



# House of Representatives

General Assembly

**File No. 134**

February Session, 2022

Substitute House Bill No. 5318

*House of Representatives, March 28, 2022*

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT ESTABLISHING A STUDENT LOAN REGISTRY.***

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

1 Section 1. (NEW) (*Effective October 1, 2022*) For purposes of this  
2 section and section 2 of this act:

3 (1) "Commissioner" means the Banking Commissioner;

4 (2) "Consumer collection agency" has the same meaning as provided  
5 in section 36a-800 of the general statutes;

6 (3) "Postsecondary education expense" means any expense associated  
7 with a student's enrollment in, or attendance at, a postsecondary  
8 educational institution;

9 (4) "Private education lender" means: (A) Any person engaged in the  
10 business of making or extending private education loans; (B) a holder of  
11 a private education loan; or (C) a private education loan creditor.  
12 "Private education lender" does not include: (i) A bank, as defined in 12  
13 USC 1841(c); (ii) a Connecticut credit union or a federal credit union, as  
14 those terms are defined in section 36a-2 of the general statutes; (iii) a

15 consumer collection agency, licensed pursuant to section 36a-801 of the  
16 general statutes; (iv) a student loan servicer, licensed pursuant to section  
17 36a-847 of the general statutes; or (v) the Connecticut Higher Education  
18 Supplemental Loan Authority, as described in section 10a-179a of the  
19 general statutes;

20 (5) "Private education loan" means credit that: (A) Is extended to a  
21 consumer expressly, in whole or in part, for postsecondary educational  
22 expenses, regardless of whether the credit is provided by the  
23 postsecondary educational institution that the student attends; and (B)  
24 is not made, insured or guaranteed under Title IV of the Higher  
25 Education Act of 1965, as amended from time to time. "Private education  
26 loan" does not include: (i) A loan that is secured by real property,  
27 regardless of the purpose of the loan; or (ii) an extension of credit in  
28 which the covered postsecondary educational institution is the lender if:  
29 (I) The term of the extension of credit is ninety days or less; or (II) an  
30 interest rate is not applied to the credit balance and the term of the  
31 extension of credit is one year or less, even if the credit is payable in  
32 greater than four installments;

33 (6) "Private education loan borrower" means any resident of the state,  
34 including a student loan borrower, who has received or agreed to pay a  
35 private education loan for the resident's own postsecondary education  
36 expenses;

37 (7) "Private education loan creditor" means: (A) Any person to whom  
38 a debt is owed by a debtor, where such debt results from a private  
39 education loan; or (B) any person to whom such debt is assigned.  
40 "Private education loan creditor" does not include a consumer collection  
41 agency, a student loan servicer or any department or agency of the  
42 United States, this state, any other state or any political subdivision  
43 thereof; and

44 (8) "Student loan servicer" has the same meaning as provided in  
45 section 36a-800 of the general statutes.

46 Sec. 2. (NEW) (*Effective October 1, 2022*) (a) Except for a public or

47 private nonprofit postsecondary educational institution, for which the  
48 commissioner may prescribe an alternative registration process and fee  
49 structure, a private education lender shall, prior to making a private  
50 education loan to a resident of the state:

51 (1) Register with the commissioner in the form and manner  
52 prescribed by the commissioner; and

53 (2) Provide the commissioner, at the time of registration and not less  
54 than annually thereafter, and at other times upon the commissioner's  
55 request, with the following documents and information in the form and  
56 manner prescribed by the commissioner:

57 (A) A list of all schools attended by private education loan borrowers  
58 to whom the private education lender provided a private education  
59 loan;

60 (B) The number of private education loans made annually to private  
61 education loan borrowers;

62 (C) The number of private education loans made annually at each  
63 school listed pursuant to subparagraph (A) of this subdivision;

64 (D) The dollar amount of private education loans made annually;

65 (E) The spread of interest rates for private education loans made  
66 annually;

67 (F) The number of private education loans made with a cosigner  
68 annually;

69 (G) The default rate for private education loan borrowers obtaining  
70 private education loans from the private education lender, including the  
71 default rate for private education loans made to private education loan  
72 borrowers for each school listed pursuant to subparagraph (A) of this  
73 subdivision;

74 (H) A copy of each model promissory note, agreement, contract or  
75 other instrument used by the private education lender during the

76 previous year to substantiate that a private education loan has been  
77 extended to a private education loan borrower or that a private  
78 education loan borrower owes a debt to the lender; and

79 (I) The name and address of the private education lender and any  
80 officer, director, partner or owner of a controlling interest of the lender.

81 (b) The commissioner shall create a publicly accessible Internet web  
82 site that includes the following information about private education  
83 lenders registered in the state:

84 (1) The name, address, telephone number and Internet web site for  
85 all registered private education lenders;

86 (2) A summary of the information provided pursuant to subdivision  
87 (2) of subsection (a) of this section; and

88 (3) Copies of all model promissory notes, agreements, contracts and  
89 other instruments provided to the commissioner in accordance with  
90 subparagraph (H) of subdivision (2) of subsection (a) of this section.

91 (c) The commissioner may take action pursuant to section 36a-50 of  
92 the general statutes to enforce the provisions of this section.

93 (d) The commissioner may order that any person who has been found  
94 to have violated any provision of this section and has thereby caused  
95 financial harm to a consumer be barred for a term not exceeding ten  
96 years from acting as a private education lender or a stockholder, officer,  
97 director, partner or other owner or employee of a private education  
98 lender.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section
Sec. 2	October 1, 2022	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:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Banking Dept.	BF - Cost	146,668	145,919
Banking Dept.	BF - Revenue Gain	Potential	Potential
UConn Health Ctr.	Various - Potential Cost	See Below	See Below
Board of Regents for Higher Education	Various - Potential Cost	See Below	See Below

Note: BF=Banking Fund; Various=Various

**Municipal Impact:** None

**Explanation**

The bill requires the Department of Banking (DOB), starting on October 1, 2022, to establish a student loan registry for private education lenders and requires these lenders to register before making a private education loan to a Connecticut resident. This is anticipated to result in a cost to the state of up to \$146,668 in FY 23 and up to \$145,919 in FY 24.

The cost to the state includes personnel cost to DOB of approximately \$70,930 in FY 23 and \$73,058 in FY 24 associated with hiring one Financial Examiner, as DOB does not currently have the staff to meet the requirements contained in the bill. In addition to the personnel cost, corresponding fringe benefits costs of \$70,738 in FY 23 and \$72,861 in FY 24 would also be charged to the Banking Fund<sup>1</sup>.

<sup>1</sup> The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, rather than the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 99.73% of payroll in FY 23.

Additionally, there would be a one-time cost of \$5,000 for equipment and training in FY 23.

The bill also allows the DOB Commissioner: 1) to establish a fee structure for the registration but does not specify the amount of such a fee and, 2) to enforce violations of the bill's requirements under existing authority for banking law violations. The amount of revenue associated with the fee cannot be determined until the fee is established. Additionally, the potential revenue from any fines would be dependent on the number of violations and the fines charged.

Finally, the bill allows the DOB Commissioner to prescribe alternate registration processes and fee structures for private education lenders and nonprofit postsecondary educational institutions. This could result in a potential cost to the University of Connecticut Health Center and to Southern Connecticut State University, as the public institutions of higher education that directly offer student loans. The potential cost is dependent on: (1) whether the banking department creates a registration process with an associated fee, and if so, (2) the fee amount.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Core-CT Financial Accounting System*

**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)