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A BILL  
21-877

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend the Department of Insurance and Securities Regulation Establishment Act of 1996 to establish a Student Loan Ombudsman within the Department of Insurance, Securities, and Banking, and to regulate student loan servicers.

BE IT ENACTED BY THE COUNCIL FOR THE DISTRICT OF COLUMBIA, That this act may be cited as the “Student Loan Ombudsman Establishment and Servicing Regulation Amendment Act of 2016”.

Sec. 2. The Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 31-101) is amended as follows:

(1) New paragraphs (6A) and (6B) are added to read as follows:

“(6A) “Licensee” means the holder of a SLS license.

“(6B) “Ombudsman” means the position of Student Loan Ombudsman established within the Department by section 7a.

(2) New paragraphs (8), (9), (10), and (11) are added to read as follows:

“(8) “Student education loan” means a loan obtained for personal use to finance education or other school-related expenses.

28                   “(9) “Student loan borrower” means a resident of the District of Columbia who  
29 has received or agreed to pay a student education loan, or a person who shares legal  
30 responsibility with such a resident for the repayment of a student education loan.

31                   “(10) “Student loan servicer” means a person or entity, whether located within or  
32 outside the District, responsible for the servicing of a student education loan of a student loan  
33 borrower.

34                   “(11) “Student loan servicing” means the process of collecting payments and  
35 interest and performing other administrative tasks associated with maintaining a student  
36 education loan. The term “student loan servicing” includes:

37                                 “(A) Receiving any scheduled periodic payments from a student loan  
38 borrower or notification of payments;

39                                 “(B) Applying payments to the student loan borrower’s account pursuant to  
40 the terms of the student education loan or contract governing the servicing;

41                                 “(C) Maintaining account records for the student education loan during a  
42 period when no payment is required on the loan;

43                                 “(D) Communicating with the borrower regarding the student education loan;  
44 and having other interactions to assist a student loan borrower, including activities to help  
45 prevent default on obligations arising from a student education loan.

46                   “(12) “SLS license” means the business license established by section 7b issued  
47 by the Department that is required for a student loan servicer.”.

48                   (b) New sections 7a and 7b are added to read as follows:

49 “Sec. 7a. Student Loan Ombudsman; establishment.

50 “(a) There is established within the Department the position of the Student Loan  
51 Ombudsman.

52 “(b)(1) The Ombudsman shall be:

53 “(A) Appointed by the Commissioner of the Department;

54 “(B) A District resident within 180 days of appointment; and

55 “(C) Experienced in consumer finance, including student loan servicing  
56 and debt collection.

57  
58 “(2) If a vacancy in the position of Ombudsman occurs as a consequence of  
59 removal, resignation, disability, death, or other reason, the Commissioner shall appoint an  
60 Ombudsman to fill the vacancy within 90 days of the occurrence of the vacancy.

61 “(c) The Ombudsman, in consultation with the Commissioner, shall:

62 “(1) Assist in the enforcement of the licensing provisions of section 7b, including  
63 the referral of actions to the Office of the Attorney General for the District of Columbia for the  
64 enforcement of an order of the Commissioner pursuant to section 7b or other authority of the  
65 Commissioner related to a licensee or a person required to have a license under the act;

66 “(2) Receive, review, and attempt to resolve any complaints from a student loan  
67 borrower, including attempts to resolve such complaints in collaboration with student loan  
68 servicers, and any other participants in student-loan lending, including those entities engaging  
69 borrowers about existing student debt;

70 “(3) Compile and analyze data on student loan borrower complaints;

71                   “(4) Develop and provide information to assist student loan borrowers in  
72 understanding their rights and responsibilities under the terms of the student loan borrower’s  
73 student education loan;

74                   “(5) Monitor the actions that student loan servicers take to ensure that student loan  
75 borrowers are informed of their rights and responsibilities under the terms of the student loan  
76 borrower’s student education loan in a transparent, accessible, and timely manner;

77                   “(6) Make recommendations to the Commissioner for resolving problems and  
78 concerns of student loan borrowers;

79                   “(7) Analyze and monitor the development and implementation of federal and  
80 local laws, regulations, and policies relating to student loan borrowers;

81                   “(8) Upon the request and written consent of a student loan borrower, review the  
82 student education loan history of the student loan borrower; provided, that the student loan  
83 borrower has provided documentation of the student loan borrower’s student education loan  
84 history;

85                   “(9) By October 1, 2017, establish, publicize, and maintain an education course to  
86 assist student loan borrowers in understanding their student education loans, which shall include:

87                               “(A) Educational presentations;

88                               “(B) Explanations of key loan terms;

89                               “(C) Documentation requirements;

90                               “(D) Monthly payment obligations, including:

91                                       “(i) Income-based repayment options;

92 “(ii) Loan forgiveness; and

93 “(iii) Disclosure requirements; and

94 “(E) Other educational materials that the Commissioner considers  
95 necessary or appropriate;

96 “(10) By October 1, 2017, develop a student loan borrower bill of rights;

97 “(11) Conduct an examination of the activities of each student loan servicer at  
98 least once in every 3-year period, and at any other time the Commissioner considers necessary;

99 “(12) Charge each student loan servicer an examination fee, which shall be  
100 assessed in an amount set forth by the Mayor; and

101 “(13) Take any other action required by the Commissioner.

102 “(d) Beginning March 1, 2018, and by March 1 of each year thereafter, the Commissioner  
103 shall submit an annual report to the Mayor and the Council on the Ombudsman’s activities, as  
104 required or authorized by this section, of the previous year, which shall include the number of  
105 educational presentations held across the city, the number of residents in attendance for the  
106 educational presentations, and the number of complaints received and the action taken to resolve  
107 the complaints.

108 “(e) The Ombudsman shall not:

109 “(1) Disclose personally identifiable information regarding a student loan  
110 borrower without the written consent of the student loan borrower;

111 “(2) Disclose the identity of a person who brings a complaint or provides  
112 information to the Ombudsman without the person’s consent, unless the Commissioner

113 determines that disclosure is necessary to further the resolution of a complaint or an  
114 investigation;

115 “(3) Provide legal advice or legal representation; or

116 “(4) Be held personally liable for the good faith performance of his or her  
117 responsibilities or duties under this section or rules issued pursuant to this section; except, that no  
118 immunity shall extend to criminal acts, or other acts that violate District or federal law.”.

119 “Sec. 7b. Student loan servicer; licensure and reporting requirements.

120 “(a) Except as provided in subsection (b) of this section, no person or entity shall operate  
121 as a student loan servicer in the District, directly or indirectly, without first obtaining a SLS  
122 license pursuant to this section.

123 “(b) The following persons and entities shall be exempt from the requirements of  
124 subsection (a) of this section:

125 “(1) A bank, trust company, or other loan company doing business under the  
126 authority of, or in accordance with, a license, certificate, or charter issued by the United States or  
127 any state, district, territory, or commonwealth of the United States that is authorized to transact  
128 business in the District;

129 “(2) A federally chartered savings and loan association, federal savings bank, or  
130 Federal credit union that is authorized to transact business in the District;

131 “(3) A savings and loan association, savings bank, or credit union organized under  
132 the laws of the District or any other state that is authorized to transact business in the District; or

133 “(4) A public postsecondary educational institution or a private nonprofit

134 postsecondary educational institution servicing a student loan it extended to a borrower.

135           “(c)(1) Except as provided in subsection (b) of this section, a person or entity seeking to  
136 operate as a student loan servicer in the District shall apply for a SLS license by submitting to the  
137 Department:

138                           “(A) A completed application, in a form and manner prescribed by the  
139 Commissioner, that is signed under penalty of perjury;

140                           “(B) Application fees and other fees as prescribed by the Commissioner

141                           “(C) Three years of audited financial statements prepared in accordance  
142 with generally accepted accounting principles and acceptable to the Department that shows a net  
143 worth of at least \$250,000;

144                           “(D) A surety bond in an amount determined by the Mayor to be used for  
145 the recovery of damages incurred by student loan borrowers as the result of a licensee’s  
146 noncompliance with the requirements of this act or the recovery of fees or expenses levied  
147 against a licensee pursuant to this act; and

148                           “(E) Any other information the Commissioner considers necessary and  
149 appropriate as prescribed by rules issued pursuant to this section.

150           “(2) An applicant shall notify the Department in writing of any change in the  
151 information provided in the applicant’s application for an initial SLS license or a renewal within  
152 10 business days of the change having occurred. The failure to timely notify the Department of a  
153 change in the accuracy of the application may result in the denial of the application.

154           “(d) The Commissioner shall issue a SLS license if the application meets all the  
155 requirements for license prescribed by the Commissioner by rule.

156           “(e)(1)(A) A SLS license issued pursuant to this section before November 1 of a given  
157 year shall expire on December 31 of that same year, unless renewed or earlier surrendered,  
158 suspended, or revoked.

159                       “(B) A SLS license issued pursuant to this section on or after November 1  
160 of a given year shall expire on December 31 of the following year, unless renewed or earlier  
161 surrendered, suspended, or revoked.

162                       “(2) No later than 15 days after a licensee ceases to engage in the business of  
163 being a student loan servicer, the licensee shall surrender the SLS license to the Commissioner,  
164 along with a signed notice of the surrender.

165                       “(3) The signed notice of surrender shall provide the:

166                               “(A) Location where the records of the licensee will be stored;

167                               “(B) Name, address, and telephone number of an individual authorized to  
168 provide access to the records; and

169                               “(C) Reason for the cessation of business.

170           “(f) The surrender of a SLS license does not toll or eliminate a licensee’s civil or criminal  
171 liability arising from acts or omissions occurring prior to the surrender of the SLS license,  
172 including any administrative actions undertaken by the Commissioner to revoke or suspend the  
173 SLS license.



174           “(g)(1)(A) A SLS license may be renewed for a term prescribed by the Commissioner  
175 upon the timely filing of an application, along with all required documents and the payment of  
176 fees, as required by this section, or rules issued pursuant to this section.

177                       “(B) If an application for a renewal of a SLS license has been filed with  
178 the Ombudsman on or before the date the current SLS license expires, the current SLS license  
179 shall continue in full force and effect until the Commissioner issues a renewal or notifies the  
180 licensee in writing that the licensee’s application for renewal has been denied, including the  
181 grounds for the denial.

182                       “(C) The Commissioner may deny an application for renewal of a SLS  
183 license on any ground that the Commissioner may deny an application for an initial SLS license.

184                       (2) A SLS license shall not be transferable or assignable.

185           “(h)(1) The Commissioner may revoke any license issued pursuant to this act if, after  
186 notice and a hearing, the Commissioner finds that the licensee has:

187                       (A) Committed any fraudulent acts, engaged in any dishonest activities, or  
188 made any misrepresentation in any business transaction;

189                       (B) Been convicted of a felony under the laws of the District of Columbia  
190 or the laws of any state or the United States;

191                       (C) Violated any applicable banking laws of the District of Columbia, or  
192 any rules or regulations promulgated thereunder, or has violated any other law in the course of  
193 dealings as a licensee;

194 (D) Made a material misstatement in the application for a license under  
195 this act;

196 (E) Demonstrated incompetency or untrustworthiness to act as a licensee;

197 (F) Violated any provision of this chapter or of any implementing  
198 regulation; or

199 (G) Failed to satisfy any of the criteria for obtaining a license as set out in  
200 this chapter.

201 “(2) Whenever the Commissioner revokes a license issued pursuant to this act, the  
202 Commissioner shall issue a written order setting forth the grounds for revocation, with a copy to  
203 be served on the licensee either personally or by mail to the last known address of the licensee.

204 “(i) Pending the hearing required in subsection (h) of this section, the Commissioner may  
205 suspend the license for a period not to exceed 30 days if the Commissioner determines that such  
206 a suspension is in the public interest and that one or more grounds for revocation of a license, as  
207 set forth in subsection (h) of this section, exist. Whenever the Commissioner suspends a license  
208 pursuant to this subsection, the Commissioner shall issue a written notice to the licensee setting  
209 forth, with particularity, the grounds for suspension and the licensee’s right to a hearing, with a  
210 copy to be served on the licensee either personally or by mail to the last known address of the  
211 licensee.

212 “(j)(1) Beginning January 30, 2018, and by January 30, each year thereafter, a licensee  
213 shall file an annual report with the Commissioner, which shall include the number of loans that  
214 were sold, assigned, or transferred in the preceding calendar year and any other information that

215 the Commissioner reasonably requires concerning the business operations conducted by the  
216 licensee during the preceding calendar year.

217           “(2) The Department shall provide a copy of each report to the Mayor and the  
218 Council and make the reports available to the public by publishing them on the Department’s  
219 website.”.

220           Sec. 3. Rules.

221           Within 180 days of the effective date of this act, the Mayor, pursuant to Title I of the  
222 District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204;  
223 D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement of provisions of this act.

224           Sec. 4. Fiscal impact statement.

225           The Council adopts the fiscal impact statement in the committee report as the fiscal  
226 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
227 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

228           Sec. 5. Effective date.

229           This act shall take effect following approval by the Mayor (or in the event of veto by the  
230 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
231 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
232 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
233 Columbia Register.