



Senate Bill No. 716

Public Act No. 21-190

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

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

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 Section 36a-846 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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

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

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

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

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

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

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as amended from time to time;

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

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

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

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

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

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

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

~~[(7)]~~ (13) "Servicing" means (A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and

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interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; ~~(C) maintaining account records for and communicating with the student loan borrower concerning the student education loan during the period when no scheduled periodic payments are required;~~ ~~(D) interacting with a student loan borrower for purposes of facilitating the servicing of a student education loan, including, but not limited to, assisting a student loan borrower to prevent such borrower from defaulting on obligations arising from the student education loan;~~ or ~~[(C)]~~ ~~(E)~~ performing other administrative services with respect to a student education loan;

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

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

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

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

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

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

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loan;

(3) Obtain property by fraud or misrepresentation;

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

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

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

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

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

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

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regulations [;] or fail to comply with the service standards set by the commissioner in accordance with section 59 of public act 16-65; or

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

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

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

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

(2) Send annual written notice to all student loan borrowers and cosigners relating to information about cosigner release, including the criteria the private student education loan servicer requires to approve the release of a cosigner from a private student education loan

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obligation and the process for applying for cosigner release;

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

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

(5) Not later than thirty days following the submission of an application for cosigner release, send to the student loan borrower and cosigner a written notice of the decision that such application has been approved or denied. If the application for cosigner release has been denied, such written notice shall inform such student loan borrower and cosigner that such student loan borrower and cosigner have the right to request all documents and information used by the private student education loan servicer in its decision to deny such application, including the credit score threshold used by the private student education loan servicer, the consumer report of such student loan borrower or cosigner, the credit score of such student loan borrower or cosigner, and any other documents that are relevant or specific to such

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student loan borrower or cosigner. The private student education loan servicer shall provide such student loan borrower and cosigner with any adverse action notices required under federal law if the denial of such application was based in whole or in part on any information contained in a consumer report;

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

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

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

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

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

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

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

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

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

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

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

Approved July 13, 2021