

HOUSE BILL 1642

I1, C2, F2

8lr2106
CF SB 1012

By: Delegates Frick, A. Miller, Barkley, Barve, Brooks, Chang, Fennell, Frush, Gutierrez, Hayes, Healey, Hettleman, C. Howard, Jalisi, Korman, Krimm, Lam, J. Lewis, Lierman, Lisanti, McComas, McIntosh, Moon, Rosenberg, Stein, Tarlau, Turner, Valentino-Smith, and K. Young

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2018

CHAPTER _____

1 AN ACT concerning

2 **Commissioner of Financial Regulation – Student Education Loans –**
3 **Ombudsman ~~and Licensing of Servicers~~**

4 FOR the purpose of requiring the Commissioner of Financial Regulation to designate an
5 individual to serve as the Student Loan Ombudsman; establishing the duties and
6 responsibilities of the Student Loan Ombudsman; requiring the Student Loan
7 Ombudsman, in consultation with the Commissioner, to establish a certain student
8 loan borrower education course; establishing the requirements of the course;
9 ~~prohibiting a person from engaging in student education loan servicing unless the~~
10 ~~person is licensed by the Commissioner or is exempt from licensing; establishing the~~
11 ~~application requirements for a student loan servicer license; requiring the~~
12 ~~Commissioner to investigate certain information under certain circumstances;~~
13 ~~requiring a certain person to provide fingerprints and pay a certain fee under certain~~
14 ~~circumstances; requiring the Commissioner to issue or deny an application for a~~
15 ~~student education loan servicing license under certain circumstances; specifying the~~
16 ~~expiration date of a certain license; establishing the requirements and procedures~~
17 ~~for the renewal of a student education loan servicing license; providing for the~~
18 ~~effective date of a certain initial license under certain circumstances; authorizing the~~
19 ~~Commissioner to refuse to approve a renewal license application under certain~~
20 ~~circumstances; establishing procedures regarding the abandonment of certain~~
21 ~~license applications; requiring a certain licensee who ceases engaging in student~~
22 ~~education loan servicing to surrender a certain license under certain circumstances;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~providing that a certain surrender of a license does not reduce or eliminate certain liability; requiring the Commissioner to automatically suspend a certain license under certain circumstances; establishing the duties, responsibilities, and requirements of a licensee; authorizing the Commissioner to issue more than one license to a licensee; prohibiting a licensee from transferring or assigning a license; authorizing the Commissioner to investigate and inspect certain records; authorizing the Commissioner to extend the time a licensee has to send certain records; requiring a certain sale, assignment, or transfer of the servicing of a student education loan to be completed within a certain period of time; prohibiting a licensee from taking or failing to take certain actions, making certain misrepresentations or omissions, or causing certain harm; authorizing a licensee to adopt certain procedures; authorizing the Commissioner to conduct certain investigations and examinations and certain related actions; requiring the Commissioner to review, investigate, or examine a certain licensee under certain circumstances; requiring the Commissioner to have certain access to certain books, accounts, records, files, documents, information, or evidence; requiring the Commissioner to control access to certain documents and records and take certain actions; prohibiting a person from removing or attempting to remove certain documents or records under certain circumstances; requiring a licensee or a certain owner to have access to certain documents and records under certain circumstances; prohibiting a licensee or a certain person from knowingly taking certain actions; authorizing the Commissioner to take certain actions to enforce and carry out this Act under certain circumstances; authorizing the Commissioner to take certain enforcement actions against a certain student loan servicer who is not licensed; requiring the Commissioner to order a certain person to cease and desist from engaging in certain activity under certain circumstances; authorizing a certain request for a hearing under certain circumstances; requiring the Commissioner to hold a certain hearing under certain circumstances; requiring the Commissioner to take certain enforcement actions and to provide a certain notice and a certain option; authorizing the Commissioner to take certain actions authorized under certain banking laws under certain circumstances; prohibiting the Commissioner from refunding certain fees; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; establishing certain civil penalties and liability under certain circumstances; establishing certain reporting requirements; requiring the Commissioner to adopt certain regulations; providing for the application of this Act; making the provisions of this Act severable; defining certain terms; and generally relating to student education loans and student education loan servicers.~~

39 BY adding to

40 Article – Financial Institutions

41 Section 2-104.1; and ~~12-1101 through 12-1122 to be under the new subtitle~~

42 “~~Subtitle 11. Student Loan Servicers~~”

43 Annotated Code of Maryland

44 (2011 Replacement Volume and 2017 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Financial Institutions**

4 **2–104.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “STUDENT EDUCATION LOAN” HAS THE MEANING STATED IN
8 § 12–1101 OF THIS ARTICLE.

9 (3) “STUDENT LOAN BORROWER” HAS THE MEANING STATED IN
10 § 12–1101 OF THIS ARTICLE.

11 (4) “STUDENT LOAN OMBUDSMAN” MEANS AN INDIVIDUAL,
12 WHETHER A PAID EMPLOYEE OR A VOLUNTEER, WHOM THE COMMISSIONER
13 DESIGNATES TO SERVE AS A LIAISON BETWEEN STUDENT LOAN BORROWERS AND
14 STUDENT LOAN SERVICERS.

15 (5) “STUDENT LOAN SERVICER” HAS THE MEANING STATED IN
16 § 12–1101 OF THIS ARTICLE.

17 (B) THE COMMISSIONER SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS
18 THE STUDENT LOAN OMBUDSMAN.

19 (C) THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE
20 COMMISSIONER, SHALL:

21 (1) RECEIVE AND REVIEW COMPLAINTS FROM STUDENT LOAN
22 BORROWERS;

23 (2) ATTEMPT TO RESOLVE COMPLAINTS RECEIVED UNDER ITEM (1)
24 OF THIS SUBSECTION, INCLUDING BY COLLABORATING WITH INSTITUTIONS OF
25 HIGHER EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN
26 STUDENT LOAN LENDING, SUCH AS THE BOARD OF REGENTS OF THE UNIVERSITY
27 SYSTEM OF MARYLAND AND THE MARYLAND HIGHER EDUCATION COMMISSION;

28 (3) COMPILE AND ANALYZE COMPLAINT DATA;

29 (4) HELP STUDENT LOAN BORROWERS UNDERSTAND THEIR RIGHTS
30 AND RESPONSIBILITIES UNDER THE TERMS OF STUDENT EDUCATION LOANS;

1 **(5) PROVIDE INFORMATION TO THE PUBLIC, STATE AGENCIES,**
2 **ELECTED OFFICIALS, AND OTHER INDIVIDUALS REGARDING STUDENT LOAN**
3 **BORROWER PROBLEMS AND CONCERNS;**

4 **(6) MAKE RECOMMENDATIONS REGARDING RESOLUTION OF**
5 **STUDENT LOAN BORROWER PROBLEMS AND CONCERNS;**

6 **(7) ANALYZE AND MONITOR THE DEVELOPMENT AND**
7 **IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND**
8 **POLICIES ON STUDENT LOAN BORROWERS AND RECOMMEND NECESSARY CHANGES;**

9 **(8) REVIEW THE STUDENT EDUCATION LOAN HISTORY OF STUDENT**
10 **LOAN BORROWERS WHO GIVE WRITTEN CONSENT TO HAVE THEIR STUDENT**
11 **EDUCATION LOAN HISTORY REVIEWED;**

12 **(9) DISSEMINATE INFORMATION ABOUT THE AVAILABILITY OF THE**
13 **STUDENT LOAN OMBUDSMAN TO ASSIST THOSE WITH STUDENT LOAN SERVICING**
14 **CONCERNS, INCLUDING DISSEMINATING THE INFORMATION TO:**

15 **(I) STUDENT LOAN BORROWERS;**

16 **(II) POTENTIAL STUDENT LOAN BORROWERS;**

17 **(III) STATE HIGHER EDUCATION INSTITUTIONS; AND**

18 **(IV) STUDENT LOAN SERVICERS; AND**

19 **(10) TAKE ANY OTHER ACTIONS NECESSARY TO FULFILL THE DUTIES**
20 **OF THE STUDENT LOAN OMBUDSMAN.**

21 **(D) (1) ON OR BEFORE OCTOBER 1, 2019, THE STUDENT LOAN**
22 **OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL ESTABLISH A**
23 **STUDENT LOAN BORROWER EDUCATION COURSE.**

24 **(2) THE COURSE SHALL:**

25 **(I) INCLUDE EDUCATIONAL PRESENTATIONS AND MATERIAL**
26 **ABOUT STUDENT EDUCATION LOANS; AND**

27 **(II) REVIEW THE FOLLOWING:**

28 1. **COMMON STUDENT EDUCATION LOAN TERMS;**

1 2. DOCUMENTATION REQUIREMENTS FOR STUDENT
2 EDUCATION LOAN APPLICATIONS;

3 3. MONTHLY PAYMENT OBLIGATIONS FOR STUDENT
4 EDUCATION LOANS;

5 4. INCOME-BASED REPAYMENT OPTIONS FOR STUDENT
6 EDUCATION LOANS;

7 5. STUDENT EDUCATION LOAN FORGIVENESS
8 PROGRAMS; AND

9 6. STUDENT EDUCATION LOAN DISCLOSURE
10 REQUIREMENTS.

11 ~~SUBTITLE 11. STUDENT LOAN SERVICERS.~~

12 ~~12-1101.~~

13 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
14 ~~INDICATED.~~

15 ~~(B) "SERVICING" MEANS:~~

16 ~~(1) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT~~
17 ~~LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;~~

18 ~~(2) APPLYING THE PAYMENTS ACCORDING TO THE STUDENT~~
19 ~~EDUCATION LOAN TERMS; AND~~

20 ~~(3) PERFORMING OTHER ADMINISTRATIVE SERVICES.~~

21 ~~(C) "STUDENT EDUCATION LOAN" MEANS ANY LOAN, NOTWITHSTANDING~~
22 ~~ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED~~
23 ~~MAINLY FOR FINANCING EDUCATION OR OTHER SCHOOL-RELATED EXPENSES.~~

24 ~~(D) "STUDENT LOAN BORROWER" MEANS:~~

25 ~~(1) A RESIDENT OF THE STATE WHO HAS RECEIVED OR AGREED TO~~
26 ~~PAY A STUDENT EDUCATION LOAN; OR~~

27 ~~(2) AN INDIVIDUAL WHO SHARES REPAYMENT RESPONSIBILITY WITH~~
28 ~~A RESIDENT DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION.~~

~~(E) (1) "STUDENT LOAN SERVICER" MEANS A PERSON, REGARDLESS OF LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A STUDENT LOAN BORROWER.~~

~~(2) "STUDENT LOAN SERVICER" INCLUDES:~~

~~(I) A TRUST ENTITY PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING; AND~~

~~(H) A PERSON CONDUCTING DEBT COLLECTION ACTIVITIES IN THE STATE.~~

~~12-1102.~~

~~THIS SUBTITLE DOES NOT APPLY TO:~~

~~(1) A BANKING INSTITUTION, CREDIT UNION, NATIONAL BANKING ASSOCIATION, OTHER STATE BANK, OR OTHER STATE CREDIT UNION;~~

~~(2) A WHOLLY OWNED SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION; OR~~

~~(3) AN OPERATING SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION IF EACH OWNER IS WHOLLY OWNED BY THE ENTITY.~~

~~12-1103.~~

~~A PERSON MAY NOT ENGAGE IN STUDENT EDUCATION LOAN SERVICING UNLESS THE PERSON:~~

~~(1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE; OR~~

~~(2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.~~

~~12-1104.~~

~~(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES.~~

~~(B) THE APPLICATION SHALL INCLUDE:~~

~~(1) A NONREFUNDABLE LICENSE FEE OF \$1,000;~~

~~(2) A NONREFUNDABLE INVESTIGATION FEE OF \$800;~~

1 ~~(3) A NOTARIZED FINANCIAL STATEMENT OF THE APPLICANT~~
2 ~~PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT, THE~~
3 ~~ACCURACY OF WHICH IS ATTESTED TO BY SOMEONE AUTHORIZED TO EXECUTE THE~~
4 ~~DOCUMENTS;~~

5 ~~(4) A HISTORY OF CRIMINAL CONVICTIONS OF THE APPLICANT AND~~
6 ~~EACH PARTNER, MEMBER, OFFICER, DIRECTOR, AND PRINCIPAL EMPLOYEE OF THE~~
7 ~~APPLICANT; AND~~

8 ~~(5) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUESTS.~~

9 ~~(C) AN APPLICANT SHALL NOTIFY THE COMMISSIONER IN WRITING OF ANY~~
10 ~~CHANGE IN THE INFORMATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION~~
11 ~~NOT LATER THAN 10 DAYS AFTER THE OCCURRENCE OF THE EVENT THAT RESULTS~~
12 ~~IN THE CHANGE OF INFORMATION.~~

13 ~~12-1105.~~

14 ~~(A) AFTER THE FILING OF THE APPLICATION IS COMPLETE, THE~~
15 ~~COMMISSIONER SHALL INVESTIGATE:~~

16 ~~(1) THE FINANCIAL CONDITION AND RESPONSIBILITY OF THE~~
17 ~~APPLICANT;~~

18 ~~(2) THE FINANCIAL AND BUSINESS EXPERIENCE OF THE APPLICANT;~~

19 ~~(3) THE CHARACTER OF THE APPLICANT;~~

20 ~~(4) THE CRIMINAL HISTORY OF THE APPLICANT AND EACH PARTNER,~~
21 ~~MEMBER, OFFICER, DIRECTOR, AND PRINCIPAL EMPLOYEE OF THE APPLICANT; AND~~

22 ~~(5) THE GENERAL FITNESS OF THE APPLICANT.~~

23 ~~(B) IF REQUESTED BY THE COMMISSIONER TO COMPLETE THE~~
24 ~~INVESTIGATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, AN~~
25 ~~APPLICANT OR A PARTNER, A MEMBER, AN OFFICER, A DIRECTOR, OR A PRINCIPAL~~
26 ~~EMPLOYEE OF THE APPLICANT SHALL PROVIDE FINGERPRINTS FOR SUBMISSION TO~~
27 ~~THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL~~
28 ~~AGENCY OR ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, A~~
29 ~~NATIONAL, OR AN INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK.~~

30 ~~(C) AN APPLICANT REQUIRED TO PROVIDE FINGERPRINTS UNDER THIS~~
31 ~~SECTION SHALL PAY ANY PROCESSING FEE OR OTHER REQUIRED FEE.~~

~~12-1106.~~

~~(A) THE COMMISSIONER SHALL ISSUE A LICENSE TO AN APPLICANT IF:~~

~~(1) THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE;~~

~~(2) THE COMMISSIONER FINDS:~~

~~(i) THE APPLICANT'S FINANCIAL CONDITION IS SOUND; AND~~

~~(ii) THE APPLICANT WILL CONDUCT BUSINESS:~~

~~1. HONESTLY;~~

~~2. FAIRLY;~~

~~3. EQUITABLY;~~

~~4. CAREFULLY;~~

~~5. EFFICIENTLY;~~

~~6. IN A MANNER CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND~~

~~7. IN A MANNER COMMANDING THE COMMUNITY'S CONFIDENCE AND TRUST;~~

~~(3) THE APPLICANT, AND IF APPLICABLE THE APPLICANT'S PARTNER, SENIOR EXECUTIVE, OR SHAREHOLDER WITH AT LEAST 10% OF EACH CLASS OF THE CORPORATION'S SECURITIES, IS QUALIFIED AND OF GOOD CHARACTER; AND~~

~~(4) NO ONE ON BEHALF OF THE APPLICANT HAS KNOWINGLY MADE A MATERIAL MISSTATEMENT OR AN OMISSION IN THE APPLICATION.~~

~~(B) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL:~~

~~(1) DENY THE APPLICATION;~~

~~(2) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL OF THE APPLICATION; AND~~

~~(3) KEEP THE LICENSE FEE AND THE INVESTIGATION FEE.~~

1 ~~12-1107.~~

2 ~~(A) UNLESS A LICENSE IS RENEWED, SURRENDERED, SUSPENDED, OR~~
3 ~~REVOKED, A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES AT THE END OF~~
4 ~~SEPTEMBER 30 OF THE ODD NUMBERED YEAR IMMEDIATELY FOLLOWING ITS~~
5 ~~ISSUANCE.~~

6 ~~(B) ON OR BEFORE SEPTEMBER 1 OF THE YEAR THE LICENSE EXPIRES, THE~~
7 ~~LICENSE MAY BE RENEWED FOR A 2-YEAR TERM IF THE LICENSEE:~~

8 ~~(1) IS OTHERWISE ENTITLED TO BE LICENSED;~~

9 ~~(2) PAYS TO THE COMMISSIONER THE FEES REQUIRED WITH AN~~
10 ~~INITIAL APPLICATION UNDER § 12-1104(B)(1) AND (2) OF THIS SUBTITLE; AND~~

11 ~~(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON~~
12 ~~THE FORM THAT THE COMMISSIONER REQUIRES CONTAINING ALL OF THE~~
13 ~~INFORMATION REQUIRED UNDER AN INITIAL APPLICATION UNDER § 12-1104 OF~~
14 ~~THIS SUBTITLE.~~

15 ~~(C) A RENEWAL APPLICATION FILED AFTER THE DATE SPECIFIED UNDER~~
16 ~~SUBSECTION (B) OF THIS SECTION SHALL INCLUDE A \$100 LATE FEE.~~

17 ~~(D) A LICENSEE SHALL NOTIFY THE COMMISSIONER IN WRITING OF ANY~~
18 ~~CHANGE IN THE INFORMATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION~~
19 ~~NOT LATER THAN 10 DAYS AFTER THE OCCURRENCE OF THE EVENT THAT RESULTS~~
20 ~~IN THE CHANGE OF INFORMATION.~~

21 ~~(E) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF A LICENSEE~~
22 ~~FILES A RENEWAL APPLICATION ON OR BEFORE THE LICENSE EXPIRATION DATE,~~
23 ~~THE INITIAL LICENSE REMAINS EFFECTIVE UNTIL THE COMMISSIONER:~~

24 ~~(1) ISSUES A RENEWAL LICENSE; OR~~

25 ~~(2) NOTIFIES THE LICENSEE IN WRITING OF THE COMMISSIONER'S~~
26 ~~REFUSAL TO ISSUE A RENEWAL LICENSE, INCLUDING THE GROUNDS FOR DENIAL.~~

27 ~~(F) THE COMMISSIONER MAY REFUSE TO APPROVE A RENEWAL LICENSE~~
28 ~~APPLICATION FOR THE SAME REASONS THE COMMISSIONER MAY DENY AN INITIAL~~
29 ~~LICENSE APPLICATION UNDER § 12-1106 OF THIS SUBTITLE.~~

30 ~~12-1108.~~

1 ~~(A) THE COMMISSIONER MAY DEEM AN APPLICATION UNDER § 12-1104 OR~~
2 ~~§ 12-1107 OF THIS SUBTITLE ABANDONED IF THE APPLICANT FAILS TO RESPOND TO~~
3 ~~ANY REQUEST FOR INFORMATION AUTHORIZED UNDER THIS SUBTITLE.~~

4 ~~(B) THE COMMISSIONER SHALL NOTIFY AN APPLICANT IN WRITING THAT IF~~
5 ~~THE INFORMATION REQUESTED IS NOT SUBMITTED WITHIN 60 DAYS AFTER THE~~
6 ~~REQUEST DATE, THE APPLICATION WILL BE DEEMED ABANDONED.~~

7 ~~(C) THE COMMISSIONER SHALL KEEP THE LICENSE FEES INCLUDED WITH~~
8 ~~AN APPLICATION DEEMED ABANDONED UNDER THIS SECTION.~~

9 ~~(D) ABANDONMENT OF AN APPLICATION UNDER THIS SECTION MAY NOT~~
10 ~~PRECLUDE AN APPLICANT OR A LICENSEE FROM SUBMITTING A NEW INITIAL~~
11 ~~APPLICATION IN ACCORDANCE WITH § 12-1104 OF THIS SUBTITLE.~~

12 ~~12-1109.~~

13 ~~(A) (1) WITHIN 15 DAYS AFTER A LICENSEE CEASES ENGAGING IN~~
14 ~~SERVICING IN THE STATE, THE LICENSEE SHALL:~~

15 ~~(I) SURRENDER ITS LICENSE; AND~~

16 ~~(II) NOTIFY THE COMMISSIONER IN WRITING.~~

17 ~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS~~
18 ~~SUBSECTION SHALL:~~

19 ~~(I) IDENTIFY THE LOCATION WHERE THE RECORDS OF THE~~
20 ~~LICENSEE WILL BE STORED; AND~~

21 ~~(II) INCLUDE THE NAME, MAILING ADDRESS, AND TELEPHONE~~
22 ~~NUMBER OF AN INDIVIDUAL AUTHORIZED TO PROVIDE ACCESS TO THE RECORDS.~~

23 ~~(B) THE SURRENDER OF A LICENSE UNDER SUBSECTION (A) OF THIS~~
24 ~~SECTION DOES NOT REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL~~
25 ~~LIABILITY ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE~~
26 ~~SURRENDER, INCLUDING ANY ACTIONS THAT THE COMMISSIONER MAY TAKE~~
27 ~~AGAINST A LICENSEE UNDER THIS SUBTITLE.~~

28 ~~(C) THE COMMISSIONER SHALL AUTOMATICALLY SUSPEND A LICENSE IF~~
29 ~~PAYMENT IS RETURNED OR NOT ACCEPTED BY A FINANCIAL INSTITUTION FOR THE~~
30 ~~FEES REQUIRED UNDER § 12-1104(B)(1) AND (2) OR § 12-1107(B)(2) OF THIS~~
31 ~~SUBTITLE.~~

1 ~~12-1110.~~

2 ~~(A) A LICENSEE SHALL USE THE NAME AND BUSINESS ADDRESS SPECIFIED~~
3 ~~ON ITS LICENSE.~~

4 ~~(B) A LICENSEE SHALL:~~

5 ~~(1) MAINTAIN ONE PLACE OF BUSINESS UNDER THE LICENSE; AND~~

6 ~~(2) NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN ITS~~
7 ~~ADDRESS BEFORE THE LICENSEE CHANGES ITS ADDRESS.~~

8 ~~(C) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO A~~
9 ~~LICENSEE.~~

10 ~~(D) A LICENSEE MAY NOT TRANSFER OR ASSIGN A LICENSE.~~

11 ~~12-1111.~~

12 ~~(A) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, A FEDERAL~~
13 ~~STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE FEDERAL~~
14 ~~GOVERNMENT AND A LICENSEE, A LICENSEE SHALL PRESERVE:~~

15 ~~(1) ALL RECORDS FOR EACH STUDENT EDUCATION LOAN; AND~~

16 ~~(2) EACH COMMUNICATION WITH A STUDENT LOAN BORROWER.~~

17 ~~(B) A LICENSEE SHALL PRESERVE THE RECORDS AND COMMUNICATIONS~~
18 ~~UNDER SUBSECTION (A) OF THIS SECTION FOR:~~

19 ~~(1) AT LEAST 2 YEARS AFTER THE EARLIER OF:~~

20 ~~(I) FINAL PAYMENT ON A STUDENT EDUCATION LOAN; OR~~

21 ~~(II) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE~~
22 ~~SERVICING OF A STUDENT EDUCATION LOAN; OR~~

23 ~~(2) A LONGER PERIOD IF OTHERWISE REQUIRED BY LAW.~~

24 ~~(C) (1) THE COMMISSIONER MAY INVESTIGATE AND INSPECT THE~~
25 ~~RECORDS OF A LICENSEE.~~

26 ~~(2) FOR THE PURPOSES OF THIS SUBSECTION, A LICENSEE SHALL:~~

1 ~~(I) MAKE ANY RECORDS REQUESTED BY THE COMMISSIONER~~
2 ~~AVAILABLE; OR~~

3 ~~(II) SEND COPIES OF ANY RECORDS REQUESTED BY THE~~
4 ~~COMMISSIONER TO THE COMMISSIONER WITHIN 5 BUSINESS DAYS AFTER THE~~
5 ~~REQUEST.~~

6 ~~(3) IF REQUESTED BY A LICENSEE, THE COMMISSIONER MAY EXTEND~~
7 ~~THE TIME A LICENSEE HAS TO SEND RECORDS REQUESTED UNDER PARAGRAPH~~
8 ~~(2)(I) OF THIS SUBSECTION.~~

9 ~~(4) A LICENSEE SHALL SEND ANY RECORDS BY:~~

10 ~~(I) REGISTERED MAIL;~~

11 ~~(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR~~

12 ~~(III) ANY EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED~~
13 ~~DELIVERY RECEIPT.~~

14 ~~12-1112.~~

15 ~~A LICENSEE SHALL COMPLY WITH ALL FEDERAL LAWS CONCERNING STUDENT~~
16 ~~EDUCATION LOAN SERVICING, INCLUDING COMPLIANCE WITH THE FEDERAL TRUTH~~
17 ~~IN LENDING ACT.~~

18 ~~12-1113.~~

19 ~~(A) IN THIS SECTION, "NONCONFORMING PAYMENT" MEANS A PAYMENT ON~~
20 ~~A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER THAT IS MORE OR~~
21 ~~LESS THAN THE REQUIRED PAYMENT.~~

22 ~~(B) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL~~
23 ~~STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE FEDERAL~~
24 ~~GOVERNMENT AND A LICENSEE, A LICENSEE SHALL TAKE THE ACTIONS UNDER THIS~~
25 ~~SECTION.~~

26 ~~(C) A LICENSEE SHALL RESPOND TO A WRITTEN INQUIRY FROM A STUDENT~~
27 ~~LOAN BORROWER OR THE REPRESENTATIVE OF A STUDENT LOAN BORROWER~~
28 ~~WITHIN 30 DAYS AFTER RECEIVING THE INQUIRY.~~

29 ~~(D) (1) IF A LICENSEE RECEIVES A NONCONFORMING PAYMENT ON A~~
30 ~~STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER, A LICENSEE SHALL~~

~~1 ASK THE STUDENT LOAN BORROWER HOW THE BORROWER PREFERS THE LICENSEE
2 TO APPLY THE NONCONFORMING PAYMENT.~~

~~3 (2) A LICENSEE SHALL:~~

~~4 (I) NOTE HOW THE STUDENT LOAN BORROWER PREFERS THE
5 LICENSEE TO APPLY A NONCONFORMING PAYMENT;~~

~~6 (II) APPLY THE NONCONFORMING PAYMENT IN THE MANNER
7 PREFERRED BY THE STUDENT LOAN BORROWER; AND~~

~~8 (III) UNTIL THE STUDENT LOAN BORROWER INDICATES
9 OTHERWISE, APPLY ANY FUTURE NONCONFORMING PAYMENTS IN THE SAME
10 MANNER PREFERRED BY THE BORROWER UNDER ITEM (I) OF THIS PARAGRAPH.~~

~~11 (E) (1) THIS SUBSECTION APPLIES TO THE SALE, ASSIGNMENT, OR
12 OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT
13 RESULTS IN A CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN
14 BORROWER IS REQUIRED TO:~~

~~15 (I) SEND PAYMENTS; OR~~

~~16 (II) DIRECT ANY COMMUNICATIONS CONCERNING THE
17 STUDENT EDUCATION LOAN.~~

~~18 (2) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER
19 TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A LICENSEE SHALL
20 REQUIRE THE NEW STUDENT LOAN SERVICER TO:~~

~~21 (I) HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS
22 AVAILABLE TO A STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE
23 STUDENT EDUCATION LOAN; AND~~

~~24 (II) PRESERVE THE AVAILABILITY OF THE BENEFITS UNDER
25 ITEM (I) OF THIS PARAGRAPH, INCLUDING ANY BENEFITS FOR WHICH THE STUDENT
26 LOAN BORROWER HAS NOT YET QUALIFIED.~~

~~27 (3) A LICENSEE SHALL TRANSFER TO THE NEW STUDENT LOAN
28 SERVICER SERVICING THE STUDENT EDUCATION LOAN ALL INFORMATION
29 REGARDING:~~

~~30 (I) THE STUDENT LOAN BORROWER;~~

~~31 (II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND~~

1 ~~(HH) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN~~
2 ~~BORROWER.~~

3 ~~(4) THE INFORMATION REQUIRED UNDER PARAGRAPH (3) OF THIS~~
4 ~~SUBSECTION INCLUDES:~~

5 ~~(I) THE REPAYMENT STATUS OF THE STUDENT LOAN~~
6 ~~BORROWER; AND~~

7 ~~(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT~~
8 ~~EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

9 ~~(5) A LICENSEE SHALL COMPLETE THE TRANSFER OF INFORMATION~~
10 ~~REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 15 DAYS AFTER~~
11 ~~THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT~~
12 ~~EDUCATION LOAN.~~

13 ~~(6) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING~~
14 ~~OF A STUDENT EDUCATION LOAN SHALL BE COMPLETED AT LEAST 7 DAYS BEFORE~~
15 ~~THE NEXT PAYMENT ON THE LOAN IS DUE.~~

16 ~~(F) (1) THIS SUBSECTION APPLIES TO A LICENSEE WHO OBTAINS THE~~
17 ~~RIGHT TO SERVICE A STUDENT EDUCATION LOAN.~~

18 ~~(2) A LICENSEE SHALL ADOPT POLICIES AND PROCEDURES TO~~
19 ~~VERIFY THAT THE LICENSEE HAS RECEIVED ALL INFORMATION REGARDING:~~

20 ~~(I) THE STUDENT LOAN BORROWER;~~

21 ~~(II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND~~

22 ~~(III) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN~~
23 ~~BORROWER.~~

24 ~~(3) THE INFORMATION REQUIRED UNDER PARAGRAPH (2) OF THIS~~
25 ~~SUBSECTION INCLUDES:~~

26 ~~(I) THE REPAYMENT STATUS OF THE STUDENT LOAN~~
27 ~~BORROWER; AND~~

28 ~~(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT~~
29 ~~EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

1 ~~12-1114.~~

2 (A) ~~A LICENSEE MAY NOT:~~

3 (1) ~~EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE, OR~~
4 ~~ARTIFICE TO DEFRAUD OR MISLEAD BORROWERS;~~

5 (2) ~~ENGAGE IN ANY UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY~~
6 ~~PERSON;~~

7 (3) ~~MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN~~
8 ~~CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION LOAN, INCLUDING~~
9 ~~MISREPRESENTATION OR OMISSION OF ANY FEE, PAYMENT DUE, LOAN TERM, OR~~
10 ~~BORROWER OBLIGATION;~~

11 (4) ~~OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;~~

12 (5) ~~MISAPPLY STUDENT EDUCATION LOAN PAYMENTS TO THE~~
13 ~~OUTSTANDING BALANCE OF A STUDENT EDUCATION LOAN;~~

14 (6) ~~CAUSE HARM TO THE CREDITWORTHINESS OF A STUDENT LOAN~~
15 ~~BORROWER BY PROVIDING INACCURATE INFORMATION TO A CONSUMER~~
16 ~~REPORTING AGENCY AS DEFINED IN § 14-1201 OF THE COMMERCIAL LAW ARTICLE;~~

17 (7) ~~IF THE LICENSEE REGULARLY REPORTS INFORMATION TO A~~
18 ~~CONSUMER REPORTING AGENCY, FAIL TO REPORT BOTH THE FAVORABLE AND~~
19 ~~UNFAVORABLE PAYMENT HISTORY OF A STUDENT LOAN BORROWER TO A~~
20 ~~NATIONALLY RECOGNIZED CONSUMER REPORTING AGENCY AT LEAST ONCE A YEAR;~~

21 (8) ~~SUBJECT TO SUBSECTION (B) OF THIS SECTION, REFUSE TO~~
22 ~~COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN~~
23 ~~BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE STUDENT~~
24 ~~LOAN BORROWER;~~

25 (9) ~~MAKE ANY FALSE STATEMENT OR OMIT ANY MATERIAL FACT IN~~
26 ~~CONNECTION WITH:~~

27 (i) ~~ANY INFORMATION OR REPORTS FILED WITH A~~
28 ~~GOVERNMENT AGENCY; OR~~

29 (ii) ~~ANY INVESTIGATION CONDUCTED BY THE COMMISSIONER~~
30 ~~OR ANY OTHER GOVERNMENT AGENCY; AND~~

~~(10) COMMUNICATE WITH AN INDIVIDUAL IN ANY MANNER DESIGNED TO HARASS OR INTIMIDATE THE INDIVIDUAL.~~

~~(B) A LICENSEE MAY ADOPT PROCEDURES TO VERIFY THAT AN AUTHORIZED REPRESENTATIVE UNDER SUBSECTION (A)(8) OF THIS SECTION IS AUTHORIZED TO ACT ON BEHALF OF A STUDENT LOAN BORROWER.~~

~~12-1115.~~

~~IN ORDER TO CARRY OUT THIS SUBTITLE, THE COMMISSIONER MAY:~~

~~(1) RETAIN ATTORNEYS, ACCOUNTANTS, OTHER PROFESSIONALS, AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO CONDUCT OR ASSIST IN CONDUCTING EXAMINATIONS OR INVESTIGATIONS;~~

~~(2) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS TO IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN, INCLUDING SHARING:~~

~~(I) RESOURCES;~~

~~(II) STANDARDIZED OR UNIFORM METHODS OR PROCEDURES;~~

~~AND~~

~~(III) DOCUMENTS, RECORDS, INFORMATION, OR EVIDENCE OBTAINED UNDER THE AUTHORITY OF THE COMMISSIONER;~~

~~(3) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLIC OR PRIVATELY AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE TO EXAMINE OR INVESTIGATE A PERSON SUBJECT TO THIS SUBTITLE;~~

~~(4) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION REPORTS MADE BY OTHER GOVERNMENT OFFICIALS; AND~~

~~(5) (I) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT FOR A LICENSEE OR OTHER PERSON ON THE SAME GENERAL SUBJECT MATTER AS THE AUDIT; AND~~

~~(II) INCORPORATE THE AUDIT REPORT IN THE REPORT OR EXAMINATION OR INVESTIGATION, OR OTHER WRITING.~~

~~12-1116.~~

1 ~~(A) THE COMMISSIONER MAY CONDUCT INVESTIGATIONS AND~~
2 ~~EXAMINATIONS FOR THE PURPOSES OF:~~

3 ~~(1) APPROVING OR DENYING AN INITIAL OR RENEWAL LICENSE~~
4 ~~APPLICATION UNDER THIS SUBTITLE;~~

5 ~~(2) OBTAINING ANY INFORMATION REQUIRED BY THIS SUBTITLE;~~
6 ~~AND~~

7 ~~(3) DISCOVERING ANY VIOLATIONS OF THIS SUBTITLE.~~

8 ~~(B) THE COMMISSIONER SHALL REVIEW, INVESTIGATE, OR EXAMINE ANY~~
9 ~~LICENSEE OR OTHER PERSON SUBJECT TO THIS SUBTITLE AS OFTEN AS NECESSARY~~
10 ~~TO CARRY OUT ITS PURPOSE.~~

11 ~~(C) (1) THE COMMISSIONER SHALL HAVE FULL ACCESS TO ANY BOOKS,~~
12 ~~ACCOUNTS, RECORDS, FILES, DOCUMENTS, INFORMATION, OR EVIDENCE RELEVANT~~
13 ~~TO AN INQUIRY OR INVESTIGATION UNDER THIS SECTION REGARDLESS OF THE~~
14 ~~LOCATION, POSSESSION, CONTROL, OR CUSTODY OF THE BOOKS, ACCOUNTS,~~
15 ~~RECORDS, FILES, DOCUMENTS, INFORMATION, OR EVIDENCE.~~

16 ~~(2) RECORDS THAT THE COMMISSIONER MAY HAVE ACCESS TO~~
17 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:~~

18 ~~(I) CRIMINAL, CIVIL, AND ADMINISTRATIVE HISTORY;~~

19 ~~(II) PERSONAL HISTORY AND EXPERIENCE;~~

20 ~~(III) CREDIT HISTORY; AND~~

21 ~~(IV) ANY OTHER INFORMATION NECESSARY OR RELEVANT TO AN~~
22 ~~INQUIRY OR INVESTIGATION UNDER THIS SUBSECTION.~~

23 ~~(D) THE COMMISSIONER MAY DIRECT, SUBPOENA, OR ORDER:~~

24 ~~(1) EXAMINATION UNDER OATH OF ANY PERSON WHOSE TESTIMONY~~
25 ~~MAY BE REQUIRED; AND~~

26 ~~(2) PRODUCTION OF ANY BOOKS, ACCOUNTS, RECORDS, FILES, OR~~
27 ~~DOCUMENTS THE COMMISSIONER CONSIDERS RELEVANT.~~

28 ~~(E) THE COMMISSIONER SHALL:~~

1 ~~(1) CONTROL ACCESS TO ANY DOCUMENTS AND RECORDS OF A~~
2 ~~LICENSEE OR A PERSON UNDER EXAMINATION OR INVESTIGATION UNDER THIS~~
3 ~~SECTION; AND~~

4 ~~(2) (I) TAKE POSSESSION OF THE DOCUMENTS AND RECORDS; OR~~
5 ~~(II) SELECT A PERSON TO BE IN CHARGE EXCLUSIVELY OF THE~~
6 ~~DOCUMENTS AND RECORDS IN THE PLACE WHERE THE DOCUMENTS AND RECORDS~~
7 ~~ARE USUALLY KEPT.~~

8 ~~(F) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A~~
9 ~~PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE ANY OF THE DOCUMENTS OR~~
10 ~~RECORDS SUBJECT TO AN EXAMINATION OR INVESTIGATION UNDER THIS SECTION.~~

11 ~~(2) A PERSON MAY REMOVE A DOCUMENT:~~

12 ~~(I) BY COURT ORDER; OR~~

13 ~~(II) WITH THE CONSENT OF THE COMMISSIONER.~~

14 ~~(3) UNLESS THE COMMISSIONER HAS REASON TO BELIEVE THERE IS~~
15 ~~A RISK THAT DOCUMENTS OR RECORDS WILL BE ALTERED OR DESTROYED TO~~
16 ~~CONCEAL A VIOLATION OF THIS SUBTITLE, A LICENSEE OR AN OWNER OF~~
17 ~~DOCUMENTS AND RECORDS OF A LICENSEE SHALL HAVE ACCESS TO THE~~
18 ~~DOCUMENTS AND RECORDS AS NEEDED TO CONDUCT ITS ORDINARY BUSINESS.~~

19 ~~(G) A LICENSEE OR A PERSON SUBJECT TO INVESTIGATION OR~~
20 ~~EXAMINATION UNDER THIS SUBTITLE MAY NOT KNOWINGLY WITHHOLD, ABSTRACT,~~
21 ~~REMOVE, MUTILATE, DESTROY, OR HIDE ANY BOOKS, RECORDS, COMPUTER~~
22 ~~RECORDS, OR OTHER INFORMATION.~~

23 ~~12-1117.~~

24 ~~(A) THE COMMISSIONER MAY ENFORCE THIS SUBTITLE AGAINST A~~
25 ~~STUDENT LOAN SERVICER WHO:~~

26 ~~(1) IS DOING BUSINESS IN THE STATE; AND~~

27 ~~(2) IS NOT LICENSED OR EXEMPTED FROM BEING LICENSED UNDER~~
28 ~~THIS SUBTITLE, WHETHER OR NOT THE STUDENT LOAN SERVICER CLAIMS TO BE~~
29 ~~LICENSED AS A STUDENT LOAN SERVICER IN ANOTHER JURISDICTION.~~

30 ~~(B) (1) THIS SUBSECTION APPLIES TO ANY PERSON WHO:~~

1 ~~(I) THE COMMISSIONER DETERMINES IS REQUIRED TO BE~~
2 ~~LICENSED UNDER THIS SUBTITLE BUT IS NOT LICENSED UNDER THIS SUBTITLE; AND~~

3 ~~(II) IS ENGAGED IN THE BUSINESS OF SERVICING STUDENT~~
4 ~~EDUCATION LOANS IN THE STATE ACTUALLY OR THROUGH SUBTERFUGE.~~

5 ~~(2) THE COMMISSIONER SHALL ORDER A PERSON TO CEASE AND~~
6 ~~DESIST FROM ENGAGING IN THE BUSINESS OF SERVICING STUDENT EDUCATION~~
7 ~~LOANS.~~

8 ~~(3) A PERSON WHO RECEIVES AN ORDER UNDER PARAGRAPH (2) OF~~
9 ~~THIS SUBSECTION MAY FILE A WRITTEN REQUEST FOR A HEARING WITHIN 30 DAYS~~
10 ~~AFTER RECEIVING THE ORDER.~~

11 ~~(4) IF A WRITTEN REQUEST FOR A HEARING UNDER PARAGRAPH (3)~~
12 ~~OF THIS SUBSECTION IS FILED, THE COMMISSIONER SHALL HOLD A HEARING~~
13 ~~WITHIN 60 DAYS AFTER RECEIVING THE REQUEST.~~

14 ~~12-1118.~~

15 ~~(A) (1) THIS SUBSECTION APPLIES TO:~~

16 ~~(I) ANY VIOLATION OF THIS SUBTITLE; OR~~

17 ~~(II) ANY ACTION THAT WOULD BE SUFFICIENT GROUNDS FOR~~
18 ~~THE COMMISSIONER TO DENY A LICENSE APPLICATION UNDER THIS SUBTITLE.~~

19 ~~(2) THE COMMISSIONER SHALL:~~

20 ~~(I) SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF~~
21 ~~THE STUDENT LOAN SERVICER RESPONSIBLE FOR THE VIOLATION OR ACTION; OR~~

22 ~~(II) TAKE ANY OTHER ACTION AGAINST THE LICENSEE~~
23 ~~RESPONSIBLE FOR THE VIOLATION OR ACTION.~~

24 ~~(B) THE COMMISSIONER MAY TAKE ANY ACTION AUTHORIZED UNDER~~
25 ~~STATE BANKING LAWS WHEN IT APPEARS THAT:~~

26 ~~(1) A PERSON VIOLATED, IS VIOLATING, OR IS ABOUT TO VIOLATE~~
27 ~~THIS SUBTITLE; OR~~

28 ~~(2) A LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER,~~
29 ~~PARTNER, SHAREHOLDER, TRUSTEE, EMPLOYEE, OR AGENT OF THE LICENSEE HAS:~~

1 ~~(I) COMMITTED FRAUD;~~

2 ~~(II) ENGAGED IN DISHONEST ACTIVITIES; OR~~

3 ~~(III) MADE ANY MISREPRESENTATION.~~

4 ~~(C) TO ENFORCE THIS SUBTITLE, THE COMMISSIONER MAY:~~

5 ~~(1) AFTER CONDUCTING AN INVESTIGATION, SEND NOTICE OF A~~
6 ~~VIOLATION TO A LICENSEE;~~

7 ~~(2) HOLD A HEARING;~~

8 ~~(3) IMPOSE A CIVIL PENALTY UP TO \$100,000 PER VIOLATION;~~

9 ~~(4) ISSUE AN ORDER OF RESTITUTION; OR~~

10 ~~(5) TAKE ANY OTHER ENFORCEMENT ACTION CONSISTENT WITH THE~~
11 ~~AUTHORITY OF THE COMMISSIONER.~~

12 ~~(D) THE COMMISSIONER SHALL PROVIDE A LICENSEE:~~

13 ~~(1) NOTICE OF ANY SUSPENSION, REVOCATION, OR TERMINATION OF~~
14 ~~THE LICENSE OF THE LICENSEE; AND~~

15 ~~(2) THE OPTION TO REQUEST A HEARING REGARDING THE LICENSE~~
16 ~~SUSPENSION, REVOCATION, OR TERMINATION.~~

17 ~~(E) IF A LICENSE IS SURRENDERED, REVOKED, OR SUSPENDED BEFORE IT~~
18 ~~EXPIRES, THE COMMISSIONER MAY NOT REFUND ANY PORTION OF THE LICENSE~~
19 ~~FEE.~~

20 ~~12-1119.~~

21 ~~A VIOLATION OF THIS SUBTITLE IS:~~

22 ~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE~~
23 ~~MEANING OF TITLE 13 OF THIS ARTICLE; AND~~

24 ~~(2) NOTWITHSTANDING THIS SUBTITLE, SUBJECT TO THE~~
25 ~~ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS~~
26 ~~ARTICLE.~~

27 ~~12-1120.~~

1 ~~(A) A LICENSEE WHO WILLFULLY FAILS TO COMPLY WITH ANY~~
2 ~~REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN~~
3 ~~BORROWER IS LIABLE TO THE BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:~~

4 ~~(1) ANY ACTUAL DAMAGES SUSTAINED BY THE BORROWER AS A~~
5 ~~RESULT OF THE FAILURE;~~

6 ~~(2) A MONETARY AWARD EQUAL TO 3 TIMES THE TOTAL AMOUNT THE~~
7 ~~LICENSEE COLLECTED FROM THE BORROWER, AS DETERMINED BY THE~~
8 ~~COMMISSIONER;~~

9 ~~(3) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND~~

10 ~~(4) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS~~
11 ~~SUBSECTION:~~

12 ~~(I) THE COSTS OF THE ACTION; AND~~

13 ~~(II) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE~~
14 ~~COURT.~~

15 ~~(B) A LICENSEE WHO NEGLIGENTLY FAILS TO COMPLY WITH ANY~~
16 ~~REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN~~
17 ~~BORROWER IS LIABLE TO THAT BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:~~

18 ~~(1) ANY ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A~~
19 ~~RESULT OF THE FAILURE; AND~~

20 ~~(2) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS~~
21 ~~SUBSECTION:~~

22 ~~(I) THE COSTS OF THE ACTION; AND~~

23 ~~(II) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE~~
24 ~~COURT.~~

25 ~~12-1121.~~

26 (E) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSIONER SHALL
27 REPORT TO THE GENERAL ASSEMBLY ON:

28 (1) THE IMPLEMENTATION OF THE STUDENT LOAN OMBUDSMAN
29 AND RELATED PROVISIONS UNDER § 2-104.1 OF THIS ARTICLE;

1 (2) THE OVERALL EFFECTIVENESS OF THE STUDENT LOAN
2 OMBUDSMAN POSITION; AND

3 (3) ANY ADDITIONAL STEPS NEEDED TO GAIN REGULATORY CONTROL
4 OVER THE LICENSING AND OVERSIGHT OF STUDENT LOAN SERVICERS.

5 ~~12-1122.~~

6 (A) ~~THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS~~
7 ~~SUBTITLE THAT ARE:~~

8 (1) ~~CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND~~

9 (2) ~~APPROPRIATE FOR THE EFFECTIVE ADMINISTRATION OF THIS~~
10 ~~SUBTITLE.~~

11 (B) ~~REGULATIONS THAT THE COMMISSIONER ADOPTS UNDER THIS~~
12 ~~SUBTITLE SHALL INCLUDE REGULATIONS:~~

13 (1) ~~REGARDING THE ACTIVITIES OF STUDENT LOAN SERVICERS THAT~~
14 ~~ARE NECESSARY AND APPROPRIATE FOR THE PROTECTION OF STUDENT LOAN~~
15 ~~BORROWERS IN THE STATE;~~

16 (2) ~~NECESSARY AND APPROPRIATE TO DEFINE UNFAIR AND~~
17 ~~DECEPTIVE PRACTICES BY STUDENT LOAN SERVICERS;~~

18 (3) ~~DEFINING THE TERMS USED IN THIS SUBTITLE;~~

19 (4) ~~NECESSARY AND APPROPRIATE TO INTERPRET AND IMPLEMENT~~
20 ~~THIS SUBTITLE; AND~~

21 (5) ~~NECESSARY FOR THE ENFORCEMENT OF THIS SUBTITLE.~~

22 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or~~
23 ~~the application thereof to any person or circumstance is held invalid for any reason in a~~
24 ~~court of competent jurisdiction, the invalidity does not affect other provisions or any other~~
25 ~~application of this Act that can be given effect without the invalid provision or application,~~
26 ~~and for this purpose the provisions of this Act are declared severable.~~

27 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2018.