

# MAINE STATE LEGISLATURE

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2 Date: 6/10/14

(Filing No. S- 225)

3 **HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 **STATE OF MAINE**  
6 **SENATE**  
7 **129TH LEGISLATURE**  
8 **FIRST REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to S.P. 285, L.D. 995, Bill, "An Act To  
10 Establish a Student Loan Bill of Rights To License and Regulate Student Loan Servicers"

11 Amend the bill by inserting after the enacting clause and before section 1 the  
12 following:

13 'Sec. 1. 9-A MRSA §1-202, sub-§7, as amended by PL 2005, c. 55, §1, is further  
14 amended to read:

15 7. A Except as provided by Article 14, a loan or consumer credit sale made  
16 exclusively for the purpose of deferring or financing educational expenses and on which  
17 the finance charge does not exceed that rate per year on the unpaid balances of the  
18 amount financed, as established by federal law, or, for loans or consumer credit sales for  
19 which federal law does not establish a rate, the highest rate established for educational  
20 loans under any federal program and which is insured, guaranteed, subsidized or made  
21 directly by the Federal Government, a state, a nonprofit private loan guaranty or  
22 organization, by the educational institution itself or through an endowment or trust fund  
23 affiliated with such an institution;

24 Amend the bill in section 1 in §14-103 by striking out all of subsection 1 (page 1,  
25 lines 17 to 23 in L.D.) and inserting the following:

26 **1. Servicing. "Servicing" means:**

27 A. Receiving any scheduled periodic payments from a student loan borrower or  
28 notification of such payments and applying the payments to the student loan  
29 borrower's account pursuant to the terms of a student education loan or to the terms of  
30 the contract governing the servicing of the student education loan;

31 B. During a period when a payment is not required on a student education loan,  
32 maintaining account records for a student education loan and communicating with a  
33 student loan borrower regarding the loan on behalf of the loan's holder; or

**COMMITTEE AMENDMENT**

1 C. Interactions with a student loan borrower, including activities to help prevent  
2 default on obligations arising from student education loans, conducted to facilitate  
3 any of the activities described in paragraph A or B.'

4 Amend the bill in section 1 in §14-104 in subsection 1 in the first line (page 2, line 16  
5 in L.D.) by striking out the following: "from" and inserting the following: 'between'

6 Amend the bill in section 1 in §14-104 in subsection 1 by striking out all of paragraph  
7 B (page 2, lines 18 to 20 in L.D.) and inserting the following:

8 'B. Student loan servicers or any other participants in student education loan lending,  
9 including, but not limited to, originators servicing their own student education loans.  
10 The ombudsman may collaborate with institutions of higher education to attempt to  
11 resolve complaints.'

12 Amend the bill in section 1 in §14-105 in subsection 2 in the last line (page 3, line 18  
13 in L.D.) by striking out the following: "and"

14 Amend the bill in section 1 in §14-105 by striking out all of subsection 3 (page 3,  
15 lines 19 to 21 in L.D.) and inserting the following:

16 '3. Funding. An accounting of the funding for the program, including the license,  
17 examination and investigation fees collected pursuant to this Article, and whether those  
18 funds are adequate for or are in excess of the costs of carrying out the duties of this  
19 Article; and

20 4. Additional steps. Recommendations regarding additional steps for the  
21 Department of Professional and Financial Regulation to gain regulatory control over  
22 licensing and enforcement with respect to student loan servicers.'

23 Amend the bill in section 1 in §14-107 in subsection 2 by striking out all of paragraph  
24 A (page 4, lines 15 to 18 in L.D.) and inserting the following:

25 'A. Financial statements and references of all applicants for a license as the  
26 superintendent considers necessary.'

27 Amend the bill in section 1 in §14-107 in subsection 2 by inserting at the end a new  
28 blocked paragraph to read:

29 'The superintendent may require or allow applications to be made electronically through  
30 the nationwide mortgage licensing system and registry, as defined in section 13-102,  
31 subsection 8. An applicant using that system shall pay any required processing fees.'

32 Amend the bill in section 1 in §14-107 in subsection 4 in the last line (page 5, line 33  
33 in L.D.) by inserting after the following: "superintendent." the following: 'If the  
34 superintendent permits or requires licensing through the nationwide mortgage licensing  
35 system and registry pursuant to subsection 2, the superintendent may amend the license  
36 term and license expiration date to comply with the parameters of the system. License  
37 and investigation fees must be apportioned so the average of such fees does not increase  
38 on an annualized basis.'

39 Amend the bill in section 1 in §14-107 by striking out all of subsection 9 (page 6,  
40 lines 23 to 29 in L.D.) and inserting the following:

# COMMITTEE AMENDMENT

1 9. Automatic licensure. The superintendent shall issue automatically a limited,  
2 irrevocable license to a person servicing a student loan under contract with the United  
3 States Department of Education as follows.

4 A. A person seeking to act within this State as a student loan servicer is exempt from  
5 the procedures described in subsection 2, except for subsection 2, paragraphs C and  
6 D, upon a determination by the superintendent that student loan servicing performed  
7 in this State is solely conducted pursuant to a contract or contracts awarded by the  
8 United States Secretary of Education under 20 United States Code, Section 1087f.  
9 The procedure to document eligibility for such an exemption must be prescribed by  
10 the superintendent.

11 B. The superintendent shall issue automatically a license to a person determined  
12 exempt by the superintendent pursuant to paragraph A; that person is deemed to have  
13 met all of the requirements of subsection 3.

14 C. A person issued a license pursuant to this subsection is exempt from subsections 4  
15 to 8.

16 D. A person issued a license pursuant to this subsection shall provide the  
17 superintendent with written notice within 7 days following the notification of the  
18 expiration, revocation or termination of any contract awarded by the United States  
19 Secretary of Education under 20 United States Code, Section 1087f; that person has  
20 30 days to satisfy the requirements of this Article in order to continue to act as a  
21 student loan servicer within this State. Upon the expiration of the 30-day period, if  
22 the person seeking to act as a student loan servicer within this State has not satisfied  
23 all requirements established under this Article, the superintendent shall immediately  
24 suspend any license issued under this subsection.

25 E. With respect to student loan servicing not conducted pursuant to a contract  
26 awarded by the United States Secretary of Education under 20 United States Code,  
27 Section 1087f, this subsection does not prevent the superintendent from issuing an  
28 order to temporarily or permanently prohibit or bar a person from acting as a student  
29 loan servicer.

30 F. With respect to student loan servicing conducted pursuant to a contract awarded  
31 by the United States Secretary of Education under 20 United States Code, Section  
32 1087f, this subsection does not prevent the superintendent from issuing a cease and  
33 desist order or injunction against a student loan servicer to cease activities in  
34 violation of this Article or the Maine Unfair Trade Practices Act.

35 10. Branch office license; change of license notification. A licensee under this  
36 Article may not act within this State as a student loan servicer under any name or at any  
37 place of business other than those named in the license. Any change of location of a  
38 place of business of a licensee requires prior written notice to the superintendent. Not  
39 more than one place of business may be maintained under the same license, but the  
40 superintendent may issue more than one license to a licensee that complies with the  
41 provisions of this Article as to each license. If a licensee desires to carry on business in  
42 more than one location, the licensee shall procure a branch office license for each  
43 additional location where the business is to be conducted. A license is not transferable or  
44 assignable.'

1 Amend the bill in section 1 in §14-107 by renumbering the subsections to read  
2 consecutively.

3 Amend the bill in section 1 in §14-108 by striking out all of subsection 2 (page 7,  
4 lines 14 to 40 and page 8, lines 1 to 14 in L.D.) and inserting the following:

5 **2. Requirements.** Except as otherwise provided in federal law, a federal student  
6 education loan agreement or a contract between the Federal Government and a student  
7 loan servicer, a student loan servicer shall comply with the requirements of this  
8 subsection.

9 A. Upon receipt of a written inquiry from a student loan borrower or the  
10 representative of a student loan borrower, a student loan servicer shall respond by:

11 (1) Acknowledging receipt of the written inquiry within 10 days; and

12 (2) Providing, within 30 days after receiving the inquiry, information relating to  
13 the inquiry and, if applicable, the action the student loan servicer will take to  
14 correct the student loan borrower's account or an explanation of the student loan  
15 servicer's position that the borrower's account is correct.

16 B. A student loan servicer shall inquire of a student loan borrower how to apply an  
17 overpayment or prepayment to a student loan. A student loan borrower's direction on  
18 how to apply an overpayment or prepayment to a student loan must stay in effect for  
19 any future overpayments or prepayments during the term of a student loan until the  
20 borrower provides different directions. For purposes of this paragraph,  
21 "overpayment" or "prepayment" means a payment on a student loan in excess of the  
22 monthly amount due from a borrower on a student loan.

23 C. A student loan servicer shall apply a partial payment or underpayment in a  
24 manner that minimizes late fees and negative credit reporting. When loans on a  
25 student loan borrower's account have an equal stage of delinquency, a student loan  
26 servicer shall apply a partial payment or underpayment to satisfy as many individual  
27 loan payments as possible on a borrower's account. For purposes of this paragraph,  
28 "partial payment" or "underpayment" means a payment on a student loan account that  
29 contains multiple individual loans in an amount less than the amount necessary to  
30 satisfy the outstanding payment due on all loans in the student loan account.

31 D. In the event of the sale, assignment or other transfer of the servicing of a student  
32 education loan that results in a change in the identity of the person to whom a student  
33 loan borrower is required to send payments or direct any communication concerning  
34 the student education loan:

35 (1) As a condition of the sale, assignment or transfer, the student loan servicer  
36 shall require the new student loan servicer to honor all benefits originally  
37 represented as available to the student loan borrower during the repayment of the  
38 student education loan and preserve the availability of such benefits, including  
39 any benefits for which the student loan borrower has not yet qualified;

40 (2) Within 45 days after the sale, assignment or transfer, the student loan servicer  
41 shall transfer to the new student loan servicer all information regarding the  
42 student loan borrower, the account of the student loan borrower and the student

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education loan of the student loan borrower, including the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower; and

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(3) The sale, assignment or transfer of the servicing of the student education loan must be completed at least 7 days before the next payment on the loan is due.

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E. A student loan servicer that obtains the right to service a student education loan shall adopt policies and procedures to verify that the student loan servicer has received all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including, but not limited to, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower.

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F. A student loan servicer shall evaluate a student loan borrower for a repayment program based on income prior to placing the borrower in forbearance or default, if a repayment program based on income is available to the borrower.'

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Amend the bill in section 1 in §14-108 in subsection 3 in paragraph H in the last line (page 8, line 38 in L.D.) by striking out the following: "agency; or" and inserting the following: 'agency;'

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Amend the bill in section 1 in §14-108 in subsection 3 by striking out all of paragraph I (page 8, lines 39 to 41 in L.D.) and inserting the following:

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'I. Fail to respond within 15 days to communication from the student loan ombudsman, or within a shorter reasonable time as the student loan ombudsman may request in the communication; or

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J. Fail to respond within 15 days to a student loan borrower complaint submitted to the servicer by the student loan ombudsman. If necessary, a student loan servicer may request additional time, up to 45 days, as long as the request is accompanied by an explanation of why additional time is reasonable and necessary.'

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Amend the bill in section 1 by adding at the end the following:

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**§14-111. Funding**

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The superintendent shall internally track any license, examination and investigation fees collected pursuant to this Article and any funds received from any public or private source. The superintendent shall use these funds to cover the costs of carrying out the duties of this Article, and funds received may not be used for any other purpose.'

33

Amend the bill by inserting after section 1 the following:

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**'Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

36

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

37

**Bureau of Consumer Credit Protection 0091**

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Initiative: Provides allocation for expenses associated with the licensing, examination and investigation of student loan servicers, including travel, training, supplies and general operating expenses.

1	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
2	All Other	\$9,300	\$18,600
3			
4	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$9,300</b>	<b>\$18,600</b>
5			

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
7 section number to read consecutively.

8 **SUMMARY**

9 This amendment makes the following changes to the bill.

10 1. It makes the requirements for the filing of financial statements with an application  
11 for licensure as a student loan servicer consistent with licensure requirements for  
12 mortgage loan servicers.

13 2. It clarifies that a license is required for each physical location where a student loan  
14 servicer does business.

15 3. It authorizes the Superintendent of Consumer Credit Protection within the  
16 Department of Professional and Financial Regulation, Bureau of Consumer Credit  
17 Protection to require student loan servicers to file license applications electronically and  
18 to use the nationwide mortgage loan servicer licensing system and registry.

19 4. It adds a provision authorizing the automatic licensure of student loan servicers  
20 under contract with the federal Department of Education.

21 5. It provides that funding from license and investigation fees for student loan  
22 servicers may not be used for purposes other than to cover the costs of administering the  
23 Maine Revised Statutes, Title 9-A, Article 14.

24 6. It replaces language in the bill with language from laws in other states regulating  
25 student loan servicing to maintain consistency.

26 7. It adds an appropriations and allocations section.

27 **FISCAL NOTE REQUIRED**

28 (See attached)



# 129th MAINE LEGISLATURE

LD 995

LR 137(02)

## An Act To Establish a Student Loan Bill of Rights To License and Regulate Student Loan Servicers

Fiscal Note for Bill as Amended by Committee Amendment 'A' (LS-225)  
Committee: Health Coverage, Insurance and Financial Services  
Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$9,300	\$18,600	\$18,600	\$18,600
<b>Revenue</b>				
Other Special Revenue Funds	\$28,900	\$39,200	\$39,200	\$39,200

#### Fiscal Detail and Notes

This bill requires the Superintendent of Consumer Credit to designate a student loan ombudsman within the Department of Professional and Financial Regulation (PFR) and establishes licensing and examination procedures for student loan services. PFR has indicated that the designation of a student loan ombudsman position can be fulfilled by an existing position and no additional personal services funds are needed for this purpose. PFR anticipates increased costs associated with the licensing, examination and investigation of student loan servicers. These costs include travel, training, supplies and general operating expenses. Accordingly, the bill includes Other Special Revenue Funds allocations of \$9,300 in fiscal year 2019-20 and \$18,600 in fiscal year 2020-21, assuming an effective date of January 1, 2020. This increase in allocation coincides with additional revenues collected by PFR from an estimated 39 license applications and 5 examinations per year.

Additional costs to the Finance Authority of Maine to assist the student loan ombudsman with complaints can be absorbed within existing budgeted resources.