



Sen. Daniel Biss

Filed: 3/10/2017

10000SB1351sam001

LRB100 10505 SMS 23166 a

1 AMENDMENT TO SENATE BILL 1351

2 AMENDMENT NO. _____. Amend Senate Bill 1351 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. General Provisions

5 Section 1-1. Short title. This Act may be cited as the
6 Student Loan Servicing Rights Act.

7 Section 1-5. Definitions. As used in this Act:

8 "Applicant" means a person applying for a license pursuant
9 to this Act.

10 "Borrower" or "student loan borrower" means a person who
11 has received or agreed to pay a student loan for his or her own
12 educational expenses.

13 "Cosigner" means a person who has agreed to share
14 responsibility for repaying a student loan with a borrower.

15 "Federal loan borrower eligible for referral to a repayment

1 specialist" means a borrower who possesses any of the following
2 characteristics:

3 (1) requests information related to options to reduce
4 or suspend his or her monthly payment;

5 (2) indicates that he or she is experiencing or
6 anticipates experiencing financial hardship, distress, or
7 difficulty making his or her payments;

8 (3) has missed 2 consecutive monthly payments;

9 (4) is at least 75 days delinquent;

10 (5) is enrolled in a discretionary forbearance for more
11 than 9 of the previous 12 months;

12 (6) has rehabilitated or consolidated one or more loans
13 out of default within the past 12 months; or

14 (7) has not completed a course of study, as reflected
15 in the servicer's records, or the borrower identifies
16 himself or herself as not having completed a program of
17 study.

18 "Federal education loan" means any loan made, guaranteed,
19 or insured under Title IV of the federal Higher Education Act
20 of 1965.

21 "Income-driven payment plan certification" means the
22 documentation related to a federal student loan borrower's
23 income or financial status the borrower must submit to renew an
24 income-driven repayment plan.

25 "Income-driven repayment options" includes the
26 Income-Contingent Repayment Plan, the Income-Based Repayment

1 Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn
2 Plan, the Revised Pay As you Earn Plan, and any other federal
3 student loan repayment plan that is calculated based on a
4 borrower's income.

5 "Licensee" means a person licensed pursuant to this Act.

6 "Other repayment plans" means the Standard Repayment Plan,
7 the Graduated Repayment Plan, the Extended Repayment Plan, or
8 any other federal student loan repayment plan not based on a
9 borrower's income.

10 "Private education loan" has the meaning given to that term
11 in 15 U.S.C. 1650.

12 "Private loan borrower eligible for referral to a repayment
13 specialist" means a borrower who possesses any of the following
14 characteristics:

15 (1) requests information related to options to reduce
16 or suspend his or her monthly payments; or

17 (2) indicates that he or she is experiencing or
18 anticipates experiencing financial hardship, distress, or
19 difficulty making his or her payments.

20 "Request for assistance" means all inquiries, complaints,
21 account disputes, and requests for documentation a servicer
22 receives from borrowers or cosigners.

23 "Requester" means any borrower or cosigner that submits a
24 request for assistance.

25 "Secretary" means the Secretary of Financial and
26 Professional Regulation.

1 "Servicing" means any of the following activities related
2 to a student loan of a borrower or cosigner:

3 (1) receiving any scheduled periodic payments from a
4 borrower or cosigner or any notification that a borrower or
5 cosigner made a scheduled periodic payment;

6 (2) applying payments to the borrower's account
7 pursuant to the terms of the student loan or the contract
8 governing the servicing;

9 (3) during a period when no payment is required on a
10 student loan, performing both of the following:

11 (A) maintaining account records for the student
12 loan; and

13 (B) communicating with the borrower or cosigner
14 regarding the student loan on behalf of the owner of
15 the student loan promissory note; or

16 (4) interacting with a borrower or cosigner related to
17 that borrower's student loan with the goal of helping the
18 borrower avoid default on his or her student loan or
19 facilitating the activities described in paragraph (1) or
20 (2).

21 "Student loan" or "loan" means any federal education loan,
22 private education loan, or other loan primarily for use to
23 finance a postsecondary education and costs of attendance at a
24 postsecondary institution, including, but not limited to,
25 tuition, fees, books and supplies, room and board,
26 transportation, and miscellaneous personal expenses. "Student

1 loan" includes a loan made to refinance a student loan.

2 "Student loan servicer" or "servicer" means any person
3 engaged in the business of servicing student loans.

4 Article 5. Student Loan Bill of Rights

5 Section 5-5. General provisions.

6 (a) A servicer shall not engage in any unfair or deceptive
7 practice toward any borrower or cosigner or misrepresent or
8 omit any material information in connection with the servicing
9 of a student loan, including, but not limited to,
10 misrepresenting the amount, nature, or terms of any fee or
11 payment due or claimed to be due on a student loan, the terms
12 and conditions of the student loan agreement, or the borrower's
13 or cosigner's obligations under the student loan or the terms
14 of any repayment plans.

15 (b) A servicer shall not misapply payments made by a
16 borrower to the outstanding balance of a student loan.

17 (c) A servicer shall oversee third parties, including
18 subservicers, debt collectors, independent contractors,
19 subsidiaries, affiliates, and other agents, to ensure that
20 those companies comply with this Article 5.

21 Section 5-10. Payment processing.

22 (a) A servicer shall credit borrower and cosigner payments
23 promptly and accurately.

1 (b) A servicer shall provide borrowers and cosigners no
2 less than 45 days' notice if the servicer changes the address
3 to which the borrower or cosigner needs to send payments.

4 (c) A servicer shall not charge a penalty to a borrower or
5 cosigner if a student loan payment is received at an address
6 used for payments for a period of 90 days after the change in
7 address.

8 (d) A servicer shall not misrepresent the delinquent amount
9 of the loan on any call with a borrower or cosigner.

10 (e) A servicer shall allow a borrower or cosigner to
11 specify instructions as to how an overpayment should be applied
12 to the balance of the loan as consistent with the promissory
13 note.

14 Section 5-15. Fees.

15 (a) A servicer may only charge late fees that are
16 reasonable and proportional to the cost it incurs related to a
17 late payment.

18 (b) A servicer shall not charge a borrower or cosigner any
19 fee to modify, defer, forbear, renew, extend, or amend the
20 borrower's or cosigner's loan.

21 Section 5-20. Billing statements.

22 (a) In any student loan billing statement, a servicer shall
23 not misrepresent the:

24 (1) amount due;

- 1 (2) fees assessed;
- 2 (3) total amount due for each loan;
- 3 (4) payment due date;
- 4 (5) date to avoid late fees;
- 5 (6) accrued interest during the billing cycle;
- 6 (7) default payment methodology;
- 7 (8) means to provide instructions for a payment; or
- 8 (9) procedure regarding escalated requests for
- 9 assistance.

10 (b) A servicer shall not misrepresent information
11 regarding the \$0 bill and advancement of the due date on any
12 billing statement that reflects \$0 owed.

13 Section 5-25. Payment histories. A servicer shall provide a
14 written payment history to a borrower or cosigner upon request
15 at no cost within 21 calendar days after receiving the request.

16 Section 5-30. Specialized assistance for student loan
17 borrowers.

18 (a) A servicer shall specially designate servicing and
19 collections personnel deemed repayment specialists who have
20 received enhanced training related to repayment options.

21 (b) A servicer shall refrain from presenting forbearance as
22 the sole or first repayment option to a student loan borrower
23 struggling with repayment unless the servicer has determined
24 that based on the borrower's financial status a short-term

1 forbearance is appropriate.

2 (c) All inbound and outbound calls from federal loan
3 borrowers eligible for referral to a repayment specialist and
4 private loan borrowers eligible for referral to a repayment
5 specialist shall be routed to a repayment specialist.

6 (d) During each inbound or outbound communication with an
7 eligible federal loan borrower, a repayment specialist shall
8 first inform a federal loan borrower eligible for referral to a
9 repayment specialist that federal income-driven repayment
10 plans that can reduce the borrower's monthly payment may be
11 available, discuss such plans, and assist the borrower in
12 determining whether a particular repayment plan may be
13 appropriate for the borrower.

14 (e) A repayment specialist shall assess the long-term and
15 short-term financial situation and needs of a federal loan
16 borrower eligible for referral to a repayment specialist and
17 consider any available specific information from the borrower
18 as necessary to assist the borrower in determining whether a
19 particular income-driven repayment option may be available to
20 the borrower.

21 (f) In each discussion with a federal loan borrower
22 eligible for referral to a repayment specialist, a repayment
23 specialist shall present and explain the following options, as
24 appropriate:

25 (1) total and permanent disability discharge, public
26 service loan forgiveness, closed school discharge, and

1 defenses to repayment;

2 (2) other repayment plans;

3 (3) deferment; and

4 (4) forbearance.

5 (g) A repayment specialist shall assess the long-term and
6 short-term financial situation and needs of a private loan
7 borrower eligible for referral to a repayment specialist in
8 determining whether any private loan repayment options may be
9 appropriate for the borrower.

10 (h) A servicer shall present and explain all private loan
11 repayment options, including alternative repayment
12 arrangements applicable to private student loan borrowers.

13 (i) A servicer shall be prohibited from implementing any
14 compensation plan that has the intended or actual effect of
15 incentivizing any repayment specialist to violate this Act or
16 any other measure that encourages undue haste or lack of
17 quality.

18 (j) The requirements of this Section shall not apply if a
19 repayment specialist has already conversed with a borrower
20 consistent with the requirements of this Section.

21 Section 5-35. Disclosures related to discharge and
22 cancellation. If a servicer is aware that a student loan
23 borrower attended a school the United States Department of
24 Education has made findings supporting a defense to repayment
25 claim or closed school discharge, or that a borrower may be

1 eligible to have his or her loans forgiven under a total and
2 permanent disability discharge, the servicer's personnel shall
3 disclose information related to the Department of Education's
4 procedure for asserting a defense to repayment claim, closed
5 school discharge, or submitting an application for a total and
6 permanent disability discharge.

7 Section 5-40. Income-driven repayment plan certifications.
8 A servicer shall disclose the date that a borrower's
9 income-driven payment plan certification will expire and the
10 consequences to the borrower for failing to recertify by the
11 date, including the new repayment amount.

12 Section 5-45. Information to be provided to private
13 education loan borrowers.

14 (a) A servicer shall provide on its website a description
15 of any alternative repayment plan offered by the servicer for
16 private education loans.

17 (b) A servicer shall establish policies and procedures and
18 implement them consistently in order to facilitate evaluation
19 of private student loan alternative repayment arrangement
20 requests, including providing accurate information regarding
21 any private student loan alternative repayment arrangements
22 that may be available to the borrower through the promissory
23 note or that may have been marketed to the borrower through
24 marketing materials.

1 Private student loan alternative repayment arrangements
2 shall consider the affordability of repayment plans for
3 distressed borrowers as well as investor, guarantor, and
4 insurer guidelines, and previous outcome and performance
5 information.

6 (c) If a servicer offers private student loan repayment
7 arrangements, the servicer shall consistently present and
8 offer those arrangements to borrowers with similar financial
9 circumstances.

10 Section 5-50. Cosigner release. A servicer shall provide
11 information on billing statements and its website concerning
12 the availability and criteria for a cosigner release.

13 Section 5-55. Payoff statements. A servicer shall indicate
14 on its billing statements and its website that a borrower may
15 request a payoff statement. The servicer shall provide the
16 payoff statement within 10 days, including information the
17 requester needs to pay off the loan. If a payoff is made, the
18 servicer must send a paid-in-full notice within 30 days.

19 Section 5-60. Requirements related to the transfer of
20 servicing.

21 (a) When acting as the transferor servicer, a servicer
22 shall provide to each borrower subject to the transfer a
23 written notice no less than 15 calendar days before the

1 effective date of the transfer. The transferee servicer and
2 transferor servicer may provide a single notice, in which case
3 the notice shall be provided no less than 15 calendar days
4 before the effective date of the transfer. The notice by the
5 transferor servicer or, if applicable, the combined notice of
6 transfer shall contain the following information:

7 (1) the effective date of the transfer of servicing;

8 (2) the name, address, and toll-free telephone number
9 for the transferor servicer's designated point of contact
10 that can be contacted by the borrower to obtain answers to
11 servicing inquiries;

12 (3) the name, address, and toll-free telephone number
13 for the transferee servicer's designated point of contact
14 that can be contacted by the borrower to obtain answers to
15 servicing inquiries;

16 (4) the date on which the transferor servicer will
17 cease to accept payments relating to the loan and the date
18 on which the transferee servicer will begin to accept such
19 payments; the dates shall either be the same or consecutive
20 days;

21 (5) a statement that the transfer of servicing does not
22 affect any term or condition of the loan other than terms
23 directly related to the servicing of a loan;

24 (6) information on whether the borrower's
25 authorization for recurring electronic fund transfers, if
26 applicable, will be transferred to the transferee

1 servicer; if any such recurring electronic funds transfers
2 cannot be transferred, the transferee servicer shall
3 provide information explaining how the borrower may
4 establish new recurring electronic funds transfers with
5 the transferee servicer; and

6 (7) a statement of the current loan balance, including
7 the current unpaid amount of principal, interest, and fees.

8 (b) When acting as the transferee servicer, a servicer
9 shall provide to each borrower subject to the transfer a
10 written notice no more than 15 calendar days after the
11 effective date of the transfer. The transferee servicer and
12 transferor servicer may provide a combined notice of transfer,
13 in which case the notice shall be provided no less than 15 days
14 before the effective date of the transfer. The notice by the
15 transferee servicer or, if applicable, the combined notice of
16 transfer shall contain the following information:

17 (1) the effective date of the transfer of servicing;

18 (2) the name, address, and toll-free telephone number
19 for the transferee servicer's designated point of contact
20 that can be contacted by the borrower to obtain answers to
21 servicing inquiries;

22 (3) the date on which the transferor servicer will
23 cease to accept payments relating to the loan and the date
24 on which the transferee servicer will begin to accept such
25 payments; the dates shall either be the same or consecutive
26 days;

1 (4) a statement that the transfer of servicing does not
2 affect any term or condition of the student loan other than
3 terms directly related to the servicing of a loan;

4 (5) information on whether the borrower's
5 authorization for recurring electronic fund transfers, if
6 applicable, will be transferred to the transferee
7 servicer; if any such recurring electronic funds transfers
8 cannot be transferred, the transferee servicer shall
9 provide information explaining how the borrower may
10 establish new recurring electronic funds transfers with
11 the transferee servicer; and

12 (6) a statement of the current loan balance, including
13 the current unpaid amount of principal, interest, and fees.

14 (c) During the 60 calendar day period beginning on the
15 effective date of transfer of the servicing of a loan, a
16 payment timely made to the transferor servicer may not be
17 treated as late for any purpose by the transferee servicer,
18 including the assessment of late fees, accrual of additional
19 interest, and furnishing negative credit information.

20 (d) To the extent practicable, for at least 120 calendar
21 days beginning on the effective date of transfer of servicing
22 of a loan, when acting as the transferor servicer, a servicer
23 shall promptly transfer payments received to the transferee
24 servicer for application to the borrower's loan account.

25 (e) Unless a borrower's authorizations for recurring
26 electronic fund transfers are automatically transferred to the

1 transferee servicer, when acting as a transferee servicer, the
2 servicer shall make available to a borrower whose loan
3 servicing is transferred an online process through which
4 borrowers may make a new authorization for recurring electronic
5 fund transfers. A servicer shall also provide a process through
6 which the borrower may make a new authorization for recurring
7 electronic funds transfers by phone or through written
8 approval.

9 Section 5-65. Requests for assistance, account dispute
10 resolution, and appeals.

11 (a) A servicer shall implement reasonable policies and
12 procedures for accepting, processing, investigating, and
13 responding to requests for assistance in a timely and effective
14 manner, including, but not limited to, the following
15 requirements:

16 (1) A servicer shall provide readily accessible
17 methods for consumers to submit a request for assistance to
18 the servicer, including such methods as phone, email, and
19 U.S. mail.

20 (2) A servicer shall post on its website and disclose
21 on its billing statements:

22 (A) the toll-free telephone number, email address,
23 and mailing address for consumers to submit requests
24 for assistance to the servicer; and

25 (B) the procedures for a requester to send a

1 written communication to the servicer regarding any
2 request for assistance.

3 (3) For any request for assistance that includes a
4 request for documentation or information, where a response
5 cannot be immediately provided, a servicer shall provide
6 the requested documentation or information to the
7 requester within 14 calendar days of the request; if a
8 servicer determines in good faith that it is unable to
9 provide the documentation or information within 14
10 calendar days, then, promptly after making the
11 determination, the servicer shall notify the requester of
12 the expected response period, which must be reasonable for
13 the request for assistance.

14 (b) A servicer shall implement a process by which a
15 requester can escalate any request for assistance. The process
16 shall allow a requester who has made a request for assistance
17 on the phone and who receives a response during the call to
18 obtain immediate review of the response by an employee of the
19 servicer at a higher supervisory level.

20 (c) The following requirements shall apply when a requester
21 submits a written or oral request for assistance that contains
22 an account dispute to a servicer:

23 (1) Within 14 calendar days of its receipt of the
24 written communication or oral request for further
25 escalation, a servicer shall attempt to make contact,
26 including providing the requester with name and contact

1 information of the representative handling the account
2 dispute, by phone or in writing, to the requester and
3 document the attempt in the borrower's account.

4 (2) A servicer shall complete the following actions
5 within 30 calendar days after its receipt of the written
6 communication or oral request for further escalation,
7 subject to paragraph (3) of this subsection (c):

8 (A) conduct a thorough investigation of the
9 account dispute;

10 (B) make all appropriate corrections to the
11 account of the requester, including crediting any late
12 fees assessed and derogatory credit furnishing as the
13 result of any error, and, if any corrections are made,
14 sending the requester a written notification that
15 includes the following information:

16 (i) an explanation of the correction or
17 corrections to the requester's account that have
18 been made; and

19 (ii) the toll-free telephone number, email
20 address, and mailing address of the servicer's
21 personnel knowledgeable about the investigation
22 and resolution of the account dispute.

23 (3) If a servicer determines in good faith that it
24 cannot complete a thorough investigation of the account
25 dispute within 30 calendar days after receiving the written
26 communication or oral request for further escalation

1 regarding the account dispute, then, promptly after making
2 such determination, the servicer shall notify the
3 requester of the expected resolution time period, which
4 must be reasonable for the account dispute. A servicer must
5 complete the actions listed in the investigation and
6 resolution of the account dispute within this time period.

7 (4) If a servicer determines as a result of its
8 investigation that the requested changes to a requester's
9 dispute will not be made, the servicer shall provide the
10 requester with a written notification that includes the
11 following information:

12 (A) a description of its determination and an
13 explanation of the reasons for that determination;

14 (B) the toll-free telephone number, email address,
15 and mailing address of the servicer's personnel
16 knowledgeable about the investigation and resolution
17 of the account dispute;

18 (C) instructions about how the requester can
19 appeal the servicer's determination in accordance with
20 paragraph (5) of this subsection (c); and

21 (D) information regarding the method by which a
22 borrower may request copies of documents a servicer
23 relied on to make a determination that no changes to a
24 requester's account will be made.

25 (5) After the requester receives a determination
26 regarding an account dispute in accordance with paragraph

1 (4) of this subsection (c), the servicer shall allow a
2 process by which the requester can appeal, in writing, the
3 determination. The appeals process shall include:

4 (A) a written acknowledgment notifying the
5 requester that the servicer has commenced the appeals
6 process; the acknowledgment shall be sent within 14
7 calendar days after receiving a written request for
8 appeal from the requester;

9 (B) an independent reassessment of the servicer's
10 determination regarding the account dispute, performed
11 by another employee of the servicer at an equal or
12 higher supervisory level than the employee or
13 employees involved in the initial account dispute
14 determination;

15 (C) investigation and resolution of appeals within
16 30 calendar days after the servicer's commencement of
17 the appeals process; and

18 (D) notification sent to the requester, in
19 writing, documenting the outcome of the appeal,
20 including any reason for denial.

21 (d) While a requester has a pending account dispute,
22 including any applicable appeal, a servicer shall take
23 reasonable steps to:

24 (1) prevent negative credit reporting with respect to
25 the borrower's or cosigner's account while the dispute is
26 under review; and

1 (2) suspend all collection activities on the account
2 while the account dispute is being researched or resolved,
3 if the account dispute is related to the delinquency.

4 Article 10. Student Loan Ombudsman

5 Section 10-5. Student Loan Ombudsman.

6 (a) The position of Student Loan Ombudsman is created
7 within the Office of the Attorney General to provide timely
8 assistance to student loan borrowers.

9 (b) The Student Loan Ombudsman, in consultation with the
10 Secretary, shall:

11 (1) receive, review, and attempt to resolve any
12 complaints from student loan borrowers, including, but not
13 limited to, attempts to resolve complaints in
14 collaboration with institutions of higher education,
15 student loan servicers, and any other participants in
16 student loan lending;

17 (2) compile and analyze data on student loan borrower
18 complaints;

19 (3) assist student loan borrowers to understand their
20 rights and responsibilities under the terms of student
21 education loans;

22 (4) provide information to the public, agencies,
23 legislators, and others regarding the problems and
24 concerns of student loan borrowers and make

1 recommendations for resolving those problems and concerns;

2 (5) analyze and monitor the development and
3 implementation of federal, State, and local laws,
4 regulations, and policies relating to student loan
5 borrowers and recommend any changes the Student Loan
6 Ombudsman deems necessary;

7 (6) review the complete student education loan history
8 for any student loan borrower who has provided written
9 consent for such review;

10 (7) disseminate information concerning the
11 availability of the Student Loan Ombudsman to assist
12 student loan borrowers and potential student loan
13 borrowers, as well as public institutions of higher
14 education, student loan servicers, and any other
15 participant in student education loan lending, with any
16 student loan servicing concerns; and

17 (8) take any other actions necessary to fulfill the
18 duties of the Student Loan Ombudsman as set forth in this
19 subsection.

20 Article 15. Licensing

21 Section 15-5. Applicability.

22 (a) No person shall act as a student loan servicer,
23 directly or indirectly, without first obtaining a license from
24 the Secretary under subsection (b) of Section 15-10 unless the

1 person is exempt from licensure pursuant to subsection (b) of
2 this Section.

3 (b) This Act does not apply to any of the following:

4 (1) a bank, out-of-state bank, Illinois credit union,
5 federal credit union, or out-of-state credit union;

6 (2) a wholly owned subsidiary of any such bank or
7 credit union; or

8 (3) an operating subsidiary where each owner of the
9 operating subsidiary is wholly owned by the same bank or
10 credit union.

11 Section 15-10. Applications.

12 (a) Any person seeking to act within this State as a
13 student loan servicer shall make a written application to the
14 Secretary for an initial license in the form the Secretary
15 prescribes. The application shall be accompanied by:

16 (1) a financial statement prepared by a certified
17 public accountant or a public accountant, the accuracy of
18 which is sworn to under oath before a notary public by the
19 proprietor, a general partner, or a corporate officer or a
20 member duly authorized to execute the documents;

21 (2) the history of criminal convictions of the: (i)
22 applicant; (ii) partners, if the applicant is a
23 partnership; (iii) members, if the applicant is a limited
24 liability company or association; or (iv) officers,
25 directors, and principal employees, if the applicant is a

1 corporation, and sufficient information pertaining to the
2 history of criminal convictions of the applicant,
3 partners, members, officers, directors, or principal
4 employees as the Secretary deems necessary to make the
5 findings under subsection (c) of this Section;

6 (3) a nonrefundable license fee of \$1,000; and

7 (4) a nonrefundable investigation fee of \$800.

8 The Secretary may conduct a State and national criminal
9 history records check of the applicant and of each partner,
10 member, officer, director, and principal employee of the
11 applicant.

12 (b) Upon the filing of an application for an initial
13 license and the payment of the fees for licensure and
14 investigation, the Secretary shall investigate the financial
15 condition and responsibility, financial and business
16 experience, character, and general fitness of the applicant.
17 The Secretary may issue a license if the Secretary finds that:

18 (1) the applicant's financial condition is sound;

19 (2) the applicant's business will be conducted
20 honestly, fairly, equitably, carefully, and efficiently
21 within the purposes and intent of this Act and in a manner
22 commanding the confidence and trust of the community;

23 (3) (A) if the applicant is an individual, the
24 individual is in all respects properly qualified and of
25 good character;

26 (B) if the applicant is a partnership, each partner is

1 in all respects properly qualified and of good character;

2 (C) if the applicant is a corporation or association,
3 the president, chairperson of the executive committee,
4 senior officer responsible for the corporation's business,
5 and chief financial officer or any other person who
6 performs similar functions as determined by the Secretary,
7 each director, each trustee, and each shareholder owning
8 10% or more of each class of the securities of the
9 corporation is in all respects properly qualified and of
10 good character; or

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

14 (4) no person on behalf of the applicant knowingly has
15 made any incorrect statement of a material fact in the
16 application or in any report or statement made pursuant to
17 this Act;

18 (5) no person on behalf of the applicant knowingly has
19 omitted to state any material fact necessary to give the
20 Secretary any information lawfully required by the
21 Secretary;

22 (6) the applicant has paid the investigation fee and
23 the license fee required under subsection (a); and

24 (7) the applicant has met any other similar
25 requirements as determined by the Secretary.

26 (c) A license issued pursuant to subsection (b) of this

1 Section shall expire at the close of business on September 30
2 of the odd-numbered year following its issuance, unless renewed
3 or earlier surrendered, suspended, or revoked pursuant to
4 Section 20-5 of this Act. No later than 15 days after a
5 licensee ceases to engage in the business of student loan
6 servicing in this State for any reason, including a business
7 decision to terminate operations in this State, license
8 revocation, bankruptcy, or voluntary dissolution, the licensee
9 shall provide written notice of surrender to the Secretary and
10 shall surrender to the Secretary its license for each location
11 in which the licensee has ceased to engage in business. The
12 written notice of surrender shall identify the location where
13 the records of the licensee will be stored and the name,
14 address, and telephone number of an individual authorized to
15 provide access to the records. The surrender of a license does
16 not reduce or eliminate the licensee's civil or criminal
17 liability arising from acts or omissions occurring prior to the
18 surrender of the license, including any administrative actions
19 undertaken by the Secretary to revoke or suspend a license,
20 assess a civil penalty, order restitution, or exercise any
21 other authority provided to the Secretary.

22 (d) A license may be renewed for the ensuing 24-month
23 period upon the filing of an application containing all
24 required documents and fees as provided in subsection (b) of
25 this Section. The renewal application shall be filed on or
26 before September 1 of the year in which the license expires.

1 Any renewal application filed with the Secretary after
2 September 1 shall be accompanied by a \$100 late fee and any
3 such filing shall be deemed to be timely and sufficient. If an
4 application for a renewal license has been filed with the
5 Secretary on or before the date the license expires, the
6 license sought to be renewed shall continue in full force and
7 effect until the issuance by the Secretary of the renewal
8 license applied for or until the Secretary has notified the
9 licensee in writing of the Secretary's refusal to issue the
10 renewal license together with the grounds upon which the
11 refusal is based. The Secretary may refuse to issue a renewal
12 license on any ground on which the Secretary might refuse to
13 issue an initial license.

14 (e) If the Secretary determines that a check filed with the
15 Secretary to pay a license or renewal fee has been dishonored,
16 the Secretary shall automatically suspend the license or the
17 renewal license that has been issued but is not yet effective.
18 The Secretary shall give the licensee notice of the automatic
19 suspension pending proceedings for revocation or refusal to
20 renew and an opportunity for a hearing on such actions in
21 accordance with the Illinois Administrative Procedure Act and
22 the rules of the Secretary.

23 (f) The applicant or licensee shall notify the Secretary,
24 in writing, of any change in the information provided in its
25 initial application for a license or its most recent renewal
26 application for licensure, as applicable, not later than 10

1 business days after the occurrence of the event that results in
2 the information becoming inaccurate.

3 (g) The Secretary may deem an application for a license
4 abandoned if the applicant fails to respond to any request for
5 information required under this Act or any rules adopted
6 pursuant to this Act. The Secretary shall notify the applicant,
7 in writing, that if the applicant fails to submit the
8 information no later than 60 days after the date on which the
9 request for information was made, the application is deemed
10 abandoned. An application filing fee paid before the date an
11 application is deemed abandoned pursuant to this subsection
12 shall not be refunded. Abandonment of an application pursuant
13 to this subsection shall not preclude the applicant from
14 submitting a new application for a license under this Section.

15 Section 15-15. Business name. No person licensed to act
16 within this State as a student loan servicer shall do so under
17 any other name or at any other place of business than that
18 named in the license. Any change of location of a place of
19 business of a licensee shall require prior written notice to
20 the Secretary. No more than one place of business shall be
21 maintained under the same license, but the Secretary may issue
22 more than one license to the same licensee upon compliance with
23 the provisions of this Act as to each new licensee. A license
24 is not transferable or assignable.

1 Section 15-20. Recordkeeping.

2 (a) Each student loan servicer licensee and persons exempt
3 from licensure pursuant to subsection (b) of Section 15-5 of
4 this Act shall maintain adequate records of each student
5 education loan transaction for no less than 2 years following
6 the final payment on the student education loan or the
7 assignment of the student education loan, whichever occurs
8 first, or a longer period if required by any other provision of
9 law.

10 (b) If requested by the Secretary, each student loan
11 servicer shall make the records available or send the records
12 to the Secretary by registered or certified mail, return
13 receipt requested, or by any express delivery carrier that
14 provides a dated delivery receipt, no later than 5 business
15 days after requested by the Secretary to do so. Upon request,
16 the Secretary may grant a licensee additional time to make the
17 records available or send the records to the Secretary.

18 Article 20. Enforcement

19 Section 20-5. Administration and enforcement.

20 (a) The Secretary shall have the authority to conduct
21 investigations and examinations as follows:

22 (1) For purposes of initial licensing, license
23 renewal, license suspension, license revocation or
24 termination, or general or specific inquiry or

1 investigation to determine compliance with this Act, the
2 Secretary may access, receive, and use any books, accounts,
3 records, files, documents, information, or evidence,
4 including, but not limited to: (A) criminal, civil, and
5 administrative history information; (B) personal history
6 and experience information, including independent credit
7 reports obtained from a consumer reporting agency
8 described in Section 603(p) of the federal Fair Credit
9 Reporting Act, 15 U.S.C. 1681a; and (C) any other
10 documents, information, or evidence the Secretary deems
11 relevant to the inquiry or investigation regardless of the
12 location, possession, control, or custody of the
13 documents, information, or evidence.

14 (2) For the purposes of investigating violations or
15 complaints arising under this Act or for the purposes of
16 examination, the Secretary may review, investigate, or
17 examine any student loan servicer licensee or person
18 subject to this Act as often as necessary in order to carry
19 out the purposes of this Act. The Secretary may direct,
20 subpoena, or order the attendance of and examine under oath
21 any person whose testimony may be required about the
22 student education loan or the business or subject matter of
23 any examination or investigation, and may direct,
24 subpoena, or order that person to produce books, accounts,
25 records, files, and any other documents the Secretary deems
26 relevant to the inquiry.

1 (b) In making any examination or investigation authorized
2 by this Section, the Secretary may control access to any
3 documents and records of the student loan servicer licensee or
4 person under examination or investigation. The Secretary may
5 take possession of the documents and records or place a person
6 in exclusive charge of the documents and records in the place
7 where they are usually kept. During the period of control, no
8 person shall remove or attempt to remove any of the documents
9 and records, except pursuant to a court order or with the
10 consent of the Secretary. Unless the Secretary has reasonable
11 grounds to believe the documents or records of the student loan
12 servicer licensee or person have been or are at risk of being
13 altered or destroyed for purposes of concealing a violation of
14 this Act, the student loan servicer licensee or owner of the
15 documents and records shall have access to the documents or
16 records as necessary to conduct its ordinary business affairs.

17 (c) In order to carry out the purposes of this Section, the
18 Secretary may:

19 (1) retain accountants or other professionals and
20 specialists as examiners, auditors, or investigators to
21 conduct or assist in the conduct of examinations or
22 investigations;

23 (2) enter into agreements or relationships with other
24 government officials or regulatory associations in order
25 to improve efficiencies and reduce regulatory burden by
26 sharing resources, standardized or uniform methods or

1 procedures, and documents, records, information, or
2 evidence obtained under this Section;

3 (3) use, hire, contract, or employ publicly or
4 privately available analytical systems, methods, or
5 software to examine or investigate the student loan
6 servicer licensee or person subject to this Act;

7 (4) accept and rely on examination or investigation
8 reports made by other government officials, within or
9 without this State;

10 (5) accept audit reports made by an independent
11 certified public accountant for the student loan servicer
12 licensee or person subject to this Act in the course of
13 that part of the examination covering the same general
14 subject matter as the audit and may incorporate the audit
15 report in the report of examination, report of
16 investigation, or other writing of the Secretary; and

17 (6) adopt rules necessary to implement this Act.

18 (d) The authority of this Section shall remain in effect,
19 whether the student loan servicer licensee or person subject to
20 this Act acts or claims to act under any licensing or
21 registration law of this State, or claims to act without such
22 authority.

23 (e) No student loan servicer licensee or person subject to
24 investigation or examination under this Section may knowingly
25 withhold, abstract, remove, mutilate, destroy, or secrete any
26 books, records, computer records, or other information.

1 (f) The Secretary may suspend, revoke, or refuse to renew
2 any license issued under the provisions of this Act if the
3 Secretary finds that (1) the licensee has violated any
4 provision of this Act or any rule or order lawfully made
5 pursuant to and within the authority of this Act, (2) any fact
6 or condition exists that, if it had existed at the time of the
7 original application for the license, clearly would have
8 warranted a denial of the license, or (3) the licensee engaged
9 in dishonest activities or made any misrepresentation. No
10 abatement of the license fee shall be made if the license is
11 surrendered, revoked, or suspended prior to the expiration of
12 the period for which it was issued.

13 Section 20-10. Enforcement; Consumer Fraud and Deceptive
14 Business Practices Act. In addition to any other penalties
15 specified in this Act, violation of this Act constitutes an
16 unlawful practice under the Consumer Fraud and Deceptive
17 Business Practices Act.

18 Article 90. Amendatory Provisions

19 Section 90-1. The Consumer Fraud and Deceptive Business
20 Practices Act is amended by changing Section 2Z as follows:

21 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

22 Sec. 2Z. Violations of other Acts. Any person who knowingly

1 violates the Automotive Repair Act, the Automotive Collision
2 Repair Act, the Home Repair and Remodeling Act, the Dance
3 Studio Act, the Physical Fitness Services Act, the Hearing
4 Instrument Consumer Protection Act, the Illinois Union Label
5 Act, the Job Referral and Job Listing Services Consumer
6 Protection Act, the Travel Promotion Consumer Protection Act,
7 the Credit Services Organizations Act, the Automatic Telephone
8 Dialers Act, the Pay-Per-Call Services Consumer Protection
9 Act, the Telephone Solicitations Act, the Illinois Funeral or
10 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care
11 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
12 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
13 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
14 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
15 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
16 Internet Caller Identification Act, paragraph (6) of
17 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
18 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
19 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
20 Residential Real Property Disclosure Act, the Automatic
21 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of
22 the Youth Mental Health Protection Act, ~~or~~ the Personal
23 Information Protection Act, or the Student Loan Servicing
24 Rights Act commits an unlawful practice within the meaning of
25 this Act.

26 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,

1 eff. 7-28-16.)

2 Article 99. Severability; Effective Date

3 Section 99-1. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99-99. Effective date. This Act takes effect upon
6 becoming law.".