

AN ACT

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 OF 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), (11), and (12) 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.

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

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

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

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

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

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

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

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

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

“Sec. 7a. Student Loan Ombudsman.

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

“(b)(1) The Ombudsman shall be:

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

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

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

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

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

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

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

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

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

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

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

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

“(8) Upon the request and written consent of a student loan borrower, review the student education loan history of the student loan borrower; provided, that the student loan

borrower has provided documentation of the student loan borrower's student education loan history;

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

“(A) Educational presentations;

“(B) Explanations of key loan terms;

“(C) Documentation requirements;

“(D) Monthly payment obligations, including:

“(i) Income-based repayment options;

“(ii) Loan forgiveness; and

“(iii) Disclosure requirements; and

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

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

“(11) Conduct an examination of the activities of each student loan servicer at least once every 3 years, and as the Commissioner considers necessary;

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

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

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

“(e) The Ombudsman shall not:

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

“(2) Disclose the identity of a person who brings a complaint or provides information to the Ombudsman without the person's consent, unless the Commissioner determines that disclosure is necessary to further the resolution of a complaint or an investigation;

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

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

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

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

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

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

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

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

“(4) A public postsecondary educational institution or a private nonprofit postsecondary educational institution servicing a student loan it extended to a student loan borrower.

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

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

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

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

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

“(E) Any other information the Commissioner considers necessary and appropriate as prescribed by rules issued pursuant to section 7c.

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

“(d) The Commissioner shall issue a SLS license if the application meets all the requirements for licensure prescribed this act and by the Commissioner by rule.

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

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

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

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

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

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

“(C) Reason for the cessation of business.

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

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

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

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

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

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

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

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

“(C) Violated any applicable banking laws of the District of Columbia, or any rules or regulations issued pursuant to any of those laws, or has violated any other law in the course of dealings as a licensee;

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

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

“(F) Violated any provision of this act or of any implementing regulation;

or

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

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

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

“(j)(1) Beginning January 30, 2018, and by January 30th, each year thereafter, a licensee shall file an annual report with the Commissioner, which shall include the number of loans that were sold, assigned, or transferred in the preceding calendar year and any other information that the Commissioner reasonably requires concerning the business operations conducted by the licensee during the preceding calendar year.

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

“Sec. 7c. Rules.

“Within 180 days of the effective date of this section, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement of provisions of sections 7a and 7b.”.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia