STATE OF NEW YORK

1146

2025-2026 Regular Sessions

IN ASSEMBLY

January 9, 2025

Introduced by M. of A. SIMON, GONZALEZ-ROJAS, REYES -- Multi-Sponsored by -- M. of A. BICHOTTE HERMELYN, R. CARROLL, COLTON, COOK, DAVILA, GLICK, McDONOUGH, TAYLOR -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to creating a student loan borrower bill of rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 684 to read as follows:

§ 684. Student loan borrower bill of rights. 1. Definitions. As used in this section:

(a) "Servicing" shall mean receiving a scheduled periodic payment from a borrower pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments to the owner of the loan or other third party of principal and interest and other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the servicing loan document or servicing contract. In the case of a home equity conversion mortgage or reverse mortgage as referenced in this section, servicing includes making payments to the borrower. In the case of a student education loan as referenced in this section, servicing includes applying the payments of principal and interest and other such 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 and performing other administrative services with respect to a student education loan.

(b) "Student education loan" shall mean any loan primarily used to finance education or other school-related expenses.

(c) "Student loan borrower" shall mean any resident of New York who has received or agreed to pay a student education loan, or any person

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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who shares responsibility with such New York resident for repaying the student education loan.

(d) "Student loan servicer" shall mean any person responsible for the servicing of a student education loan to a student loan borrower.

2. Loan ombudsperson. (a) There is hereby established the position of the student loan ombudsperson, within the department of financial services, to be appointed by the commissioner to provide timely assistance to any student loan borrower who has a student education loan.

(b) The student loan ombudsperson shall work in consultation with the commissioner. The responsibilities of the student loan ombudsperson will include, but not be limited to:

(i) receiving, reviewing and assisting in resolving complaints from student loan borrowers, including, but not limited to, attempting to resolve such complaints in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending, including, but not limited to, the state university of New York, and the department;

(ii) compiling and analyzing data on student loan borrower complaints and any subsequent resolutions;

(iii) assisting student loan borrowers to understand their rights and responsibilities under the terms of student education loans;

(iv) providing information to the public regarding the problems and concerns of student loan borrowers;

(v) making recommendations to the commissioner for resolving such problems and concerns;

(vi) analyzing and monitoring the development and implementation of federal, state and local laws, regulations and policies relating to student loan borrowers and recommend any related changes deemed necessary;

(vii) reviewing complete student education loan history for any student loan borrower who has provided written consent for such review; and

(viii) disseminating information to student loan borrowers, potential student loan borrowers, public institutions of higher education, student loan servicers and any other participant in student education loan lending.

(c) The student loan ombudsperson, in consultation with the commissioner, shall establish a student loan borrower education course to include educational presentations and materials regarding student education loans. Such program shall include, but not be limited to:

(i) an explanation of key loan terms, prescribed documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness and disclosure requirements; and

(ii) the student loan borrower education course shall be funded by any license, renewal, late filing, or investigation fees, as well as any penalties assessed under this section.

3. Licensing. (a) No person or entity shall act as a student loan servicer, directly or indirectly, without first obtaining a license from the commissioner, unless such person is exempt from licensure pursuant to this section.

(b) The following persons or entities are exempt from student loan servicer licensing requirements:

(i) any bank, out-of-state bank, New York credit union, federal credit union or out-of-state credit union;

(ii) any wholly owned subsidiary of any such bank or credit union; and

(iii) any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

(c) Any person or entity seeking to act within the state as a student loan servicer shall submit a written application to the commissioner for a license in such form as the commissioner prescribes.

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

(i) the applicant's financial condition is sound;

(ii) the applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of this section;

(iii)(1) if the applicant is an individual, such individual is in all respects properly qualified and of good character;

(2) if the applicant is a partnership, each partner is in all respects properly qualified and of good character;

(3) if the applicant is a corporation or association, the president, chairperson of the executive committee, senior officer responsible for the corporation's business and chief financial officer or any other person who performs similar functions as determined by the commissioner, each director, each trustee and each shareholder owning ten percent or more of each class of the securities of such corporation is in all respects properly qualified and of good character; or

(4) if the applicant is a limited liability company, each member is in all respects properly qualified and of good character;

(iv) no person on behalf of the applicant has knowingly made any incorrect statement of a material fact in the application, or in any report or statement made pursuant to this section;

(v) no person on behalf of the applicant knowingly has omitted to state any material fact necessary to give the commissioner any information lawfully required by the commissioner;

(vi) the applicant has met any other requirements as determined by the commissioner.

(e)(i) A license shall be for a period of one year as of a date determined by the commissioner and shall expire unless renewed, suspended or revoked pursuant to this section.

(ii) Not later than fifteen days after a licensee ceases to engage in the business of student loan servicing in this state for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall provide written notice of surrender to the commissioner and shall surrender to the commissioner such license for each location in which such licensee has ceased to engage in such business.

(iii) A written notice of surrender shall identify the location where the records of the licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license.

(f) A license may be renewed for the ensuing one year period upon the filing of an application containing all required documents and fees as provided in paragraph (c) of this subdivision. A renewal application shall be filed at least thirty days prior to the date such license expires. The commissioner may assess a late fee for renewal applications filed within thirty days of license expiration. If an application for a renewal license has been filed with the commissioner on or before the date the license expires, the license sought to be renewed shall continue in full force and effect until issuance by the commissioner of the renewal license or until the commissioner has notified the licensee in writing of the commissioner's refusal to issue such renewal license together with the grounds upon which such refusal is based. The commissioner may refuse to issue a renewal license on any ground on which the commissioner might refuse to issue an initial license.

(g) If the commissioner determines that a check filed with the commissioner to pay a license or renewal fee has been dishonored, the commissioner shall automatically suspend the license. The commissioner shall notify the licensee in writing of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions.

(h) The commissioner may deem an application for a license abandoned if the applicant fails to respond to any request for information required under this section, or any regulations adopted pursuant to such. The commissioner shall notify the applicant, in writing, that if the applicant fails to submit such information later than sixty days after the date on which such request for information was made, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned shall not be refunded. Abandonment of an application pursuant to this paragraph shall not preclude the applicant from submitting a new application for a license under the provisions of this section.

4. Prohibitions. (a) A student loan servicer shall not:

(i) directly or indirectly employ any scheme, device or artifice to defraud or mislead student loan borrowers;

(ii) 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 loan;

(iii) obtain property by fraud or misrepresentation;

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

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

(vi) 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 regularly reports information to a credit bureau;

(vii) 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 may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower; or

(viii) negligently make any false statement or knowingly and willfully 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 superintendent of financial services or another governmental agency.

(b) No person or entity licensed to act within New York as a student loan servicer shall do so under any other name or at any other place of business other than that named in the license. Any change of location of a place of business of a licensee shall require prior written notice to the commissioner. Not more than one place of business shall be maintained under the same license. A license shall not be transferable or assignable.

(c) A student loan servicer or a person or entity exempt from licensure pursuant to subdivision three of this section shall maintain adequate records of each student education loan transaction for not less than two years following the final payment on such student education loan or the assignment of such student education loan, whichever occurs first, or such longer period as may be required by any other provision of law. The commissioner may request a student loan servicer to make such records available. A student loan servicer must comply with such request within five business days. The commissioner may grant a licensee additional time to make such records available upon request.

(d) A student loan servicer shall comply with all applicable federal laws and regulations relating to student loan servicing. Any violation of federal law or regulation shall be deemed a violation of this section and a basis upon which the commissioner may take enforcement action pursuant to such.

5. Licensing examinations. (a) The commissioner shall have the authority to conduct investigations and examinations for the purposes of:

(i) initial licensing, license renewal, license suspension, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this section, the commissioner may access, receive and use any books, accounts, records, files, documents, information or other evidence; and

(ii) investigating violations or complaints arising under this section.

(b) In making any examination or investigation authorized by this section, the commissioner may access documents and records of the student loan servicer, licensee or person under examination or investigation. Unless the commissioner has reasonable grounds to believe the documents or records of the student loan servicer, licensee or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this section, the student loan servicer or owner of the documents and records shall have access to the documents or records as necessary to conduct ordinary business affairs.

(c) No student loan servicer or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, or destroy any books, records, computer records or other information.

(d) The commissioner may suspend, revoke or refuse to renew any license issued under this section if the commissioner finds that:

(i) the licensee has violated any provision of this section or any regulation made pursuant to this section, or (ii) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted a denial of such license. No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued.

6. Report. Notwithstanding any general or special law to the contrary, the commissioner shall file a report on the work of the student loan ombudsperson annually with the governor and the legislature beginning on January first, two thousand twenty-eight. Such report shall include, but not be limited to:

<u>**(a) the number of complaints received by the student loan ombudsperson from student loan borrowers;**</u>

<u>**(b) the types of complaints received by the student loan ombudsperson from student loan borrowers;**</u>

<u>**(c) any recommendations to improve the effectiveness of the position of student loan ombudsperson; and**</u>

<u>**(d) any recommendations to improve regulation, oversight, and enforcement of the department of financial services over the licensing and enforcement of student loan servicers.**</u>

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.