
OLR Bill Analysis

sHB 5318

AN ACT ESTABLISHING A STUDENT LOAN REGISTRY.

SUMMARY

This bill requires private education lenders (e.g., non-bank lenders making private education loans to student borrowers) to register with the Department of Banking (DOB) commissioner before making a private education loan (i.e., student loan) to a Connecticut resident. It also requires these lenders, before they make loans to Connecticut residents, to annually provide the commissioner with certain information, beginning when they register.

Under the bill, the information the lenders must provide include, among other things, the (1) number and dollar amount of total loans made, (2) number of loans made with a cosigner, (3) interest rates spread, and (4) schools attended by borrowers. The commissioner must publish on a public website a summary of the information he receives, certain lender contact information, and copies of model documents.

The bill applies the commissioner's existing general authority to enforce violations of the state's banking laws to violations of the bill's requirements. This includes (1) conducting an administrative hearing proceeding and imposing fines of up to \$100,000; (2) seeking a court order for injunctive relief, direct compliance, restitution, or a fine; and (3) ordering restitution or disgorgement. It also allows him to bar individuals from acting as private education lenders for up to 10 years for violating these requirements.

EFFECTIVE DATE: October 1, 2022

LENDERS COVERED BY THE BILL

The bill's registration and information disclosure requirements apply to the following as "private education lenders":

1. persons in the business of making or extending private education loans,
2. holders of private education loans, or
3. private education loan creditors (excluding federal, state, or local government agencies).

The bill excludes from the requirements banks, Connecticut or federally chartered credit unions, licensed consumer collection agencies or student loan servicers, and the Connecticut Higher Education Supplemental Loan Authority (CHESLA).

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).

The bill excludes (1) loans secured by real property or (2) extensions of credit in which the covered postsecondary educational institution is the lender if (a) the credit’s term is 90 days or less or (b) an interest rate is not applied to the credit balance and the term is one year or less, even if the credit is payable in five or more installments.

REGISTRATION REQUIREMENTS

The bill requires private education lenders to register with the DOB commissioner, in a form and manner he prescribes, before making private education loans to Connecticut residents. However, it allows the commissioner to prescribe an alternate registration process and fee structure for nonprofit postsecondary educational institutions. (The bill is silent about a fee structure for the other registrants).

REGISTRY INFORMATION

The bill requires each registrant to provide the commissioner, annually beginning when it registers, and also upon the commissioner’s request, certain documents and information. The information must also

be provided before a registrant makes private education loans to Connecticut residents. It must be in a form and manner the commissioner prescribes and include:

1. the name and address of the lender and of its officers, directors, partners, or owners of a controlling interest;
2. a list of all the schools their borrowers attend and the number of loans made annually at each school;
3. the number, dollar amount, and interest rates spread of private education loans made annually;
4. the number of loans made with a cosigner annually;
5. the default rate for borrowers, including the default rate for each school attended by borrowers; and
6. 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).

PUBLIC ONLINE RESOURCE

The bill requires the commissioner to create a publicly available website that includes:

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

ENFORCEMENT & PENALTIES

The bill authorizes the DOB commissioner to enforce the bill's 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 or as a stockholder, officer, director, partner, or other owner or employee of a lender for up to 10 years if they violated the bill's provisions and caused a consumer financial harm because of it.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/15/2022)