

Statement of Introduction
The New Student Loan Borrower Bill of Rights Amendment Act of 2021
Councilmember Christina Henderson
March 29, 2021

Today, I am proud to introduce the *New Student Loan Borrower Bill of Rights Amendment Act of 2021* along with Councilmembers Nadeau, Allen, Lewis George, Pinto, Silverman, Robert White, Cheh and Bonds. Far too many District residents are consumed by student loan debt, and the burden of this debt weighs heaviest on minority communities. As we work to create a more equitable recovery for all DC residents, the student loan crisis must be addressed. Together, we will create an environment where borrowers and their co-signers can thrive.

More than 45 million student loan borrowers collectively owe \$1.7 trillion of student loan debt, making student debt the second largest class of consumer debt in the country. In the District, there are 116,00 student loan borrowers who collectively owe \$7.5 billion in student loan debt, with the average balance exceeding \$64,000. Nearly a quarter of our residents over age 24 have student loan debt. These borrowers owe more than those in any state, carrying typical debt loads \$20,000 higher than the national average.

The burden of student debt affects District residents' ability to buy homes, start families, and save for retirement. The District also faces broader challenges attracting and retaining public service workers like teachers, public interest attorneys, and other government experts who often take on high levels of student loan debt, with comparably lower levels of pay.

Within this broader context, racial wealth disparities contribute to higher rates of borrowing for Black and Latino students. Delinquencies and defaults also disproportionately weigh on Black and Latino borrowers. Black borrowers with a bachelor's degree are five times more likely to default on a student loan than white borrowers with the same degree.

As I have frequently noted, an individual's zip code should not determine their likelihood of success. However, that is exactly what is happening in the context of student loan borrowing. This legislation establishes much needed protections for our borrowers.

The *New Student Loan Borrower Bill of Rights Amendment Act* would build upon legislation introduced in Council Period 23 ([B23-697](#)) to address debt issues by:

- **Adding affirmative protections for student loan borrowers.** This bill grants additional protections to student loan borrowers in the District, ensuring borrowers receive answers to inquiries submitted to their servicers and notice when loans are transferred or sold to

another servicer, improving avenues for cosigner release, and discharging debt for total and permanent disability.

- **Prohibiting unfair, deceptive, or abusive acts and practices.** The District already prohibits debt collectors, auto lenders, and other consumer finance companies from misleading, deceiving, or causing harm to consumers. This legislation expands the same protections to student loan servicers operating in the District.
- **Adding a private right of action.** This legislation incorporates the private right of action offered under existing DC consumer protection law, extending the same right to relief for student loan borrowers.

I look forward to working with my colleagues on the Council to pass this legislation and provide student loan borrowers across the District with these critical consumer protections.

1 Brianne K. Nadeau

2 Councilmember Brianne K. Nadeau

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4 Mary Cheh

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6 Councilmember Mary Cheh

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8 Robert C. White, Jr.

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10 Councilmember Robert C. White, Jr.

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12 Elissa Silverman

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14 Councilmember Elissa Silverman

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16 Christina Henderson

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19 Janeese Lewis George

20 Councilmember Janeese Lewis George

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22 Brooke Pinto

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25 Charles Allen

26 Councilmember Charles Allen

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28 Anita Bonds

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Department of Insurance and Securities Regulation Establishment Act of 1996 to prevent abusive acts or practices on the part of student loan servicers, to clarify that student loan servicers under contract with the United States Department of Education shall automatically be issued a limited student loan servicing license upon meeting certain criteria, to clarify denials of applications for approval, to proscribe prohibited conduct on the part of student loan servicers, to assign affirmative duties to student loan servicers, to assign the Attorney General of the District of Columbia the power to enforce the Act, to establish responsibilities of private education lenders regarding disability discharge and cosigner release, to transfer the Student Loan Ombudsperson from the Department of Insurance, Securities and Banking to the Office of the Attorney General

39 for the District of Columbia, and require the creation of a revised Student Loan Borrower
40 Bill of Rights by October 1, 2022.

41
42 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
43 act may be cited as the “New Student Loan Borrower Bill of Rights Amendment Act of 2021”.

44 Sec. 2. The Department of Insurance and Securities Regulation Establishment Act of
45 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.*), is
46 amended as follows:

47 (a) Section 2 (D.C. Official Code § 31-101) is amended as follows:

48 (1) A new paragraph (1A) is added to read as follows:

49 “(1A) “Abusive act or practice” means an act or practice that:

50 “(A) Materially interferes with the ability of a student loan borrower to
51 understand a term or condition of a student education loan;

52 “(B) Takes unreasonable advantage of:

53 “(i) A lack of understanding on the part of a student loan borrower
54 of the material risks, costs, or conditions of a student loan;

55 “(ii) The inability of a student loan borrower to protect the interests
56 of the borrower when selecting or using either of the following:

57 “(I) A student education loan; or

58 “(II) A feature, term, or condition of a student education
59 loan; or

60 “(iii) The reasonable reliance by the student loan borrower on a
61 person engaged in servicing a student education loan to act in the interests of the borrower; or

62 “(C) Misrepresents the amount, nature, or terms of any fee or payment due
63 or claimed to be due on a student education loan, the terms and conditions of the student
64 education loan agreement or the borrower's obligations under the student education loan.”

65 (2) A new paragraph (2A) is added to read as follows:

66 “(2A) “Cosigner” means an individual who is liable for the obligation of a student
67 loan borrower without compensation, regardless of how the individual is designated in the
68 contract or instrument with respect to that obligation, including an obligation under a private
69 education loan extended to consolidate a student loan borrower’s pre-existing student loans and
70 shall include an individual whose signature is requested as a condition to grant credit or to
71 forbear on collection, but shall not include a spouse of a student loan borrower, the signature of
72 whom is needed to perfect the security interest in a loan.”.

73 (3) Paragraph (6B) is amended to read as follows:

74 “(6B) “Ombudsperson” means the position of Student Loan Ombudsperson
75 established within the Office of the Attorney General by section 108g of the Attorney General
76 for the District of Columbia Certification and Elected Term Amendment Act of 2010, as
77 introduced on March 29, 2021 (B24-____).”.

78 (4) New paragraphs (6C), (6D), (6E), (6F), and (6G) are added to read as follows:

79 “(6C) “Overpayment” means a payment on a student education loan in excess of
80 the monthly amount due from the student loan borrower on a student education loan.

81 “(6D) “Partial payment” or “underpayment” means a payment on a student
82 education loan account that contains multiple individual loans in an amount less than the amount
83 necessary to satisfy the outstanding payment due on all loans in the student education loan
84 account.

85 “(6E) “Private education loan” means an extension of credit that:

86 “(A) Is not made, insured, or guaranteed under Title IV of the Higher

87 Education Act of 1965 (20 U.S.C. § 1070 *et seq.*);

88 “(B) Is extended to a consumer expressly, in whole or in part, for

89 postsecondary education expenses, regardless of whether the loan is provided by the educational

90 institution that the student attends;

91 “(C) Shall not include open-end credit or any loan that is secured by real

92 property or a dwelling; and

93 “(D) Shall not include an extension of credit in which the covered

94 educational institution is the creditor if:

95 “(i) The term is 90 days or less; or

96 “(ii) An interest rate shall not be applied to the credit balance and

97 the term of the extension of credit is one year or less, even if the credit is payable in more than 4

98 installments.

99 “(6F) “Postsecondary education expense” means an expense related to enrollment

100 in or attendance at a postsecondary education institution, as defined in section 201 of the

101 Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C.

102 Official Code § 38-1302(12)), regardless of whether the debt incurred by a student to pay those

103 expenses is owed to the provider of postsecondary education whose school, program, or facility

104 the student attends.

105 “(6G) “Private education lender” means a person engaged in the business of

106 securing, making, or extending private education loans, or a holder of a private education loan,

107 but shall not include the following persons to the extent preempted by federal law:

108 “(A) A bank of credit union;
109 “(B) A wholly owned subsidiary of a bank or credit union; and
110 “(C) An operating subsidiary of a bank or credit union where each owner
111 of the operating subsidiary is wholly owned by the same bank or credit union.”.

112 (5) Paragraph (9) is amended to read as follows:

113 “(9) “Student loan borrower” means a resident of the District of Columbia who
114 has received or agreed to pay a student education loan used to fund his or her own postsecondary
115 education.”.

116 (6) A new paragraph (13) is added to read as follows:

117 “(13) “Total and permanent disability” is the condition of an individual who:

118 “(A) Has been determined by the United State Secretary of Veterans
119 Affairs to be unemployable due to a service-connected disability; or

120 “(B) Is unable to engage in any substantial gainful activity by reason of
121 any medically determinable physical or mental impairment that can be expected to result in
122 death, has lasted for a continuous period of not less than 12 months, or can be expected to last for
123 a continuous period of not less than 12 months.”.

124 (b) Section 7a (D.C. Official Code § 31-106.01) is repealed.

125 (c) Section 7b (D.C. Official Code § 31-106.02) is amended as follows:

126 (1) Subsection (c) is amended as follows:

127 (A) Paragraph (1)(B) is amended by striking the phrase “Application fees
128 and other fees” and inserting the phrase “Application fees, investigation fees, and other fees” in
129 its place.

130 (B) A new paragraph (3) is added to read as as follows:

131 “(3) The Commissioner shall automatically issue a limited, irrevocable license to
132 any person servicing a student education loan under contract with the United States Department
133 of Education as follows:

134 “(A) Any person seeking to act within the District of Columbia as a
135 student loan servicer is exempt from the application procedures established pursuant to this
136 subsection, other than the requirements of paragraphs (1)(B) and (1)(D) of this subsection, to the
137 extent that the student loan servicing performed is conducted pursuant to a contract awarded by
138 the United States Secretary of Education under 20 U.S.C. § 1087f. The procedure to document
139 eligibility for the exemption shall be prescribed by the Commissioner.

140 “(B) Any person meeting the criteria set forth in subparagraph (A) of this
141 paragraph shall be issued a license by the Commissioner for the student loan servicing of student
142 education loans under contract with the United States Department of Education and shall be
143 considered by the Commissioner to have met all requirements established by subparagraphs
144 (1)(A) and (C) of this subsection.

145 “(C) The provisions of subsection (h) of this section shall not apply to a
146 person issued a limited license pursuant to this section to the extent that the person is servicing
147 federal student education loans.

148 “(D) Any person issued a license pursuant to this section shall provide the
149 Commissioner with written notice within 7 days following the notification of the expiration,
150 revocation, or termination of any contract awarded by the United States Secretary of Education
151 under 20 U.S.C § 1087f. Thereafter, the person shall have 30 days to satisfy all requirements
152 established under this act in order to continue to act within the District of Columbia as a student
153 loan servicer for federal student education loans. At the expiration of the 30-day period, if the

154 person has not satisfied the requirements established pursuant to this act, the Commissioner shall
155 immediately suspend any license granted under this section.

156 “(E) In the case of student loan servicing that is not conducted pursuant to
157 a contract awarded by the United States Secretary of Education under 20 U.S.C. § 1087f, nothing
158 in this section shall prevent the Commissioner from issuing an order to temporarily or
159 permanently prohibit any person from acting as a student loan servicer.

160 “(F) In the case of student loan servicing conducted pursuant to a contract
161 awarded by the United States Secretary of Education under 20 U.S.C § 1087f, nothing in this
162 section shall prevent the commissioner from issuing a cease-and-desist order or injunction
163 against any student loan servicer to cease activities in violation of this act or D.C. Official Code
164 § 28-3901 *et seq.*”.

165 (2) Subsection (g)(1)(C) is amended by striking “The Commissioner may deny an
166 application for renewal” and inserting “Except as provided for under subsection (c)(3) of this
167 section, the Commissioner may deny an application for renewal” in its place.

168 (d) New sections 7b-1, 7b-2, 7b-3, 7b-4, and 7b-5 are added to read as follows:

169 “Sec. 7b-1. Prohibited Conduct – Student Loan Servicers.

170 “(a) No student loan servicer shall:

171 “(1) Directly or indirectly employ any scheme, device, or artifice to defraud or
172 mislead student loan borrowers;

173 “(2) Engage in any unfair or deceptive practice toward any person or misrepresent
174 or omit any material information in connection with the servicing of a student education loan,
175 including abusive acts and practices;

176 “(3) Obtain property by fraud or misrepresentation;

177 “(4) Misapply student education loan payments to the outstanding balance of a
178 student education loan;

179 “(5) Provide inaccurate information to a credit bureau, thereby harming a student
180 loan borrower's creditworthiness;

181 “(6) Fail to report both the favorable and unfavorable payment history of the
182 student loan borrower to a nationally recognized consumer credit bureau at least annually if the
183 student loan servicer regularly reports information to a credit bureau;

184 “(7) Refuse to communicate with an authorized representative of the student loan
185 borrower who provides a written authorization signed by the student loan borrower, provided the
186 student loan servicer may adopt procedures reasonably related to verifying that the representative
187 is in fact authorized to act on behalf of the student loan borrower;

188 “(8) Make any false statement or make any omission of a material fact in
189 connection with any information or reports filed with a governmental agency or in connection
190 with any investigation conducted by the Commissioner or another governmental agency;

191 “(9) Fail to respond within 15 business days to communications from the
192 Department of Insurance, Securities and Banking, or within such shorter, reasonable period of
193 time as may be requested by the Department; or

194 “(10) Fail to respond within 15 business days to a consumer complaint submitted
195 to the student loan servicer by the Department or Office of the Attorney General. If necessary,
196 the student loan servicer may request additional time to respond to the complaint, up to a
197 maximum of 45 business days, provided that the request is accompanied by an explanation on
198 why additional time is reasonable and necessary.

199 “Sec. 7b-2. Affirmative Duties – Student Loan Servicers.

200 “(a) Except as otherwise provided pursuant to federal law, a student loan servicer shall:

201 “(1) Respond to any written inquiry from a student loan borrower or the

202 representative of a student loan borrower by:

203 “(A) Acknowledging receipt of the inquiry within 10 business days; and

204 “(B) Providing information relating to the inquiry, and, if applicable, the

205 action the student loan servicer will take to correct the account, or an explanation of the student

206 loan servicer's position that the borrower's account is correct, within 30 business days, including

207 copies of all information and account information used by the student loan servicer in reaching

208 the determination.

209 “(2) Inquire of a student loan borrower on how to apply an overpayment to a

210 student education loan. A borrower's instruction on how to apply an overpayment to a student

211 education loan shall stay in effect for any future overpayments during the term of the student

212 education loan until the borrower provides different instructions.

213 “(3) In the absence of direction provided by a borrower pursuant to paragraph (2)

214 of this subsection, allocate an overpayment on a student loan account in a manner that reduces

215 the total cost of the student loan, including principal and balance, interest, and fees. A student

216 loan servicer shall be considered to meet the requirements of this paragraph if the servicer

217 allocates the overpayment to the loan with the highest interest rate on the borrower’s student loan

218 account, unless the borrower specifies otherwise.

219 “(4) In the absence of a direction provided by a borrower pursuant to paragraph

220 (2) of this subsection, apply partial payments in a manner that minimizes late fees and negative

221 credit reporting. If there are multiple loans on a student loan borrower’s account with an equal

222 stage of delinquency, a student loan servicer shall apply the partial payment in a way that
223 satisfies as many individual loan payments as possible on a borrower's account.

224 “(b) The following requirements shall be applicable to a student loan servicer in the event
225 of the sale, assignment, or other transfer of the servicing of a student education loan that results
226 in a change in the identity of the student loan servicer to whom a student loan borrower is
227 required to send payments or direct any communication concerning the student education loan:

228 “(1) As a condition of a sale, an assignment, or any other transfer of the servicing
229 of a student education loan, a student loan servicer shall require the new student loan servicer to
230 honor all benefits originally represented as available to a student loan borrower during the
231 repayment of the student education loan and preserve the availability of those benefits, including
232 any benefits for which the student loan borrower has not yet qualified. If a student loan servicer
233 is not also the loan holder or is not acting on behalf of the loan holder, the student loan
234 servicer satisfies the requirement established by this paragraph by providing the new student
235 loan servicer with information necessary for the new student loan servicer to honor all
236 benefits originally represented as available to a student loan borrower during the repayment
237 of the student education loan and preserve the availability of the benefits, including any
238 benefits for which the student loan borrower has not yet qualified;

239 “(2) A student loan servicer shall transfer to the new student loan servicer for the
240 student education loan all information regarding the student loan borrower, the account of the
241 borrower, and the student education loan of the borrower. The information shall include the
242 repayment status of the student loan borrower and any benefits associated with the student
243 education loan of the borrower; and

244 “(3) The student loan servicer shall complete the transfer of information required
245 pursuant to section 7b-2(b)(2) within 45 calendar days after the sale, assignment, or other
246 transfer of the servicing of the student education loan.

247 “(4) The transferring student loan servicer shall notify affected student loan
248 borrowers of the sale, assignment, or other transfer of the servicing of the student loan at least 7
249 days before the next payment on the loan is due. The notice must include:

250 “(A) The identity of the new student loan servicer;

251 “(B) The effective date of the transfer of the student loan borrower’s
252 student loan to the new student loan servicer;

253 “(C) The date on which the existing student loan servicer will no longer
254 accept payments; and

255 “(D) The contact information for the new student loan servicer.

256 “(c) A student loan servicer who obtains the right to service a student education loan shall
257 adopt policies and procedures to verify that the student loan servicer has received all information
258 regarding the student loan borrower, the account of the student loan borrower, and the student
259 education loan of the student loan borrower including, but not limited to, the repayment status of
260 the student loan borrower and any benefits associated with the student education loan of the
261 student loan borrower.

262 “(d) A student loan servicer shall evaluate a student loan borrower for eligibility for an
263 income-driven repayment program prior to placing the borrower in forbearance or default, if an
264 income-driven repayment program is available to the borrower.

265 “Sec. 7b-3. Prohibited Acts – Private Education Lenders.

266 “(a)(1) A private education loan executed after the effective date of this act shall not
267 include a provision that permits the private education lender to accelerate, in whole or in part,
268 payments on the private education loan, except in cases of payment default, or place any loan or
269 account into default or accelerate a loan for any reason, other than for payment default.

270 “(2) A private education loan executed prior to the effective date of this act shall
271 permit the private education lender to accelerate payments only if the promissory note or loan
272 agreement explicitly authorizes an acceleration and only for the reasons stated in the note or
273 agreement.

274 “(3) In the event of the death of a cosigner, the lender shall not attempt to collect
275 against the cosigner’s estate, other than for payment default.

276 “(4) Upon receiving notification of the death or bankruptcy of a cosigner, when
277 the loan is not more than 60 days delinquent at the time of the notification, the private education
278 lender shall not change any terms or benefits under the promissory note, repayment schedule,
279 repayment terms, or monthly payment amount or any other provision associated with the loan.

280 “(5) A private education lender shall not place any loan or account into default or
281 accelerate a loan while a borrower is seeking a loan modification or enrollment in a flexible
282 repayment plan, except that a private education lender may place a loan or account into default
283 or accelerate a loan for payment default 90 days after the borrower’s default.

284 “(b) A private education lender shall not:

285 “(1) Directly or indirectly employ any scheme, device, or artifice to defraud or
286 mislead a student loan borrower;

287 “(2) Engage in any unfair or deceptive practice toward any person or misrepresent
288 or omit any material information in connection with the servicing of a private education loan,
289 including, abusive acts and practices;

290 “(3) Obtain property by fraud or misrepresentation;

291 “(4) Misapply private education loan payments to the outstanding balance of a
292 private education loan;

293 “(5) Provide inaccurate information to a credit bureau, thereby harming a student
294 loan borrower’s creditworthiness;

295 “(6) Fail to report both the favorable and unfavorable payment history of the
296 student loan borrower to a nationally recognized consumer credit bureau at least annually if the
297 private education lender regularly reports information to a credit bureau;

298 “(7) Refuse to communicate with an authorized representative of the student loan
299 borrower who provides a written authorization signed by the student loan borrower, provided the
300 private education lender may adopt procedures reasonably related to verifying that the
301 representative is in fact authorized to act on behalf of the student loan borrower;

302 “(8) Make any false statement or make any omission of a material fact in
303 connection with any information or reports filed with a governmental agency or in connection
304 with any investigation conducted by the Commissioner or another governmental agency;

305 “(9) Fail to respond within 15 business days to communications from the Office
306 of the Attorney General, or within such shorter, reasonable period of time as may be requested
307 by the Attorney General; or

308 “(10) Fail to respond within 15 business days to a consumer complaint transmitted
309 to the private education lender by the Office of the Attorney General. If necessary, the private

310 education lender may be granted additional time to respond to the complaint, up to a maximum
311 of 45 business days, if the request is determined to be reasonable and necessary by the Office of
312 the Attorney General.

313 “Sec. 7b-4. Affirmative Duties – Private Education Lenders.

314 “(a) For private education loans issued on or after the effective date of this act:

315 “(1) A private education lender or student loan servicer acting on behalf of a
316 private education lender, when notified of the total and permanent disability of a borrower or
317 cosigner, shall release any cosigner from the obligations under a private education loan. The
318 private education lender shall not attempt to collect a payment from a cosigner after being
319 notified of the total and permanent disability of the cosigner or borrower.

320 “(2) A private education lender shall notify a borrower and cosigner for a private
321 education loan if either a cosigner or borrower is released from the obligations of the private
322 education loan under this subsection, within 30 days of the release.

323 “(3) Any private education lender that extends a private education loan shall
324 provide the borrower an option to designate an individual to have the legal authority to act on
325 behalf of the borrower with respect to the private education loan in the event of the total and
326 permanent disability of the borrower.

327 “(4) In the event a cosigner is released from the obligations of a private education
328 loan pursuant to paragraph (1) of this subsection, the lender shall not require the borrower to
329 obtain another cosigner on the loan obligation.

330 “(5) A lender shall not declare a default or accelerate the debt against the
331 borrower on the sole basis of the release of the cosigner from the loan obligation.

332 “(6) A lender shall, when notified of the total and permanent disability of a
333 borrower, discharge the liability of the borrower and cosigner on the loan.

334 “(7) After receiving a notification described in paragraph (1) of this subsection,
335 the lender shall not attempt to collect on the outstanding liability of the borrower or cosigner or
336 monitor the disability status of the borrower at any point after the date of discharge.

337 “(b) Availability of alternative repayment plans.

338 “(1) If a private education lender offers a student loan borrower flexible or
339 modified repayment options in connection with a private education loan, those flexible
340 repayment options shall be made available to all borrowers and the private education lender
341 shall:

342 “(A) Provide on its website a description of any alternative repayment
343 options offered by the lender for private education loans; and

344 “(B) Establish policies and procedures to facilitate evaluation of private
345 education loan flexible repayment option requests, including providing accurate information
346 regarding any private education loan alternative repayment options that may be available to the
347 borrower through the promissory note or that may have been marketed to the borrower through
348 marketing materials.

349 “(2) A private education lender or a student loan servicer acting on behalf of a
350 private education lender shall consistently present and offer flexible or modified private
351 education loan repayment options to borrowers with similar financial circumstances, if the lender
352 offers such repayment options.

353 “(c)(1) Prior to the extension of a private education loan that requires a cosigner, a private
354 education lender shall deliver the following information to the cosigner:

355 “(A) How the private education loan obligation shall appear on the
356 cosigner’s credit;

357 “(B) How the cosigner shall be notified if the private education loan
358 becomes delinquent, including how the cosigner can cure the delinquency in order to avoid
359 negative credit furnishing and loss of cosigner release eligibility; and

360 “(C) Eligibility for release of the cosigner’s obligation on the private
361 education loan, including the number of on-time payments and any other criteria required to
362 approve the release of cosigner from the loan obligation.

363 “(2) Prior to offering a person a private education loan that is being used to
364 refinance an existing education loan, a private education lender shall provide the person a
365 disclosure that benefits and protections applicable to the existing loan may be lost due to the
366 refinancing.

367 “(3) The information provided pursuant to this section shall be provided on a one-
368 page information sheet in a 12-point font and shall be written in simple, clear, understandable
369 and easily readable language as provided in the Plain Writing Act of 2010 (5 U.S.C. § 301 note;
370 P.L. 111-274).

371 “(d) Cosigner Release.

372 “(1) For any private education loan that obligates a cosigner, a private education
373 lender shall provide the borrower and the cosigner an annual written notice containing
374 information about cosigner release, including the administrative, objective criteria the private
375 education lender requires to approve the release of the cosigner from the loan obligation and the
376 process for applying for cosigner release.

377 “(2) If the borrower has met the applicable requirements to be eligible for
378 cosigner release, the private education lender shall send the borrower and the cosigner a written
379 notification by mail and by electronic mail, where a borrower or cosigner has elected to receive
380 electronic communications from the private education lender, informing the borrower and
381 cosigner that the requirements to be eligible for cosigner release have been met. The notification
382 shall also include information about any additional criteria to qualify for cosigner release, and
383 the procedure to apply for cosigner release.

384 “(3) A private education lender shall provide written notice to a borrower who
385 applies for cosigner release, but whose application is incomplete. The written notice shall include
386 a description of the information needed to consider the application complete and the date by
387 which the applicant shall furnish the missing information.

388 “(4) Within 30 days after a borrower submits a completed application for cosigner
389 release, the private education lender shall send the borrower and cosigner a written notice that
390 informs the borrower and cosigner whether the cosigner release application has been approved or
391 denied. If the private education lender denies a request for cosigner release, the borrower may
392 request any documents or information used in the determination, including, but not limited to,
393 the credit score threshold used by the private education lender, the borrower’s consumer report,
394 the borrower’s credit score, and any other documents specific to the borrower. The private
395 education lender shall also provide any adverse action notices required under applicable federal
396 law if the denial is based in whole or in part on any information contained in a consumer report.

397 “(5) In response to a written or oral request for cosigner release, a private
398 education lender shall provide the information described in paragraph (1) of this subsection.

399 “(6) A private education lender shall not impose any restriction that permanently
400 bars a borrower from qualifying for cosigner release, including restricting the number of times a
401 borrower may apply for cosigner release.

402 “(7) A private education lender shall not impose any negative consequences on
403 any borrower or cosigner during the 60 days following the issuance of the notice required
404 pursuant to paragraph (3) of this subsection, or until the private education lender makes a final
405 determination about a borrower’s cosigner release application. For the purpose of this subsection,
406 “negative consequences” includes the imposition of additional eligibility criteria, negative credit
407 reporting, lost eligibility for cosigner release, late fees, interest capitalization, or other financial
408 penalty.

409 “(8) A private education lender shall not require greater than 12 consecutive, on-
410 time payments as a requirement for cosigner release. Any borrower who has paid the equivalent
411 of 12 months of principal and interest payments within any 12-month period shall be considered
412 to have satisfied a consecutive, on-time payment requirement, even if the borrower has not made
413 payments monthly during the 12-month period.

414 “(9) If a borrower or cosigner requests a change in terms that restarts the counting
415 of consecutive, on-time payments required for cosigner release, the private education lender shall
416 notify the borrower and cosigner in writing of the impact of the change and provide the borrower
417 or cosigner the right to withdraw or reverse the request to avoid that impact.

418 “(10) A borrower shall have the right to request a reconsideration of a private
419 education lender’s denial of a request for cosigner release, and the private education lender shall
420 permit the borrower to submit additional documentation evidencing the borrower’s ability to

421 meet the payment obligations. The borrower may request review of the cosigner release
422 determination by a different employee than the employee making the original determination.

423 “(11) A private education lender shall establish and maintain a comprehensive
424 record management system reasonably designed to ensure the accuracy, integrity, and
425 completeness of data and other information about cosigner release applications and compliance
426 with applicable District and federal laws, including but not limited to the Equal Credit
427 Opportunity Act (15 U.S.C. § 1691 *et seq.*) and the Fair Credit Reporting Act (15 U.S.C. § 1681
428 *et seq.*). This system shall include the number of cosigner release applications received, the
429 approval and denial rate, and the primary reasons for any denial.

430 “(e) Information Available to Cosigner.

431 “(A) A private education lender shall provide a cosigner with access to all
432 documents or records related to the cosigned private education loan that are available to the
433 borrower.

434 “(B) If a private education lender provides electronic access to documents and
435 records for a borrower, it shall provide equivalent electronic access to the cosigner.

436 “(C) Upon written notice from the borrower or cosigner, the private education
437 lender may redact or withhold contact information for the borrower and cosigner.

438 “Sec. 7b-5. Enforcement.

439 “(a) In addition to complying with the requirements of this act, a student loan servicer
440 shall comply with all applicable federal laws relating to student loan servicing, as from time to
441 time amended, and the regulations promulgated thereunder.

442 “(b)(1) A violation of section 7b-1 or 7b-3 is an unfair or deceptive trade practice
443 pursuant to D.C. Official Code § 28-3901 *et seq.*

444 “(c) Any person who suffers damage as a result of the failure of a student loan servicer or
445 private education lender to comply with sections 7b, 7b-1, 7b-2, 7b-3, 7b-4, or 7b-5(a) may bring
446 an action on their own behalf and on behalf of a similarly situated class of consumers against that
447 student loan servicer or private education lender to recover or obtain any of the following:

448 “(1) Actual damages, but in no case, shall the total award of damages be less than
449 five hundred dollars (\$500) per plaintiff, per violation;

450 “(2) An order enjoining the methods, acts, or practices;

451 “(3) Restitution of property;

452 “(4) Punitive damages;

453 “(5) Attorney’s fees; or

454 “(6) Any other relief that the court deems proper.

455 “(d) In addition to any other remedies provided by this section or otherwise provided by
456 law, whenever it is proven by a preponderance of the evidence that a student loan servicer or
457 private education lender has engaged in conduct that substantially interferes with a borrower’s
458 right to an alternative payment arrangement; loan forgiveness, cancellation, or discharge; or any
459 other financial benefit as established under the terms of a borrower’s promissory note or under
460 the Higher Education Act of 1965 (20 U.S.C. § 1070a *et seq.*), as from time to time amended,
461 and the regulations promulgated thereunder, the court shall award treble actual damages to the
462 plaintiff, but in no case shall the award of damages be less than \$1,500 per violation.

463 “(e) The remedies provided in this section are not the exclusive remedies available to a
464 student loan borrower or cosigner, nor must the student loan borrower exhaust any administrative
465 remedies provided in this section or any other applicable law before proceeding pursuant to this
466 section.

467 “(f) The Attorney General may bring an action to restrain any violation of sections 7b,
468 7b-1, 7b-2, 7b-3, 7b-4 or 7b-5(a) or any continuance of any such violation.

469 “(g) The Department shall share information on a quarterly basis related to the
470 implementation, execution, and enforcement of sections 7b, 7b-1, 7b-2, 7b-3, 7b-4 and 7b-5(a)
471 with the Office of the Attorney General, and the Student Loan Ombudsperson established
472 pursuant to section 108g of the Attorney General for the District of Columbia Certification and
473 Elected Term Amendment Act of 2010, as introduced on March 29, 2021 (B24-_____).”.

474 (e) Section 7c is amended by striking the phrase “sections 7a and 7b.” and inserting
475 “sections 7b, 7b-1, 7b-2, 7b-3, 7b-4 and 7b-5(a).” in its place.

476 Sec 3. The Attorney General for the District of Columbia Certification and Elected Term
477 Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-
478 301.81 *et seq.*) is amended by inserting a new section 108g as follows:

479 “Student Loan Ombudsperson.

480 “(a) There is established within the Office of the Attorney General for the District of
481 Columbia the position of the Student Loan Ombudsperson (“Ombudsperson”).

482 “(b)(1) The Ombudsperson shall be:

483 “(A) Appointed by the Attorney General;

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

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

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

490 “(c) The Ombudsperson, in consultation with the Attorney General and Commissioner of
491 the Department of Insurance, Securities, and Banking, shall:

492 “(1) Assist in the enforcement of the provisions of section 7b, 7b-1, 7b-2, 7b-3,
493 7b-4 and 7b-5(a) of the Department of Insurance and Securities Regulation Establishment Act of
494 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 *et seq.*), including
495 the referral of actions to the Attorney General for the enforcement of an order of the
496 Commissioner of the Department of Insurance, Securities, and Banking pursuant to section 7b,
497 7b-1, 7b-2, 7b-3, 7b-4 and 7b-5(a) of the Department of Insurance and Securities Regulation
498 Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-
499 101 *et seq.*) or other authority of the Commissioner of the Department of Insurance, Securities,
500 and Banking related to a licensee or a person required to have a license under the act;

501 “(2) Receive, review, and attempt to resolve any complaints from a student loan
502 borrower as defined by section 2(9) of the Department of Insurance and Securities Regulation
503 Establishment Act of 1996, including attempts to resolve such complaints in collaboration with
504 student loan servicers, and any other participants in student-loan lending , including those
505 entities engaging student loan borrowers about existing student debt;

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

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

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

513 “(6) Make recommendations to the Attorney General and Commissioner of the
514 Department of Insurance, Securities, and Banking for resolving problems and concerns of
515 student loan borrowers;

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

518 “(8) Upon the request and written consent of a student loan borrower, review the
519 student education loan history of the student loan borrower; provided, that the student loan
520 borrower has provided documentation of the student loan borrower's student education loan
521 history;

522 “(9) By October 1, 2022, establish, publicize, and maintain an education course to
523 assist student loan borrowers in understanding their student education loans, which shall include:

524 “(A) Educational presentations;

525 “(B) Explanations of key loan terms;

526 “(C) Documentation requirements;

527 “(D) Monthly payment obligations, including:

528 “(i) Income-based repayment options;

529 “(ii) Loan forgiveness; and

530 “(iii) Disclosure requirements; and

531 “(E) Other educational materials that the Attorney General or
532 Commissioner of the Department of Insurance, Securities, and Banking considers necessary or
533 appropriate;

534 “(10) By October 1, 2022, develop a consumer-facing student loan borrower bill
535 of rights, to be made available on the website of the Office of the Attorney General;

536 “(11) Take any other action required by the Attorney General or Commissioner.

537 “(d) Beginning March 1, 2023, and by March 1 of each year thereafter, the Attorney
538 General shall submit an annual report to the Mayor and the Council on the Ombudsperson's
539 activities, as required or authorized by this section, of the previous year, which shall include the
540 number of educational presentations held across the city, the number of residents in attendance
541 for the educational presentations, and the number of complaints received and the action taken to
542 resolve the complaints.

543 “(e) The Ombudsperson shall not:

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

546 “(2) Disclose the identity of a person who brings a complaint or provides
547 information to the Ombudsperson without the person's consent, unless the Attorney General
548 determines that disclosure is necessary to further the resolution of a complaint or an
549 investigation;

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

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

554 “(f) The Attorney General for the District of Columbia, pursuant to section 2-501 *et seq.*
555 may issue rules to implement section 108g of the Attorney General for the District of Columbia
556 Certification and Elected Term Amendment Act of 2010, as introduced on March 29, 2021 (B24-
557 _____).”.

558 Sec. 4. Fiscal impact statement.

559 The Council adopts the fiscal impact statement in the committee report as the fiscal
560 Impact statement required by section 602(c)(3) of the District of Columbia Home Rule
561 Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

562 Sec. 5. Effective date.

563 This act shall take effect following approval by the Mayor (or in the event of veto by the
564 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
565 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
566 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
567 Columbia Register.