

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2360 Session of  
2020

INTRODUCED BY O'MARA, SCHROEDER, MADDEN, ISAACSON, MALAGARI,  
McCLINTON, CIRESI, WILLIAMS, HOWARD, RYAN, KIM, SHUSTERMAN,  
CONKLIN, ULLMAN, HILL-EVANS, RAVENSTAHL, HOHENSTEIN,  
READSHAW, FREEMAN, DERMODY, McCARTER, SCHLOSSBERG, DONATUCCI,  
KENYATTA, MARKOSEK, ROZZI, CALTAGIRONE, PASHINSKI, TOPPER,  
MURT, WEBSTER, STURLA, SAMUELSON, BROOKS, CEPHAS, BURGOS,  
KORTZ, OTTEN, MOUL, STRUZZI, KIRKLAND, SCHWEYER, HANBIDGE,  
FRANKEL AND A. DAVIS, MARCH 13, 2020

REFERRED TO COMMITTEE ON EDUCATION, MARCH 13, 2020

AN ACT

1 Establishing the Office of Student Loan Ombudsman; providing for  
2 duties of the Office of Student Loan Ombudsman and for report  
3 by Department of Banking and Securities; establishing the  
4 Student Loan Ombudsman Account; and providing for licensure  
5 of student loan servicers and for duties of student loan  
6 servicers.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Student  
11 Borrower's Bill of Rights Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Account." The Student Loan Ombudsman Account established  
17 under section 5.

1 "Department." The Department of Banking and Securities of  
2 the Commonwealth.

3 "Institution of higher education." As defined in section 118  
4 of the act of March 10, 1949 (P.L.30, No.14), known as the  
5 Public School Code of 1949.

6 "Office." The Office of Student Loan Ombudsman established  
7 under section 3.

8 "Ombudsman." The Student Loan Ombudsman designated under  
9 section 3.

10 "Secretary." The Secretary of Banking and Securities of the  
11 Commonwealth.

12 "Servicing." As follows:

13 (1) Receiving a scheduled periodic payment from a  
14 student loan borrower under the terms of a student education  
15 loan.

16 (2) Applying the payments of principal and interest and  
17 other payments with respect to the amounts received from a  
18 student loan borrower as may be required under the terms of a  
19 student education loan.

20 (3) Performing other administrative services with  
21 respect to a student education loan.

22 "Student education loan." A loan primarily for personal use  
23 to finance education or other school-related expenses.

24 "Student loan borrower." As follows:

25 (1) a resident of this Commonwealth who has received or  
26 agreed to pay a student education loan; or

27 (2) a person who shares responsibility with a resident  
28 for repaying a student education loan.

29 "Student loan servicer." A person responsible for the  
30 servicing of a student education loan to a student loan

1 borrower.

2 Section 3. Office of Student Loan Ombudsman.

3 (a) Designation.--The Office of Student Loan Ombudsman is  
4 established within the department to provide timely assistance  
5 to student loan borrowers. The secretary shall designate a  
6 Student Loan Ombudsman to administer the office.

7 (b) Duties.--The office, in consultation with the secretary,  
8 shall:

9 (1) Receive, review and attempt to resolve complaints  
10 from student loan borrowers in collaboration with  
11 institutions of higher education, student loan servicers and  
12 other participants in student loan lending.

13 (2) Compile and analyze data on student loan borrower  
14 complaints under paragraph (1).

15 (3) Assist student loan borrowers in understanding  
16 student loan borrowers' rights and responsibilities under the  
17 terms of student education loans, including information  
18 regarding income-based repayment options.

19 (4) Provide information to the public, State agencies,  
20 members of the General Assembly and others regarding the  
21 problems and concerns of student loan borrowers and make  
22 recommendations for resolving those problems and concerns.

23 (5) Analyze and monitor the development and  
24 implementation of Federal, State and local laws, regulations  
25 and policies relating to student loan borrowers and recommend  
26 changes deemed necessary.

27 (6) Review the complete student education loan history  
28 for a student loan borrower who has provided written consent  
29 for the review.

30 (7) Disseminate information relating to the availability

1 of the office to assist student loan borrowers and potential  
2 student loan borrowers as well as public institutions of  
3 higher education, student loan servicers and any other  
4 participant in student education loan lending with student  
5 loan servicing concerns.

6 (8) Take other actions necessary to fulfill the duties  
7 of the office under this section.

8 (c) Education course.--Within 200 days of the effective date  
9 of this subsection, the office, in consultation with the  
10 secretary, shall establish and maintain a student loan borrower  
11 education course that shall include educational presentations  
12 and materials relating to student education loans. The program  
13 shall include, but not be limited to, the following:

14 (1) Key loan terms.

15 (2) Documentation requirements.

16 (3) Monthly payment obligations.

17 (4) Income-based repayment options.

18 (5) Loan forgiveness.

19 (6) Disclosure requirements.

20 Section 4. Report by department.

21 (a) Submission.--Within one year of the effective date of  
22 this section, the department shall submit a report to the  
23 Governor and General Assembly relating to:

24 (1) The implementation of section 3.

25 (2) The effectiveness of the office.

26 (3) Additional steps that may be taken for the  
27 department to gain regulatory control over the licensing and  
28 enforcement of student loan servicers.

29 (b) Publication.--The report shall be published on the  
30 department's publicly accessible Internet website.

1 Section 5. Student Loan Ombudsman Account.

2 The Student Loan Ombudsman Account is established as a  
3 separate, nonlapsing account in the State Treasury. Money in the  
4 account shall be used by the secretary to administer the  
5 provisions of section 3. The account shall contain licensing and  
6 investigation fees collected under this act.

7 Section 6. Licensure and exemptions.

8 (a) License required.--Except as provided under subsection  
9 (b), no person may act as a student loan servicer, directly or  
10 indirectly, without first obtaining a license from the  
11 department under this section.

12 (b) Exemptions.--The following persons are exempt from  
13 student loan servicer licensing:

14 (1) A bank or credit union, whether in-State or out-of-  
15 State.

16 (2) A wholly owned subsidiary of a bank or credit union.

17 (3) An operating subsidiary where each owner of the  
18 operating subsidiary is wholly owned by the same bank or  
19 credit union.

20 (c) Application for licensure.--A person seeking to act  
21 within this Commonwealth as a student loan servicer shall make a  
22 written application to the department for an initial license in  
23 the form the department prescribes. The application shall be  
24 accompanied by:

25 (1) A financial statement prepared by a certified public  
26 accountant or a public accountant, the accuracy of which is  
27 sworn to under oath before a notary public by the proprietor,  
28 general partner, corporate officer or member duly authorized  
29 to execute the document.

30 (2) All of the following:

(i) A criminal history background check of:

(A) The applicant.

(B) Partners, if the applicant is a partnership.

(C) Members, if the applicant is a limited liability company or association.

(D) Officers, directors and principal employees, if the applicant is a corporation.

(ii) Sufficient information pertaining to the criminal history background checks of the applicant, partners, members, officers, directors and principal employees as the department deems necessary to make the findings under this section.

(iii) A nonrefundable fee of \$1,000.

(iv) A nonrefundable investigation fee of \$800.

(d) Criminal history background check.--The department may conduct a national and State criminal history background check of the applicant and each partner, member, officer, director and principal employee of the applicant.

(e) Licensure.--Upon the filing of an application for an initial license and payment of the fees under subsection (c)(2)(iii) and (iv), the department shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The department may issue a license if the department finds that:

(1) The applicant's financial condition is sound.

(2) The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of this act and in a manner commanding the confidence and trust of the residents of this Commonwealth.

1           (3) (i) If the applicant is an individual, the  
2 individual is properly qualified and of good character.

3           (ii) If the applicant is a partnership, each partner  
4 is properly qualified and of good character.

5           (iii) If the applicant is a corporation or  
6 association, the president, chairperson of the executive  
7 committee, senior officer responsible for the  
8 corporation's business and chief financial officer or  
9 other person who performs similar functions as determined  
10 by the department and each director, trustee and  
11 shareholder owning 10% or more of each class of the  
12 securities of the corporation is properly qualified and  
13 of good character.

14          (iv) If the applicant is a limited liability  
15 company, each member is properly qualified and of good  
16 character.

17          (4) No person on behalf of the applicant has knowingly  
18 made any incorrect statement of material fact in the  
19 application or in any report or statement made under this  
20 section.

21          (5) No person on behalf of the applicant has knowingly  
22 failed to state any material fact to the department or from  
23 the application or any report or statement made under this  
24 section.

25          (6) The applicant has paid the investigation and  
26 licensee fees required under subsection (c)(2)(iii) and (iv).

27          (7) The applicant meets any other requirements as  
28 determined by the department.

29          (f) Expiration.--A license issued under this section shall  
30 expire at the close of business on September 30 of the odd-

1 numbered year following its issuance unless renewed or earlier  
2 surrendered or suspended or revoked by the department.

3 (g) Surrender of license.--The following apply:

4 (1) Not later than 15 days after a licensee ceases to  
5 engage in the business of student loan servicing in this  
6 Commonwealth for any reason, including a business decision to  
7 terminate operations in this Commonwealth, license  
8 revocation, bankruptcy or voluntary dissolution, the licensee  
9 shall provide written notice of surrender to the department  
10 and surrender the license for each location in which the  
11 licensee has ceased to engage as a student loan servicer. The  
12 written notice of surrender shall identify the location where  
13 the records of the licensee shall be stored and the name,  
14 address and telephone number of an individual authorized to  
15 provide access to the records.

16 (2) The surrender of a license does not reduce or  
17 eliminate the licensee's civil or criminal liability arising  
18 from acts or omissions occurring prior to the surrender of  
19 the license, including administrative actions undertaken by  
20 the department to suspend or revoke a license, assessment of  
21 a civil penalty, order of restitution or the exercise of  
22 other authority by the department.

23 (h) Renewal of license.--The following apply:

24 (1) A license may be renewed for 24 months upon the  
25 filing of an application containing all required  
26 documentation and fees under subsection (c). A renewal  
27 application shall be filed on or before September 1 of the  
28 year in which the license expires. A renewal application  
29 filed with the department after September 1 shall be  
30 accompanied by a late fee of \$100.



1           (2) If an application for a license renewal is filed  
2 with the department on or before the date the license  
3 expires, the license shall continue in full force and effect  
4 until the issuance by the department of the renewed license  
5 or until the department has notified the licensee in writing  
6 of the department's refusal to issue the license renewal,  
7 together with the reason for the refusal.

8           (3) The department may refuse a license renewal on the  
9 same grounds as the department may refuse to issue an initial  
10 license.

11       (i) Automatic suspension.--If the department determines that  
12 a payment submitted to the department to pay a license or  
13 renewal fee has been dishonored, the department shall  
14 automatically suspend the license or renewal license. The  
15 department shall notify the licensee of the automatic suspension  
16 pending proceeding for revocation or refusal to renew and  
17 provide an opportunity for an appeal hearing.

18       (j) Change in information.--The applicant or licensee shall  
19 notify the department in writing of any change in the  
20 information provided in the applicant's or licensee's initial  
21 applicant for a license or the most recent renewal application  
22 not later than 10 business days after the occurrence of the  
23 event that results in information becoming inaccurate.

24       (k) Abandoned application.--The department may deem an  
25 application for licensure abandoned if the applicant fails to  
26 respond to a request for information required under subsection  
27 (c) or regulations promulgated under this act. The department  
28 shall notify the applicant in writing that failure to submit the  
29 requested information within 60 days of the date of the request  
30 shall result in the application being deemed abandoned. An

1 application fee paid prior to the date an application is deemed  
2 abandoned under this subsection shall not be refunded.  
3 Abandonment of an application under this paragraph shall not  
4 preclude the applicant from submitting a new application for  
5 licensure under subsection (c).

6 (1) Restrictions.--No person licensed in this Commonwealth  
7 to act as a student loan servicer may do so under any other name  
8 or place of business other than that named in the license. Any  
9 change of location of a place of business of a licensee shall  
10 require prior written notice to the department. No more than one  
11 place of business shall be maintained under the same license but  
12 the department may issue more than one license to the same  
13 licensee upon compliance with the provisions of this section. A  
14 license shall not be transferable or assignable.

15 Section 7. Violations.

16 A student loan servicer may not:

17 (1) Directly or indirectly employ a scheme, device or  
18 artifice to defraud or mislead student loan borrowers.

19 (2) Engage in unfair or deceptive practices toward a  
20 person or misrepresent or omit material information in  
21 connection with the servicing of a student education loan,  
22 including, but not limited to, misrepresenting:

23 (i) the amount, nature or terms of any fee or  
24 payment due or claimed to be due on a student education  
25 loan;

26 (ii) the terms and conditions of the loan agreement;  
27 or

28 (iii) the borrower's obligations under the loan.

29 (3) Obtain property by fraud or misrepresentation.

30 (4) Knowingly misapply or recklessly apply student

1 education loan payments to the outstanding balance of a  
2 student education loan.

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

6 (6) Fail to report both the favorable and unfavorable  
7 payment history of the student loan borrower to a nationally  
8 recognized consumer credit bureau at least annually if the  
9 student loan servicer regularly reports information to a  
10 credit bureau.

11 (7) Refuse to communicate with an authorized  
12 representative of the student loan borrower who provides a  
13 written authorization signed by the student loan borrower if  
14 the student loan servicer adopts procedures related to  
15 verifying that the representative is authorized to act on  
16 behalf of the student loan borrower.

17 (8) Negligently make a false statement or knowingly and  
18 willfully make an omission of a material fact in connection  
19 with information or reports filed with a governmental agency  
20 or in connection with an investigation conducted by the  
21 department or another governmental agency.

22 Section 8. Enforcement.

23 (a) Enforcement.--The following apply:

24 (1) The department shall conduct investigations and  
25 examinations to enforce the provisions of this act,  
26 including, but not limited to, requesting, directing and  
27 subpoenaing books, records and the attendance of individuals  
28 whose testimony may be required.

29 (2) The department may retain attorneys, auditors or  
30 other specialists, request the assistance of staff from other

1 State departments or agencies, enter into agreements,  
2 including resource-sharing agreements, use and purchase  
3 software and rely on reports made by other government  
4 officials within and outside this Commonwealth.

5 (b) Authority.--The authority of this act remains in effect  
6 whether a student loan servicer licensee or person subject to  
7 this act acts or claims to act under a licensing or registration  
8 law of this Commonwealth or claims to act without the authority  
9 of this Commonwealth.

10 (c) Records.--No student loan servicer licensee or person  
11 subject to investigation or examination under this section may  
12 knowingly withhold, abstract, remove, mutilate, destroy or  
13 secrete books, records, computer records or other information.

14 (d) Suspension, revocation, refusal to renew.--The  
15 department may suspend, revoke or refuse to renew a license  
16 issued under this act or take any other action in accordance  
17 with the laws of this Commonwealth if the department finds that:

18 (1) the licensee has violated any provision of this act  
19 or any regulation or order lawfully made under this act; or

20 (2) a fact or condition exists that, if it had existed  
21 at the time of the original application for licensure, would  
22 have warranted a refusal of the license. No abatement of the  
23 license fee shall be made if the license is surrendered,  
24 revoked or suspended prior to the expiration of the period  
25 for which the license was issued.

26 (e) Actions.--If it appears to the department that a person  
27 has violated this act or any regulation adopted under this act  
28 or that an owner, director, officer, member, partner,  
29 shareholder, trustee, employee or agent of the licensee has  
30 committed fraud, engaged in dishonest activities or made a

1 misrepresentation, the department may take action against the  
2 individual or licensee or direct the Attorney General to take  
3 action in accordance with the laws of this Commonwealth.

4 (f) Regulations.--The department may promulgate rules and  
5 regulations to administer and enforce this act.

6 Section 9. Duties of student loan servicers.

7 A student loan servicer shall comply with all applicable  
8 Federal laws and regulations relating to student loan servicing,  
9 including, but not limited to, the Truth in Lending Act (Public  
10 Law 90-321, 15 U.S.C. § 1601 et seq.) and regulations  
11 promulgated under that act. In addition to any other remedies  
12 provided by law, a violation of Federal law or regulation shall  
13 be deemed a violation of this act, and the department may take  
14 enforcement action under this act.

15 Section 10. Effective date.

16 This act shall take effect as follows:

17 (1) Sections 6, 7 and 8(d) of this act shall take effect  
18 in one year.

19 (2) The remainder of this act shall take effect  
20 immediately.