 applicant, the qualified individual or any branch manager to the Federal
84 Bureau of Investigation or other state, national or international criminal
85 databases, and (ii) investigate the financial condition of any such person
86 and require authorization from any such person for the system and the
87 commissioner to obtain an independent credit report from a consumer
88 reporting agency, as described in Section 603(p) of the Fair Credit
89 Reporting Act, 15 USC 1681a, as amended from time to time. Such
90 application shall be accompanied by a financial statement prepared by
91 a certified public accountant, except that the commissioner may waive
92 such requirement in connection with any renewal application, provided
93 the system requires annual reports of condition that capture financial
94 statement information and the applicant has filed such information in
95 accordance with section 36a-848, as amended by this act.

96 (2) Each applicant for a private student loan servicer license shall pay
97 to the system any required fees or charges and a license fee of nine
98 hundred dollars. Each such license shall expire at the close of business
99 on December thirty-first of the year in which the license was approved,
100 unless such license is renewed, except that any such license approved
101 on or after November first shall expire at the close of business on
102 December thirty-first of the year following the year in which it is
103 approved. An application for renewal of a license shall be filed between
104 November first and December thirty-first of the year in which the license
105 expires. Each applicant for renewal of a [student loan servicer] license
106 shall pay to the system any required fees or charges and a renewal fee
107 of nine hundred dollars.

108 (3) Each license shall remain in force and effect until the license has

109 been surrendered, revoked or suspended or has expired in accordance
110 with the provisions of sections 36a-846 to 36a-854, inclusive, as amended
111 by this act. No abatement of the license fee shall be made if the
112 application is denied or withdrawn prior to issuance of the license or if
113 the license is surrendered, revoked or suspended prior to the expiration
114 of the period for which it was issued. All fees required by this section
115 shall be nonrefundable.

116 (c) Upon the filing of an application for an initial license and the
117 payment of required fees, the commissioner shall investigate the
118 financial condition and responsibility, financial and business
119 experience, character and general fitness of the applicant. The
120 commissioner may issue a license if the commissioner finds that:

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

122 (2) The applicant's business will be conducted honestly, fairly,
123 equitably, carefully and efficiently within the purposes and intent of
124 sections 36a-846 to 36a-854, inclusive, as amended by this act, and in a
125 manner commanding the confidence and trust of the community;

126 (3) Each control person, qualified individual, branch manager and
127 trustee of the applicant is in all respects properly qualified and of good
128 character, including, but not limited to, assessment of such person's
129 financial responsibility and any criminal convictions, provided any
130 license denial based on a criminal conviction shall be subject to the
131 provisions of section 46a-80;

132 (4) No control person, qualified individual, branch manager or other
133 person on behalf of the applicant knowingly has made any incorrect
134 statement of a material fact in the application, or in any report or
135 statement made pursuant to sections 36a-846 to 36a-854, inclusive, as
136 amended by this act;

137 (5) No control person, qualified individual, branch manager or other
138 person on behalf of the applicant knowingly has omitted to state any
139 material fact necessary to give the commissioner any information

140 lawfully required by the commissioner;

141 (6) The applicant has paid the fees required under subsection (b) of
142 this section; and

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

145 (d) Not later than fifteen days after the date a licensee ceases to
146 engage in the business of [student loan] servicing private student
147 education loans in this state for any reason, including a business
148 decision to terminate operations in this state, license revocation,
149 bankruptcy or voluntary dissolution, such licensee shall surrender to
150 the commissioner, in accordance with subsection (c) of section 36a-51,
151 its license for each location in which such licensee has ceased to engage
152 in such business. The licensee shall also identify to the commissioner, in
153 writing, the location where the records of the licensee will be stored and
154 the name, address and telephone number of an individual authorized to
155 provide access to the records. The surrender of a license does not reduce
156 or eliminate the licensee's civil or criminal liability arising from acts or
157 omissions occurring prior to the surrender of the license, including any
158 administrative actions undertaken by the commissioner to revoke or
159 suspend a license, assess a civil penalty, order restitution or exercise any
160 other authority provided to the commissioner.

161 (e) If an application for a renewal license has been filed with the
162 commissioner on or before the date the license expires, the license
163 sought to be renewed shall continue in full force and effect until the
164 issuance by the commissioner of the renewal license applied for or until
165 the commissioner has notified the licensee in writing of the
166 commissioner's refusal to issue such renewal license together with the
167 grounds upon which such refusal is based. The commissioner may
168 refuse to issue a renewal license (1) on any ground on which the
169 commissioner might refuse to issue an initial license, or (2) if the
170 applicant has not paid any required fee for renewal or has not paid any
171 outstanding examination fees or other moneys due to the commissioner.
172 The license of a private student loan servicer failing to satisfy the

173 minimum standards for license renewal shall expire. The commissioner
174 may adopt procedures for the reinstatement of expired licenses
175 consistent with the standards established by the system.

176 (f) The commissioner may automatically suspend a license if the
177 licensee receives a deficiency on the system indicating that a required
178 payment was Returned-ACH or returned pursuant to such other term
179 as may be utilized by the system to indicate that the payment was not
180 accepted. After a license has been automatically suspended pursuant to
181 this section, the commissioner shall (1) give the licensee notice of the
182 automatic suspension, pending proceedings for revocation or refusal to
183 renew pursuant to section 36a-852, as amended by this act, and an
184 opportunity for a hearing on such action in accordance with section 36a-
185 51, and (2) require such licensee to take or refrain from taking such
186 action as the commissioner deems necessary to effectuate the purposes
187 of this section.

188 (g) Except as specified in section 36a-848, as amended by this act, the
189 applicant or licensee, and each individual designated as a control
190 person, qualified individual or branch manager, shall file [to] on the
191 system any change in the information such applicant, licensee, control
192 person, qualified individual or branch manager most recently submitted
193 to the system in connection with the application or license, or, if the
194 information cannot be filed on the system, notify the commissioner of
195 such change, in writing, not later than fifteen days after the date the
196 applicant, licensee, control person, qualified individual or branch
197 manager had reason to know of the change.

198 (h) The commissioner may deem an application for a license
199 abandoned if the applicant fails to respond to any request for
200 information required under sections 36a-846 to 36a-854, inclusive, as
201 amended by this act, or any regulations adopted pursuant to said
202 sections. The commissioner shall notify the applicant on the system that
203 if the applicant fails to submit such information not later than sixty days
204 after the date on which such request for information was made, the
205 application shall be deemed abandoned. An application filing fee paid

206 prior to the date an application is deemed abandoned pursuant to this
207 subsection shall not be refunded. Abandonment of an application
208 pursuant to this subsection shall not preclude the applicant from
209 submitting a new application for a license under the provisions of
210 sections 36a-846 to 36a-854, inclusive, as amended by this act.

211 Sec. 3. (NEW) (*Effective July 1, 2021*) (a) Except as provided in section
212 4 of this act, no person shall act as a federal student loan servicer,
213 directly or indirectly, unless such person has registered as a federal
214 student loan servicer on the system, pursuant to section 36a-24b of the
215 general statutes, as amended by this act, in the form prescribed by the
216 commissioner.

217 (b) Each registrant shall pay to the system any required fees or
218 charges and a registration fee of nine hundred dollars. Each registration
219 shall be effective on the date the registration is filed to the system and
220 shall remain in force and effect until the registration has been
221 surrendered, revoked or suspended or has expired in accordance with
222 the provisions of this section. Each registration shall expire at the close
223 of business on December thirty-first of the year in which the registration
224 is filed, unless such registration is renewed, except that any such
225 registration filed on or after November first shall expire at the close of
226 business on December thirty-first of the year following the year in which
227 it is filed. Any request to renew a registration shall be filed on the system
228 between November first and December thirty-first of the year in which
229 the registration expires and shall be accompanied by payment of any
230 required fees or charges and a renewal fee of nine hundred dollars.

231 (c) (1) Each registrant shall appoint an agent to accept service of
232 process in this state on behalf of the registrant. Service of process made
233 upon such agent shall be deemed service of process upon the registrant.
234 If such agent cannot with reasonable diligence be found, or if the
235 registrant has failed to appoint an agent as required by this subdivision,
236 service of process may be made upon a control person of the registrant,
237 as the agent of the registrant.

238 (2) Each registrant shall designate an individual to represent the

239 registrant in communications with the commissioner and provide
240 contact information for such individual to the commissioner at the time
241 of registration. The registrant shall notify the commissioner of any
242 change of such individual or information not later than ten days after
243 the change.

244 (d) Each registrant shall notify the commissioner in writing of the
245 expiration, revocation or termination of any contract awarded to the
246 registrant by the United States Department of Education pursuant to 20
247 USC 1087f, as amended from time to time, not later than seven days after
248 such expiration, revocation or termination. Any registration based
249 solely upon such contract shall be deemed expired upon the effective
250 date of such expiration, revocation or termination by the United States
251 Department of Education.

252 (e) The commissioner may impose a civil penalty, after notice and an
253 opportunity for a hearing in accordance with section 36a-50 of the
254 general statutes, as amended by this act, on any person that acts as a
255 federal student loan servicer for thirty or more days in violation of this
256 section.

257 Sec. 4. (NEW) (*Effective July 1, 2021*) The provisions of sections 36a-
258 846 to 36a-854, inclusive, of the general statutes, as amended by this act,
259 and section 3 of this act shall not apply to the following persons: (1) Any
260 bank, out-of-state bank, Connecticut credit union, federal credit union
261 or out-of-state credit union; (2) any wholly owned subsidiary of any
262 such bank or credit union; and (3) any operating subsidiary where each
263 owner of such operating subsidiary is wholly owned by the same bank
264 or credit union.

265 Sec. 5. Section 36a-848 of the general statutes is repealed and the
266 following is substituted in lieu thereof (*Effective July 1, 2021*):

267 (a) No person licensed to act [within this state] as a private student
268 loan servicer under section 36a-847, as amended by this act, or registered
269 to act as a federal student loan servicer under section 3 of this act, shall
270 do so under any other name or at any other place of business than that

271 named in the license or registration. No such licensee or registrant may
272 use any name other than its legal name or a fictitious name approved by
273 the commissioner, provided such licensee or registrant may not use its
274 legal name if the commissioner disapproves use of such name. A
275 licensee or registrant may change the name of the licensee or registrant
276 or the address of the office specified on the most recent filing with the
277 system if, at least thirty calendar days prior to such change, the licensee
278 or registrant files such change with the system and the commissioner
279 does not disapprove such change, in writing, or request further
280 information from the licensee or registrant within such thirty-day
281 period. Not more than one place of business shall be maintained under
282 the same license or registration but the commissioner may issue more
283 than one license or registration to the same licensee or registrant upon
284 compliance with the provisions of sections 36a-846 to 36a-854, inclusive,
285 as amended by this act, and section 3 of this act, as to each new licensee
286 or registrant.

287 (b) [A] No such license or registration shall [not] be transferable or
288 assignable. Any change in any control person of the licensee or
289 registrant, except a change of a director, general partner or executive
290 officer that is not the result of an acquisition or change of control of the
291 licensee or registrant, shall be the subject of an advance change notice
292 filed on the system at least thirty days prior to the effective date of such
293 change and no such change shall occur without the commissioner's
294 approval. For purposes of this section, "change of control" means any
295 change causing the majority ownership, voting rights or control of a
296 licensee or registrant to be held by a different control person or group
297 of control persons.

298 (c) (1) The commissioner may automatically suspend any license for
299 a violation of subsection (a) or (b) of this section. After a license has been
300 automatically suspended pursuant to this subsection, the commissioner
301 shall [(1)] (A) give the licensee notice of such automatic suspension
302 pending proceedings for revocation of or refusal to renew the license
303 pursuant to section 36a-852, as amended by this act, and an opportunity
304 for a hearing in accordance with section 36a-51, and [(2)] (B) require the

305 licensee to take or refrain from taking action as the commissioner deems
306 necessary to effectuate the purpose of this section.

307 (2) The commissioner may impose a civil penalty against any
308 registrant for a violation of subsection (a) or (b) of this section after
309 notice and an opportunity for a hearing in accordance with section 36a-
310 50, as amended by this act.

311 (d) [A] Each private student loan servicer licensee and each federal
312 student loan servicer registrant shall file on the system or, if the
313 information cannot be filed on the system, notify the commissioner, in
314 writing, of the occurrence of any of the following developments not later
315 than fifteen days after the date the licensee or registrant had reason to
316 know of the occurrence of any of the following developments:

317 (1) Filing for bankruptcy or the consummation of a corporate
318 restructuring of the licensee or registrant;

319 (2) Filing of a criminal indictment against the licensee or registrant in
320 any way related to the student loan servicer activities of the licensee or
321 registrant, or receiving notification of the filing of any criminal felony
322 indictment or felony conviction of any control person, branch manager
323 or qualified individual of the licensee or registrant;

324 (3) Receiving notification of the institution of license denial, cease and
325 desist, suspension or revocation procedures, or other formal or informal
326 action by any governmental agency against the licensee or registrant, or
327 any control person, branch manager or qualified individual of the
328 licensee or registrant and the reasons therefor;

329 (4) Receiving notification of the initiation of any action against the
330 licensee or registrant, or any control person, branch manager or
331 qualified individual of the licensee or registrant by the Attorney General
332 or the attorney general of any other state and the reasons therefor; or

333 (5) Receiving notification of filing for bankruptcy of any control
334 person, branch manager or qualified individual of the licensee or
335 registrant.

336 (e) Any person filing or submitting any information on the system
337 shall do so in accordance with the procedures and requirements of the
338 system and shall pay the applicable fees or charges to the system. Each
339 private student loan servicer licensee and each federal student loan
340 servicer registrant shall, to the extent required by the system, timely
341 submit to the system accurate reports of condition that shall be in such
342 form and shall contain such information as the system may require.
343 Failure by a licensee or registrant to submit a timely and accurate report
344 of condition shall constitute a violation of this provision.

345 (f) The unique identifier of any person licensed [under section 36a-
346 847] as a private student loan servicer or registered as a federal student
347 loan servicer shall be clearly shown on all solicitations and
348 advertisements, including business cards and Internet web sites, and
349 any other documents as established by rule, regulation or order of the
350 commissioner, and shall be clearly stated in all audio solicitations and
351 advertisements. The solicitations and advertisements of any [person
352 licensed under section 36a-847] such licensee or registrant: (1) Shall not
353 include any statement that such person is endorsed in any way by this
354 state, except that such solicitations and advertisements may include a
355 statement that such person is licensed or registered in this state; (2) shall
356 not include any statement or claim that is deceptive, false or misleading;
357 (3) shall otherwise conform to the requirements of sections 36a-846 to
358 36a-854, inclusive, as amended by this act, and sections 3 and 4 of this
359 act, any regulations issued thereunder and any other applicable law;
360 and (4) shall be retained for two years from the date of use of such
361 solicitation or advertisement.

362 Sec. 6. Section 36a-849 of the general statutes is repealed and the
363 following is substituted in lieu thereof (*Effective July 1, 2021*):

364 (a) [Each] Except as otherwise required pursuant to federal law, a
365 federal student loan agreement or by a contract with the United States
366 Department of Education, each private student loan servicer licensee
367 and each federal student loan servicer registrant shall maintain
368 adequate records of each student education loan transaction for not less

369 than two years following the final payment on such student education
370 loan or the assignment of such student education loan, whichever
371 occurs first, or such longer period as may be required by any other
372 provision of law.

373 (b) [If requested by the commissioner, each] Except as otherwise
374 required pursuant to federal law, a federal student loan agreement or
375 by a contract with the United States Department of Education, each
376 private student loan servicer licensee [shall] and each federal student
377 loan servicer registrant shall, if requested by the commissioner, make
378 such records available or send such records to the commissioner by
379 registered or certified mail, return receipt requested, or by any express
380 delivery carrier that provides a dated delivery receipt, not later than five
381 business days after requested by the commissioner to do so. Upon
382 request, the commissioner may grant a licensee or registrant additional
383 time to make such records available or send the records to the
384 commissioner.

385 Sec. 7. Section 36a-850 of the general statutes is repealed and the
386 following is substituted in lieu thereof (*Effective July 1, 2021*):

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

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

393 (2) Engage in any unfair or deceptive practice toward any person or
394 misrepresent or omit any material information in connection with the
395 servicing of a student education loan, including, but not limited to,
396 misrepresenting the amount, nature or terms of any fee or payment due
397 or claimed to be due on a student education loan, the terms and
398 conditions of the loan agreement or the borrower's obligations under the
399 loan;

- 400 (3) Obtain property by fraud or misrepresentation;
- 401 (4) Knowingly misapply or recklessly apply student education loan
402 payments to the outstanding balance of a student education loan;
- 403 (5) Knowingly or recklessly provide inaccurate information to a
404 credit bureau, thereby harming a student loan borrower's
405 creditworthiness;
- 406 (6) Fail to report both the favorable and unfavorable payment history
407 of the student loan borrower to a nationally recognized consumer credit
408 bureau at least annually if the student loan servicer [licensee] regularly
409 reports information to a credit bureau;
- 410 (7) Refuse to communicate with an authorized representative of the
411 student loan borrower who provides a written authorization signed by
412 the student loan borrower, provided the student loan servicer [licensee]
413 may adopt procedures reasonably related to verifying that the
414 representative is in fact authorized to act on behalf of the student loan
415 borrower;
- 416 (8) Negligently make any false statement or knowingly and wilfully
417 make any omission of a material fact in connection with any information
418 or reports filed with a governmental agency or in connection with any
419 investigation conducted by the commissioner or another governmental
420 agency; or
- 421 (9) [Fail] Unless otherwise required pursuant to federal law, a federal
422 student loan agreement or by a contract between a federal student loan
423 servicer and the United States Department of Education, fail to establish,
424 enforce and maintain policies and procedures for supervising
425 employees, agents and office operations that are reasonably designed to
426 achieve compliance with applicable student loan servicing laws and
427 regulations [;] or fail to comply with the service standards set by the
428 commissioner in accordance with section 59 of public act 16-65.
- 429 [(10) Fail to comply with the service standards set by the
430 commissioner in accordance with section 59 of public act 16-65.]

431 Sec. 8. Section 36a-851 of the general statutes is repealed and the
432 following is substituted in lieu thereof (*Effective July 1, 2021*):

433 (a) In addition to any authority provided under this title, the [Banking
434 Commissioner] commissioner shall have the authority to conduct
435 investigations and examinations as follows:

436 (1) For purposes of initial licensing or registration, license renewal,
437 license suspension, license revocation or termination, or general or
438 specific inquiry or investigation to determine compliance with sections
439 36a-846 to 36a-854, inclusive, as amended by this act, and section 3 of
440 this act, the commissioner may access, receive and use any books,
441 accounts, records, files, documents, information or evidence including,
442 but not limited to, (A) criminal, civil and administrative history
443 information; (B) personal history and experience information, including
444 independent credit reports obtained from a consumer reporting agency
445 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC
446 1681a; and (C) any other documents, information or evidence the
447 commissioner deems relevant to the inquiry or investigation regardless
448 of the location, possession, control or custody of such documents,
449 information or evidence.

450 (2) For the purposes of investigating violations or complaints arising
451 under sections 36a-846 to 36a-854, inclusive, as amended by this act, or
452 section 3 of this act, or for the purposes of examination, the
453 commissioner may review, investigate or examine any student loan
454 servicer [licensee] or person subject to said sections as often as necessary
455 in order to carry out the purposes of said sections. The commissioner
456 may direct, subpoena or order the attendance of and examine under
457 oath all persons whose testimony may be required about the student
458 education loan or the business or subject matter of any such examination
459 or investigation, and may direct, subpoena or order such person to
460 produce books, accounts, records, files and any other documents the
461 commissioner deems relevant to the inquiry.

462 (b) In making any examination or investigation authorized by this
463 section, the commissioner may control access to any documents and

464 records of the student loan servicer [licensee] or person under
465 examination or investigation. The commissioner may take possession of
466 the documents and records or place a person in exclusive charge of the
467 documents and records in the place where they are usually kept. During
468 the period of control, no person shall remove or attempt to remove any
469 of the documents and records except pursuant to a court order or with
470 the consent of the commissioner. Unless the commissioner has
471 reasonable grounds to believe the documents or records of the student
472 loan servicer [licensee] or person have been, or are at risk of being,
473 altered or destroyed for purposes of concealing a violation of sections
474 36a-846 to 36a-854, inclusive, as amended by this act, or section 3 of this
475 act, the student loan servicer [licensee] or owner of the documents and
476 records shall have access to the documents or records as necessary to
477 conduct its ordinary business affairs.

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

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

483 (2) Enter into agreements or relationships with other government
484 officials or regulatory associations in order to improve efficiencies and
485 reduce regulatory burden by sharing resources, standardized or
486 uniform methods or procedures, and documents, records, information
487 or evidence obtained under this section;

488 (3) Use, hire, contract or employ public or privately available
489 analytical systems, methods or software to examine or investigate the
490 student loan servicer [licensee] or person subject to sections 36a-846 to
491 36a-854, inclusive, as amended by this act, or section 3 of this act;

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

494 (5) Accept audit reports made by an independent certified public

495 accountant for the student loan servicer [licensee] or person subject to
496 sections 36a-846 to 36a-854, inclusive, as amended by this act, or section
497 3 of this act, in the course of that part of the examination covering the
498 same general subject matter as the audit and may incorporate the audit
499 report in the report of examination, report of investigation or other
500 writing of the commissioner.

501 (d) The authority of this section shall remain in effect, whether such
502 student loan servicer [licensee] or person subject to sections 36a-846 to
503 36a-854, inclusive, as amended by this act, or section 3 of this act, acts or
504 claims to act under any licensing or registration law of this state, or
505 claims to act without such authority.

506 (e) No student loan servicer [licensee] or person subject to
507 investigation or examination under this section may knowingly
508 withhold, abstract, remove, mutilate, destroy or secrete any books,
509 records, computer records or other information.

510 Sec. 9. Section 36a-852 of the general statutes is repealed and the
511 following is substituted in lieu thereof (*Effective July 1, 2021*):

512 (a) The commissioner may suspend, revoke or refuse to renew any
513 license issued under section 36a-847, as amended by this act, or take any
514 other action, in accordance with section 36a-51, if the commissioner
515 finds that (1) the licensee or any control person, qualified individual,
516 branch manager, trustee, employee or agent of the licensee has violated
517 any provision of this title or any regulation or order adopted or issued
518 pursuant thereto pertaining to such person, or any other law or
519 regulation applicable to the conduct of such licensee's student loan
520 servicing business, or (2) any fact or condition exists which, if it had
521 existed at the time of the original application for the license, clearly
522 would have warranted a denial of such license.

523 (b) The commissioner may suspend, revoke or refuse to renew any
524 registration filed pursuant to section 3 of this act if any fact or condition
525 exists which, if it had existed at the time of filing for registration, would
526 have precluded eligibility for such registration.

527 [(b)] (c) Whenever it appears to the commissioner that any (1) person
528 has violated, is violating or is about to violate any of the provisions of
529 sections 36a-846 to 36a-854, inclusive, as amended by this act, section 3
530 of this act or any regulation adopted pursuant to said sections, (2)
531 person is, was or would be a cause of the violation of any such provision
532 or regulation due to an act or omission such person knew or should have
533 known would contribute to such violation, or (3) any licensee or
534 registrant or any control person, qualified individual, branch manager,
535 trustee, employee or agent of such licensee or registrant has committed
536 any fraud, engaged in dishonest activities or made any
537 misrepresentation, the commissioner may take action against such
538 person, [or] licensee or registrant in accordance with sections 36a-50, as
539 amended by this act, and 36a-52, as amended by this act.

540 [(c)] (d) The commissioner may order a licensee to remove any
541 individual conducting business under sections 36a-846 to 36a-854,
542 inclusive, as amended by this act, from office and from employment or
543 retention as an independent contractor in the student loan servicer
544 business in this state in accordance with section 36a-51a.

545 [(d)] (e) The commissioner may issue a temporary order to cease
546 business under a license if the commissioner determines that such
547 license was issued erroneously. Such temporary order shall be issued in
548 accordance with subsection (j) of section 36a-24b, as amended by this
549 act.

550 Sec. 10. Subdivision (1) of subsection (d) of section 36a-17 of the
551 general statutes is repealed and the following is substituted in lieu
552 thereof (*Effective July 1, 2021*):

553 (1) For the purposes of issuing, renewing, suspending, conditioning,
554 revoking or terminating any license or registration issued on the system,
555 or for any general or specific inquiry or investigation of persons
556 engaged in a business or activity subject to licensure or registration by
557 the commissioner on the system to determine compliance with
558 applicable law, the commissioner may access, receive and use any
559 records, information or evidence, including, but not limited to: (A)

560 Criminal, civil and administrative history information; (B) personal
561 history and experience information, including, but not limited to,
562 independent credit reports obtained from a consumer reporting agency
563 described in Section 603(p) of the Fair Credit Reporting Act, 15 USC
564 1681a; and (C) any other records, information or evidence the
565 commissioner deems relevant to the inquiry or investigation, regardless
566 of the location, possession, control or custody of such records,
567 information or evidence.

568 Sec. 11. Section 36a-24b of the general statutes is repealed and the
569 following is substituted in lieu thereof (*Effective July 1, 2021*):

570 (a) In addition to any other duties imposed upon the commissioner
571 by law, the commissioner is authorized to require persons engaged in a
572 financial services industry subject to the commissioner's jurisdiction to
573 be licensed or registered through the system, as defined in section 36a-
574 2.

575 (b) In the event the commissioner elects to require system-based
576 licensure or registration for persons engaged in a financial services
577 industry subject to the commissioner's jurisdiction, the commissioner
578 shall require all initial or renewal applications for such licenses or
579 registrations in this state to be made and processed through the system
580 in such form as the commissioner may prescribe, and the system shall
581 be authorized to receive and maintain records related to such licenses or
582 registrations to the same extent allowed or required to be maintained by
583 the commissioner. For this purpose, the commissioner may establish
584 requirements by order as necessary for participation in the system,
585 including, but not limited to: (1) Background checks, including in the
586 case of any form of business organization, checks on the individuals
587 comprising the ownership or management of such organization, for
588 criminal history through (A) fingerprint submission to the Federal
589 Bureau of Investigation or other state, national or international criminal
590 databases, (B) civil, criminal or administrative records from any
591 governmental jurisdiction, (C) credit history, including an independent
592 credit report obtained from a consumer reporting agency described in

593 Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, or (D) any
594 other information as deemed necessary by the system; (2) the payment
595 of fees to apply for or renew licenses or registrations through the system;
596 (3) the setting or resetting of license or registration expiration, renewal
597 or transition dates or reporting dates or forms; (4) the requirements for
598 amending or surrendering a license or any other such activities as the
599 commissioner deems necessary for participation in the system; and (5)
600 the use of electronic bonds. Such information may thereafter be used by
601 the commissioner to determine an applicant's eligibility for licensing or
602 registration under applicable law and any order issued by the
603 commissioner pursuant to this section. For the purpose of participating
604 in the system, the commissioner may by order waive or modify, in
605 whole or in part, any applicable requirement of this title and establish
606 new requirements as reasonably necessary. For the purpose of
607 implementing an orderly and efficient licensing and registration
608 process, the commissioner may adopt licensing and registration
609 regulations, in accordance with the provisions of chapter 54, and interim
610 procedures for licensing and registration and acceptance of applications
611 for licensure and registrations.

612 (c) In the event the commissioner elects to require system-based
613 licensure for persons engaged in financial services industries subject to
614 the commissioner's jurisdiction, the commissioner may report regularly
615 to the system violations of and enforcement actions under applicable
616 law and other relevant information. The commissioner may establish
617 relationships or enter into contracts with the system or other entities
618 designated by the system to collect and maintain records and process
619 transaction fees or other fees related to licensees or other persons
620 required or permitted to be licensed or registered on the system.

621 (d) To reduce the points of contact that the commissioner or the
622 Federal Bureau of Investigation may have to maintain for purposes of
623 this title, the commissioner may use the system as a channeling agent
624 for requesting information from and distributing information to the
625 United States Department of Justice, any governmental agency or any
626 other source as directed by the commissioner.

627 (e) A person required or permitted to be licensed or registered on the
628 system may challenge information entered into the system by the
629 commissioner. Such challenge shall (1) be made in writing to the
630 commissioner, (2) set forth the specific information being challenged,
631 and (3) include any evidence which supports the challenge. A challenge
632 shall be limited to the factual accuracy of information within the system.
633 If the commissioner determines that the information entered into the
634 system is factually inaccurate, the commissioner shall take prompt
635 action to correct such information. Nothing in this subsection shall be
636 construed to permit a challenge under this section to the merits or
637 factual basis of any administrative action taken by the commissioner
638 pursuant to this title.

639 (f) A person making any filing or submission of any information on
640 the system shall do so in accordance with the procedures and
641 requirements of the system and shall pay applicable fees or charges to
642 the system. Each person required to obtain registration or licensure
643 through the system shall timely submit to the system accurate reports
644 that shall be in such form and contain such information as the system
645 may require.

646 (g) All fees paid for any initial application for a license or registration
647 or for a renewal application for a license or registration, including, but
648 not limited to, fees paid in connection with an application that is denied
649 or withdrawn prior to the issuance of the license or registration, shall be
650 nonrefundable. No fee shall be prorated if the license or registration is
651 surrendered, revoked or suspended prior to the expiration of the period
652 for which it was approved.

653 (h) The commissioner may automatically suspend a license or
654 registration of a person on the system if such person receives a
655 deficiency on the system indicating that a required payment was
656 Returned-ACH or returned pursuant to any other term as may be
657 utilized by the system to indicate that payment was not accepted. After
658 a license or registration has been automatically suspended pursuant to
659 this subsection, the commissioner shall give such licensee or registrant

660 notice of the automatic suspension, pending proceedings for revocation
661 or refusal to renew and an opportunity for a hearing on such action in
662 accordance with section 36a-51 and require such licensee or registrant
663 to take or refrain from taking such action that, in the opinion of the
664 commissioner, will effectuate the purposes of this subsection.

665 (i) The commissioner may deem an application for a license or
666 registration on the system abandoned if the applicant fails to respond to
667 any request for required information. The commissioner shall notify the
668 applicant on the system that if such information is not submitted within
669 sixty days of the date of such request the application shall be deemed
670 abandoned. An application filing fee paid prior to the date an
671 application is deemed abandoned pursuant to this subsection shall not
672 be refunded. Abandonment of an application pursuant to this
673 subsection shall not preclude the applicant from submitting a new
674 application for a license or registration.

675 (j) The commissioner may issue a temporary order to cease business
676 under a license or registration if the commissioner determines that such
677 license or registration was issued erroneously. The commissioner shall
678 give the licensee or registrant an opportunity for a hearing on such
679 action in accordance with section 36a-52, as amended by this act. Such
680 temporary order shall become effective upon receipt by the licensee and,
681 unless set aside or modified by a court, shall remain in effect until the
682 effective date of a permanent order or dismissal of the matters asserted
683 in the notice.

684 Sec. 12. Subdivision (1) of subsection (a) of section 36a-50 of the
685 general statutes is repealed and the following is substituted in lieu
686 thereof (*Effective July 1, 2021*):

687 (a) (1) Whenever the commissioner finds as the result of an
688 investigation that any person has violated any provision of the general
689 statutes within the jurisdiction of the commissioner, or any regulation,
690 rule or order adopted or issued thereunder, the commissioner may send
691 a notice to such person by registered or certified mail, return receipt
692 requested, or by any express delivery carrier that provides a dated

693 delivery receipt, unless such person is licensed by or registered with the
694 commissioner, in which case the notice may be provided by personal
695 delivery, as defined in section 4-166, in accordance with section 36a-52a,
696 as amended by this act. The notice shall be deemed received by the
697 person on the earlier of the date of actual receipt or seven days after
698 mailing or sending, and in the case of a notice sent by electronic mail,
699 the notice shall be deemed received by the person in accordance with
700 section 36a-52a, as amended by this act. Any such notice shall include:
701 (A) A statement of the time, place, and nature of the hearing; (B) a
702 statement of the legal authority and jurisdiction under which the
703 hearing is to be held; (C) a reference to the particular sections of the
704 general statutes, regulations, rules or orders alleged to have been
705 violated; (D) a short and plain statement of the matters asserted; (E) the
706 maximum penalty that may be imposed for such violation; and (F) a
707 statement indicating that such person may file a written request for a
708 hearing on the matters asserted not later than fourteen days after receipt
709 of the notice.

710 Sec. 13. Subsection (a) of section 36a-52 of the general statutes is
711 repealed and the following is substituted in lieu thereof (*Effective July 1,*
712 *2021*):

713 (a) Whenever it appears to the commissioner that any person has
714 violated, is violating or is about to violate any provision of the general
715 statutes within the jurisdiction of the commissioner, or any regulation,
716 rule, or order adopted or issued thereunder, the commissioner may send
717 a notice to such person by registered or certified mail, return receipt
718 requested, or by any express delivery carrier that provides a dated
719 delivery receipt, unless such person is licensed by or registered with the
720 commissioner, in which case the notice may be provided by personal
721 delivery, as defined in section 4-166, in accordance with section 36a-52a,
722 as amended by this act. The notice shall be deemed received by the
723 person on the earlier of the date of actual receipt, or seven days after
724 mailing or sending, and in the case of a notice sent by electronic mail,
725 the notice shall be deemed received by the person in accordance with
726 section 36a-52a, as amended by this act. Any such notice shall include:

727 (1) A statement of the time, place, and nature of the hearing; (2) a
728 statement of the legal authority and jurisdiction under which the
729 hearing is to be held; (3) a reference to the particular sections of the
730 general statutes, regulations, rules or orders alleged to have been
731 violated; (4) a short and plain statement of the matters asserted; and (5)
732 a statement indicating that such person may file a written request for a
733 hearing on the matters asserted within fourteen days of receipt of the
734 notice. If a hearing is requested within the time specified in the notice,
735 the commissioner shall hold a hearing upon the matters asserted in the
736 notice, unless the person fails to appear at the hearing. After the hearing,
737 the commissioner shall determine whether an order to cease and desist
738 should be issued against the person named in the notice. If the person
739 does not request a hearing within the time specified in the notice or fails
740 to appear at the hearing, the commissioner shall issue an order to cease
741 and desist against the person. No such order shall be issued except in
742 accordance with the provisions of chapter 54.

743 Sec. 14. Section 36a-52a of the general statutes is repealed and the
744 following is substituted in lieu thereof (*Effective July 1, 2021*):

745 Notwithstanding the provisions of subsection (c) of section 4-182, the
746 [Banking Commissioner] commissioner may provide notice pursuant to
747 section 4-182 or sections 36a-50 to 36a-52, inclusive, as amended by this
748 act, to any person licensed by or registered with the commissioner by
749 personal delivery, as defined in section 4-166. For licensed or registered
750 persons who are not natural persons, the electronic mail addresses of
751 the natural persons designated as primary contacts by such licensed or
752 registered persons in the contact employee fields on the system shall
753 constitute an acceptable means of communication for personal delivery,
754 and a notice sent by electronic mail to such primary contacts at such
755 electronic mail addresses shall constitute notice. For licensed or
756 registered persons who are natural persons, the electronic mail address
757 identified by such licensed persons on the system shall constitute an
758 acceptable means of communication for personal delivery within the
759 meaning of section 4-166, and a notice sent by electronic mail to such
760 electronic mail address shall constitute notice. Any notice provided in

761 accordance with this section shall be deemed received by the person on
762 the earlier of the date of actual receipt or seven days after mailing or
763 sending, and in the case of a notice sent by electronic mail, the notice
764 shall be deemed received by the person on the earlier of the date of
765 actual receipt by any natural person to whom such notice was sent or
766 seven days after such notice was sent.

767 Sec. 15. Subdivision (2) of subsection (a) of section 36a-65 of the
768 general statutes is repealed and the following is substituted in lieu
769 thereof (*Effective July 1, 2021*):

770 (2) In addition to any license, investigation or examination fee
771 required under this title, the commissioner may levy assessments on
772 persons licensed as money transmitters pursuant to sections 36a-595 to
773 36a-612, inclusive, and persons licensed as private student loan servicers
774 pursuant to sections 36a-846 to 36a-854, inclusive, as amended by this
775 act. The commissioner shall annually, on or after July first for the fiscal
776 year commencing on said July first, collect such additional amounts
777 sufficient in the commissioner's judgment to meet the expenses of the
778 Department of Banking, including a reasonable reserve for
779 contingencies. Such assessment shall be determined pro rata based on:
780 (A) For licensed money transmitters, dollar volume of money
781 transmissions in this state, and (B) for licensed private student loan
782 servicers, dollar volume of private student education loans, as defined
783 in section 36a-846, as amended by this act, of student loan borrowers
784 serviced. Each such licensee shall pay the commissioner the amount
785 allocated to it not later than the date specified by the commissioner for
786 payment. Failure by a licensee to timely make such payment shall
787 constitute a violation of this section and a basis upon which the
788 commissioner may take action against such licensee pursuant to section
789 36a-51.

790 Sec. 16. Subdivision (6) of subsection (c) of section 36a-65 of the
791 general statutes is repealed and the following is substituted in lieu
792 thereof (*Effective July 1, 2021*):

793 (6) A licensee under section 36a-489, 36a-541, 36a-556, 36a-581, 36a-

794 600, 36a-628, 36a-656, 36a-671, 36a-719, 36a-801 or 36a-847, as amended
795 by this act, and a registrant under section 3 of this act shall pay to the
796 commissioner the actual cost of any examination of the licensee or
797 registrant, as such cost is determined by the commissioner. If the
798 licensee fails to pay such cost not later than sixty days after receipt of
799 demand from the commissioner, the commissioner may suspend the
800 license until such costs are paid.

801 Sec. 17. (NEW) (*Effective October 1, 2021*) (a) Any student loan
802 borrower, class of student loan borrowers or the legal representative of
803 such borrower or borrowers aggrieved by a violation of any provision
804 of sections 36a-846 to 36a-854, inclusive, of the general statutes, as
805 amended by this act, or section 3 of this act, by a student loan servicer,
806 may bring an action in the Superior Court. Upon finding that a student
807 loan servicer has violated any provision of said sections, the court may
808 award a prevailing party actual damages, reasonable attorneys' fees and
809 court costs, and may, in its discretion, award punitive damages and
810 restitution of property and may provide such equitable relief as it deems
811 appropriate.

812 (b) In addition to the judicial relief provided under subsection (a) of
813 this section, in any civil action brought under this section in which the
814 student loan borrower prevails, the court shall award treble damages
815 upon a finding that the student loan servicer has engaged in conduct
816 that substantially interferes with (1) such student loan borrower's right
817 to an alternative payment arrangement, loan forgiveness, cancellation
818 or discharge of the student loan borrower's student education loan, or
819 (2) any other financial benefit (A) established under the terms of such
820 student loan borrower's promissory note, or (B) pursuant to the Higher
821 Education Act of 1965, as amended from time to time, or the regulations
822 adopted thereunder.

823 (c) Any student loan borrower, or the legal representative of such
824 borrower, entitled to bring an action under subsection (a) of this section
825 may, pursuant to rules established by the judges of the Superior Court,
826 bring a class action on behalf of themselves and other similarly situated

827 student loan borrowers to recover damages.

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

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-847
Sec. 3	<i>July 1, 2021</i>	New section
Sec. 4	<i>July 1, 2021</i>	New section
Sec. 5	<i>July 1, 2021</i>	36a-848
Sec. 6	<i>July 1, 2021</i>	36a-849
Sec. 7	<i>July 1, 2021</i>	36a-850
Sec. 8	<i>July 1, 2021</i>	36a-851
Sec. 9	<i>July 1, 2021</i>	36a-852
Sec. 10	<i>July 1, 2021</i>	36a-17(d)(1)
Sec. 11	<i>July 1, 2021</i>	36a-24b
Sec. 12	<i>July 1, 2021</i>	36a-50(a)(1)
Sec. 13	<i>July 1, 2021</i>	36a-52(a)
Sec. 14	<i>July 1, 2021</i>	36a-52a
Sec. 15	<i>July 1, 2021</i>	36a-65(a)(2)
Sec. 16	<i>July 1, 2021</i>	36a-65(c)(6)
Sec. 17	<i>October 1, 2021</i>	New section

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill has no fiscal impact as it is anticipated that those companies currently licensed to service student loans (both federal and private) will remain licensed to service private student loans. The bill changes the requirement for federal student loan servicers from a license to a registration. The bill maintains the licensing requirement for those student loan servicers who service private student loans.

In FY 21 there are 64 student loan servicer licenses, with an annual fee of \$900, generating \$57,600. Fee revenue is deposited to a non-lapsing account intended to support a Student Loan Ombudsman position.

The Out Years

State Impact: None

Municipal Impact: None

*Sources: Core-CT Financial Accounting System
Department of Banking website*

OLR Bill Analysis**sSB 890*****AN ACT CONCERNING STUDENT LOAN SERVICERS.*****SUMMARY**

This bill establishes an annual registration for federal student loan servicers, to replace the current unenforceable licensure requirement (§§ 1, 3, & 4) (see BACKGROUND). The fee for registering is \$900, as is a renewal. The bill retains the law's licensure requirement for private student loan servicers which, under the bill, are student loan servicers responsible for servicing student education loans that are not federal loans (i.e., "private student education loans").

Under the bill, a "federal student loan servicer" is one that services federal student education loans to student borrowers under a contract with the U.S. Department of Education (DOE). A "federal student education loan" is a loan DOE owns that was either (1) made through the William D. Ford Federal Direct Loan Program or (2) purchased by DOE as authorized by federal law. Servicing loans involves such things as receiving scheduled periodic payments, applying payments to principal and interest, and performing other associated administrative tasks.

The bill also allows student loan borrowers, classes of student loan borrowers, or legal representatives of either, to bring a lawsuit against a student loan servicer for violations of Connecticut's requirements for student loan servicers (§ 17).

Lastly, the bill makes (1) numerous technical and conforming changes, particularly for the transition from a license to a registration (§§ 1, 2, & 4-16), and (2) a minor change specifying that "change of control" of a student loan servicer, whether federal or private, is a change that causes majority ownership, voting rights, or control to be

held by a different control person or group of control persons (§ 5).

EFFECTIVE DATE: July 1, 2021, except the private right of action provision takes effect October 1, 2021.

FEDERAL STUDENT LOAN SERVICERS

Registration (§§ 3-5)

Scope and Fee. The bill requires anyone who acts, directly or indirectly, as a federal student loan servicer to register with the Department of Banking (DOB) on the Nationwide Mortgage Licensing System and Registry (NMLS, see BACKGROUND) and in the form DOB's commissioner prescribes. As under existing law for private student loan servicers, the bill exempts from registration banks and credit unions, their wholly owned subsidiaries, and operating subsidiaries where the owners are wholly owned by the bank or credit union.

The bill sets the registration and renewal fee at \$900 and requires registrants to pay to NMLS any other required fees or charges. As under existing law for licenses, a registration is not transferable or assignable.

Duration. Under the bill, a registration takes effect once it is filed on the system and it remains effective until it is expired, surrendered, revoked, or suspended. A registration generally expires, unless renewed, at close of business on December 31 of the year of its filing. If a registrant files on November 1 or later, then it expires at close of business on December 31 the following year. A registration renewal request must be filed on the system between November 1 and December 31 of the year the registration expires.

The bill requires a registrant to notify the DOB commissioner in writing if a contract it has with DOE expires or is revoked or terminated. This must occur within seven days after the event. The bill deems a registration based solely upon an expired, revoked, or terminated DOE contract also expired as of the date of that event.

Service of Process. The bill requires a registrant to appoint an agent

to accept service of process in Connecticut on its behalf and deems service made upon the agent service upon the registrant.

If an agent cannot be located with reasonable diligence or the registrant failed to appoint one, the bill allows service to be made upon a control person (e.g., a partner, senior executive, or shareholder with 10% of each class of the corporation's securities) of the registrant.

Designated DOB Communicator. The bill requires a registrant to designate someone to communicate on its behalf with the DOB commissioner. The registrant must (1) provide the communicator's contact information when registering and (2) notify the commissioner of a change in communicator or information within 10 days after it occurs.

Commissioner Authority (§§ 3, 5, 8-10 & 16)

Investigations and Examination. As is the case for all DOB licensees, the bill allows the DOB commissioner, for registration status purposes, to access records, information, or evidence such as (1) criminal, civil, and administrative history information; (2) personal history and experience information, such as credit reports; and (3) other records or information relevant to the investigation.

The bill allows the DOB commissioner to suspend, revoke, or refuse to renew a registration if a fact or condition exists that would have precluded registration if it existed at the time of registration filing.

The bill also authorizes the commissioner to conduct investigations and examinations of registrants, as he currently may for licensees, to (1) determine compliance with the student loan servicer law or (2) investigate violations or complaints. This includes the ability to access certain records, examine a servicer or associated person, or legally require testimony or document production.

As with licensees, the bill requires a registrant to pay the commissioner the actual cost of an examination he conducts. But unlike existing law for licensees, if a registrant fails to pay the cost within 60 days of demand, the registrant's credential is not suspended.

Action Against Violators. The bill allows the DOB commissioner, as he may under existing law for licensees, to take action against a registrant if it appears that:

1. someone violated, is violating, or is about to violate the student loan servicers law;
2. someone knew or should have known that the person's act or omission contributed to a violation of the student loan servicers law; or
3. the registrant or certain associated persons (including employees) committed fraud, engaged in dishonest activities, or made a misrepresentation.

Civil Penalties. The bill authorizes the DOB commissioner to assess a civil penalty of up to \$100,000 per violation on anyone who acts as a federal student loan servicer for 30 days or more without being registered (§ 3 and CGS § 36a-50(a)(2)). It allows for the same penalty on registrants who do the following things:

1. act under a name or place of business that is not named in the registration;
2. use a name other than the legal name, unless disapproved by the commissioner, or a commissioner-approved fictitious name;
3. maintain more than one place of business under the same registration; or
4. fail to timely provide advance notice in NMLS or obtain the commissioner's approval before changing a control person, other than a change in certain people that is not due to an acquisition or a change of control (see SUMMARY).

Under the bill, the penalty may not be assessed until after notice and an opportunity for a hearing conducted pursuant to the Uniform Administrative Procedure Act (CGS § 36a-50(a)). Existing law allows the

commissioner to automatically suspend a license for these violations. The bill does not similarly authorize automatic registration suspension for these violations.

Registrant Responsibilities (§§ 5, 6 & 15)

The bill requires registrants to abide by many of the same requirements that they were originally required to do as licensees. These include such things as the following:

1. properly changing registrant information in the NMLS (e.g., name, office address);
2. filing information on NMLS, or notifying the commissioner in writing if filing is not possible, about certain developments with the registrant or a control person, branch manager, or qualified individual (e.g., bankruptcy filing or restructuring, certain criminal indictments, or action by a governmental agency or a state's attorney general); and
3. providing their NMLS unique identifier in solicitations and advertisements and maintaining solicitations and advertisements for two years.

Additionally, unless federal law, a federal student loan agreement, or a DOE contract require otherwise, the bill requires licensees and registrants to (1) maintain records of each student loan transaction for at least two years after the final loan payment or the loan's assignment, whichever occurs first, and (2) if the DOE commissioner requests, make the records available or send them to the commissioner.

In addition to licensure fees, existing law allows the commissioner to collect assessments from certain licensed entities, including student loan servicers, to help meet the department's expenses. The bill does not apply this assessment to registrants.

Prohibited Acts (§ 7)

The bill generally applies to federal student loan servicer registrants

the same list of prohibited actions as apply to private student loan servicer licensees. These actions include such things as defrauding or misleading borrowers, using unfair or deceptive practices, fraudulently obtaining property, or knowingly or recklessly applying loan payments or providing inaccurate information to a credit bureau which ends up harming a borrower's credit.

Two of the law's prohibited acts are failing to (1) establish, enforce, and maintain policies and procedures to supervise employees, agents, and operations and achieve compliance with student loan servicing requirements and (2) comply with DOB student loan servicing standards. The bill exempts servicers from needing to do these things if it is required do otherwise under a federal law, federal student loan agreement, or a contract with DOE.

LAWSUITS

Bringing the Action

The bill allows student loan borrowers, classes of similarly situated student loan borrowers, or legal representatives of either, to bring a lawsuit in Superior Court for violations of state student loan servicer requirements. They may bring the action before exhausting any administrative remedies.

Relief

Under the bill, if a court finds that a student loan servicer committed the alleged violations, it may award actual damages, reasonable attorney's fees, court costs, punitive damages, property restitution, and appropriate equitable relief.

The bill also entitles a prevailing borrower to treble damages if the court finds that the servicer engaged in conduct that substantially interferes with (1) the borrower's right to an alternative payment arrangement, loan forgiveness, cancellation, or discharge of the loan or (2) another financial benefit set out in the borrower's promissory note or applicable federal law and regulations.

These remedies are in addition to any other remedies state or federal

law provide.

BACKGROUND

NMLS

NMLS is a license and registration system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the mortgage and other finance services industry. It (1) may be also referred to as NMLSR or any other name or acronym as may be assigned and (2) is owned and operated by the State Regulatory Registry, LLC, or a successor or affiliated entity (CGS § 36a-2).

Related Bill

sSB 848, favorably reported by the Committee, contains a similar provision about what constitutes “change of control” (§ 19).

Related Case: Pennsylvania Higher Education Assistance Agency (PHEAA) v. Perez

The legislature established a licensing requirement for student loan servicers in 2015 (PA 15-162). PHEAA, a servicer of federal student loans made by DOE, obtained a student loan servicer license under Connecticut law. PHEAA later challenged DOB examination efforts to obtain certain loan documents, which were owned by DOE and in its possession. In 2020, the Connecticut federal district court ruled that enforcement of DOB’s licensing authority over federal student loan servicers is preempted and enjoined DOB from requiring PHEAA to follow its licensing authority (457 F.Supp.3d 112 (D. Conn. 2020)).

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/09/2021)