

1 (ii) Applying the payments of principal and interest and such other payments with respect
2 to the amounts received from a student loan borrower, as may be required pursuant to the terms of
3 a student education loan; and

4 (iii) Performing other administrative services with respect to a student education loan.

5 (6) "Student education loan" means any loan primarily for personal use to finance
6 education or other school-related expenses.

7 **16-59.1-2. Appointment of student loan ombudsman.**

8 The office of the commissioner of postsecondary education shall, within available
9 appropriations, designate a student loan ombudsman to provide timely assistance and support to
10 any student loan borrower of any student education loan.

11 **16-59.1-3. Powers and duties of student loan ombudsman.**

12 (a) The student loan ombudsman, in consultation with the commissioner of postsecondary
13 education, shall:

14 (1) Receive, review and attempt to resolve any complaints from student loan borrowers,
15 including, but not limited to, attempts to resolve such complaints in collaboration with institutions
16 of higher education, student loan servicers, and any other participants in student loan lending,
17 including, but not limited to, the University of Rhode Island, Rhode Island College, the
18 Community College of Rhode Island, the council on postsecondary education, the office of the
19 postsecondary commissioner, the board of education, and the Rhode Island student loan authority;

20 (2) Compile and analyze data on student loan borrower complaints as described in
21 subsection (b)(1) of this section;

22 (3) Assist student loan borrowers to understand their rights and responsibilities under the
23 terms of student education loans;

24 (4) Provide information to the public, agencies, legislators and others regarding the
25 problems and concerns of student loan borrowers and make recommendations for resolving those
26 problems and concerns;

27 (5) Analyze and monitor the development and implementation of federal, state and local
28 laws, regulations and policies relating to student loan borrowers and recommend any changes that
29 the student loan ombudsman deems necessary;

30 (6) Review the complete student education loan history for any student loan borrower
31 who has provided written consent for such review;

32 (7) Disseminate information concerning the availability of the student loan ombudsman
33 to assist student loan borrowers and potential student loan borrowers, as well as public
34 institutions of higher education, student loan servicers and any other participant in student

1 education loan lending, with any student loan servicing concerns; and

2 (8) Take any other actions necessary to fulfill the duties of the student loan ombudsman
3 as set forth in this subsection.

4 (b) On or before October 1, 2018, the student loan ombudsman, in consultation with the
5 commissioner, shall, within available appropriations, establish and maintain a student loan
6 borrower education course that shall include educational presentations and materials regarding
7 student education loans. Such program shall include, but not be limited to, key loan terms,
8 documentation requirements, monthly payment obligations, income-based repayment options,
9 loan forgiveness and disclosure requirements.

10 **16-59.1-4. Report by commissioner to the general assembly.**

11 On or before January 1, 2019, and annually thereafter, the commissioner shall submit a
12 report to the general assembly, in which the commissioner shall report on:

13 (1) The implementation of this chapter;

14 (2) The overall effectiveness of the student loan ombudsman position; and

15 (3) Additional steps that need to be taken to gain regulatory control over the licensing and
16 enforcement of student loan servicers.

17 **16-59.1-5. Student loan ombudsman account.**

18 (a)(1) There is established an account to be known as the "student loan ombudsman
19 account" which shall be a separate, non-lapsing account within the office of the commissioner.
20 The account shall contain the monies described in this section, and any other monies required by
21 law to be deposited in the account. Monies in the account shall be expended by the ombudsman
22 for the purpose of administering the provisions of this section.

23 (2) The account established under this section shall also contain any licensing or
24 investigation fees collected pursuant to this chapter.

25 **16-59.1-6. Licensing of student loan servicers.**

26 (a)(1) Effective July 1, 2019, no person shall act as a student loan servicer, directly or
27 indirectly, without first obtaining a license from the commissioner of postsecondary education
28 pursuant to the provisions of this section, unless the person is exempt from licensure pursuant to
29 the provisions of subsection (a)(2) of this section.

30 (2) The following persons are exempt from student loan servicer licensing requirements:

31 (i) Any Rhode Island bank, out-of-state bank, Rhode Island credit union, federal credit
32 union or out-of-state credit union;

33 (ii) Any wholly owned subsidiary of any such bank or credit union; and

34 (iii) Any operating subsidiary where each owner of such operating subsidiary is wholly

1 owned by the same bank or credit union.

2 (b) Any person seeking to act within this state as a student loan servicer shall make a
3 written application to the commissioner for an initial license in such form as the commissioner
4 prescribes. Such application shall be accompanied by:

5 (1) A financial statement prepared by a certified public accountant or a public accountant,
6 the accuracy of which is sworn to under oath before a notary public by the proprietor, a general
7 partner or a corporate officer or a member duly authorized to execute such documents;

8 (2) The history of criminal convictions of the:

9 (i) Applicant;

10 (ii) Partners, if the applicant is a partnership;

11 (iii) Members, if the applicant is a limited liability company or association; or

12 (iv) Officers, directors and principal employees, if the applicant is a corporation;

13 (3) Sufficient information pertaining to the history of criminal convictions of such
14 applicant, partners, members, officers, directors or principal employees as the commissioner
15 deems necessary to make the findings required under this section;

16 (4) A nonrefundable license fee of one thousand dollars (\$1,000); and

17 (5) A nonrefundable investigation fee of eight hundred dollars (\$800).

18 (c) The commissioner may conduct a state and national criminal history records check or
19 BCI of the applicant and of each partner, member, officer, director and principal employee of
20 such applicant.

21 **16-59.1-7. Investigation of applicants.**

22 (a) Upon the filing of an application for an initial license and the payment of the fees for
23 license and investigation, the commissioner shall investigate the financial condition and
24 responsibility, financial and business experience, character, and general fitness of the applicant.
25 The commissioner may issue a license if the commissioner finds that:

26 (1) The applicant's financial condition is sound;

27 (2) The applicant's business will be conducted honestly, fairly, equitably, carefully and
28 efficiently within the purposes and intent of this chapter, and in a manner commanding the
29 confidence and trust of the community;

30 (3)(i) If the applicant is an individual, such individual is in all respects properly qualified
31 and of good character;

32 (ii) If the applicant is a partnership, each partner is in all respects properly qualified and
33 of good character;

34 (iii) If the applicant is a corporation or association, the president, chairperson of the

1 executive committee, senior officer responsible for the corporation's business and chief financial
2 officer or any other person who performs similar functions as determined by the commissioner,
3 each director, each trustee and each shareholder owning ten percent (10%) or more of each class
4 of the securities of such corporation is in all respects properly qualified and of good character; or

5 (iv) If the applicant is a limited liability company, each member is in all respects properly
6 qualified and of good character;

7 (4) No person on behalf of the applicant knowingly has made any incorrect statement of a
8 material fact in the application, or in any report or statement made pursuant to the provisions of
9 this chapter;

10 (5) No person on behalf of the applicant knowingly has omitted to state any material fact
11 necessary to give the commissioner any information lawfully required by the commissioner;

12 (6) The applicant has paid all investigation fees and the license fees required under this
13 section; and

14 (7) The applicant has met any other similar requirements as determined by the
15 commissioner.

16 **16-59.1-8. License expiration and renewal.**

17 (a) A license issued pursuant to this chapter shall expire at the close of business on
18 September 30 of the odd numbered year following its issuance, unless renewed or earlier
19 surrendered, suspended or revoked pursuant to the provisions of this chapter. Not later than
20 fifteen (15) days after a licensee ceases to engage in the business of student loan servicing in this
21 state for any reason, including a business decision to terminate operations in this state, license
22 revocation, bankruptcy or voluntary dissolution, such licensee shall provide written notice of
23 surrender to the commissioner and shall surrender to the commissioner its license for each
24 location in which such licensee has ceased to engage in such business. The written notice of
25 surrender shall identify the location where the records of the licensee will be stored and the name,
26 address and telephone number of an individual authorized to provide access to the records. The
27 surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising
28 from acts or omissions occurring prior to the surrender of the license, including any
29 administrative actions undertaken by the commissioner to revoke or suspend a license, assess a
30 civil penalty, order restitution or exercise any other authority provided to the commissioner.

31 (b) A license may be renewed for the ensuing twenty-four (24) month period upon the
32 filing of an application containing all required documents and fees as provided in this chapter.
33 Such renewal application shall be filed on or before September 1 of the year in which the license
34 expires. Any renewal application filed with the commissioner after September 1 shall be

1 accompanied by a one hundred dollar (\$100) late fee.

2 (c) If an application for a renewal license has been filed with the commissioner on or
3 before the date the license expires, the license sought to be renewed shall continue in full force
4 and effect until the issuance by the commissioner of the renewal license applied for, or until the
5 commissioner has notified the licensee in writing of the commissioner's refusal to issue such
6 renewal license together with the grounds upon which such refusal is based. The commissioner
7 may refuse to issue a renewal license on any ground on which the commissioner may refuse to
8 issue an initial license.

9 (d) If the commissioner determines that a check filed with the commissioner to pay a
10 license or renewal fee has been dishonored, the commissioner shall automatically suspend the
11 license or the renewal license that has been issued but is not yet effective. The commissioner shall
12 give the licensee notice of the automatic suspension pending proceedings for revocation or refusal
13 to renew, and an opportunity for a hearing on such actions in accordance with the provisions of
14 this chapter shall be scheduled.

15 (e) The applicant or licensee shall notify the commissioner, in writing, of any change in
16 the information provided in its initial application for a license or its most recent renewal
17 application for such license, as applicable, not later than ten (10) business days after the
18 occurrence of the event that results in such information becoming inaccurate.

19 (f) The commissioner may deem an application for a license abandoned if the applicant
20 fails to respond to any request for information required under this chapter, or any regulations
21 adopted pursuant to said sections. The commissioner shall notify the applicant, in writing, that if
22 the applicant fails to submit such information not later than sixty (60) days after the date on
23 which such request for information was made, the application shall be deemed abandoned. An
24 application filing fee paid prior to the date an application is deemed abandoned pursuant to this
25 subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall
26 not preclude the applicant from submitting a new application for a license under the provisions of
27 this chapter.

28 **16-59.1-9. Licensee to act under license.**

29 No person licensed to act within this state as a student loan servicer shall do so under any
30 other name or at any other place of business than that named in the license.

31 Any change of location of a place of business of a licensee shall require prior written
32 notice to the commissioner. Not more than one place of business shall be maintained under the
33 same license but the commissioner may issue more than one license to the same licensee upon
34 compliance with the provisions of this chapter as to each new licensee. A license shall not be

1 transferable or assignable.

2 **16-59.1-10. Maintenance of records.**

3 (a) Each student loan servicer licensee and persons exempt from licensure pursuant to
4 this chapter shall maintain adequate records of each student education loan transaction for not less
5 than two (2) years following the final payment on such student education loan or the assignment
6 of such student education loan, whichever occurs first, or such longer period as may be required
7 by any other provision of law.

8 (b) If requested by the commissioner, each student loan servicer shall make such records
9 available or send such records to the commissioner by registered or certified mail, return receipt
10 requested, or by any express delivery carrier that provides a dated delivery receipt, not later than
11 five (5) business days after requested by the commissioner to do so. Upon request, the
12 commissioner may grant a licensee additional time to make such records available or send the
13 records to the commissioner.

14 **16-59.1-11. Prohibited conduct.**

15 (a) No student loan servicer shall:

16 (1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead
17 student loan borrowers;

18 (2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit
19 any material information in connection with the servicing of a student education loan, including,
20 but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or
21 claimed to be due on a student education loan, the terms and conditions of the loan agreement or
22 the borrower's obligations under the loan;

23 (3) Obtain property by fraud or misrepresentation;

24 (4) Knowingly misapply or recklessly apply student education loan payments to the
25 outstanding balance of a student education loan;

26 (5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby
27 harming a student loan borrower's creditworthiness;

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

31 (7) Refuse to communicate with an authorized representative of the student loan borrower
32 who provides a written authorization signed by the student loan borrower, provided the student
33 loan servicer may adopt procedures reasonably related to verifying that the representative is in
34 fact authorized to act on behalf of the student loan borrower; or

1 (8) Negligently make any false statement or knowingly and willfully make any omission
2 of a material fact in connection with any information or reports filed with a governmental agency
3 or in connection with any investigation conducted by the commissioner or another governmental
4 agency.

5 **16-59.1-12. Conduct of investigations.**

6 (a) In addition to any authority provided under this chapter, the commissioner shall have
7 the authority to conduct investigations and examinations as follows:

8 (1) For purposes of initial licensing, license renewal, license suspension, license
9 revocation, or termination, or general or specific inquiry or investigation to determine compliance
10 with this chapter, the commissioner may access, receive and use any books, accounts, records,
11 files, documents, information or evidence including, but not limited to:

12 (i) Criminal, civil and administrative history information;

13 (ii) Personal history and experience information, including independent credit reports
14 obtained from a consumer reporting agency described in the Fair Credit Reporting Act, (15
15 U.S.C. § 1681a); and

16 (iii) Any other documents, information or evidence the commissioner deems relevant to
17 the inquiry or investigation regardless of the location, possession, control or custody of such
18 documents, information, or evidence.

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

27 (b) In making any examination or investigation authorized by this section, the
28 commissioner may control access to any documents and records of the student loan servicer
29 licensee or person under examination or investigation. The commissioner may take possession of
30 the documents and records or place a person in exclusive charge of the documents and records in
31 the place where they are usually kept. During the period of control, no person shall remove or
32 attempt to remove any of the documents and records except pursuant to a court order or with the
33 consent of the commissioner. Unless the commissioner has reasonable grounds to believe the
34 documents or records of the student loan servicer licensee or person have been, or are at risk of

1 being, altered or destroyed for purposes of concealing a violation of this chapter, the student loan
2 servicer licensee or owner of the documents and records shall have access to the documents or
3 records as necessary to conduct its ordinary business affairs.

4 (c) In order to carry out the purposes of this section, the commissioner may:

5 (1) Retain attorneys, accountants or other professionals and specialists as examiners,
6 auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

7 (2) Enter into agreements or relationships with other government officials or regulatory
8 associations in order to improve efficiencies and reduce regulatory burden by sharing resources,
9 standardized or uniform methods or procedures, and documents, records, information or evidence
10 obtained under this section;

11 (3) Use, hire, contract or employ public or privately available analytical systems,
12 methods or software to examine or investigate the student loan servicer licensee or person subject
13 to the provisions of this chapter;

14 (4) Accept and rely on examination or investigation reports made by other government
15 officials, within or without this state; and

16 (5) Accept audit reports made by an independent certified public accountant for the
17 student loan servicer licensee or person subject to the provisions of this chapter in the course of
18 that part of the examination covering the same general subject matter as the audit and may
19 incorporate the audit report in the report of examination, report of investigation or other writing
20 of the commissioner.

21 (d) The authority of this section shall remain in effect, whether such student loan servicer
22 licensee or person subject to the provisions of this chapter, acts or claims to act under any
23 licensing or registration law of this state, or claims to act without such authority.

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

27 **16-59.1-13. Suspension or revocation of license.**

28 (a) The commissioner may suspend, revoke, or refuse to renew any license issued under
29 the provisions of this chapter, or take any other action provided for in this chapter, if the
30 commissioner finds that:

31 (1) The licensee has violated any provision of this chapter or any regulation or order
32 lawfully made pursuant to and within the authority of this chapter; or

33 (2) Any fact or condition exists which, if it had existed at the time of the original
34 application for the license, clearly would have warranted a denial of such license. No abatement

1 of the license fee shall be made if the license is surrendered, revoked or suspended prior to the
2 expiration of the period for which it was issued.

3 (b) Whenever it appears to the commissioner that any person has violated, is violating or
4 is about to violate any of the provisions of this chapter, or any regulation adopted pursuant to said
5 sections, or any licensee or any owner, director, officer, member, partner, shareholder, trustee,
6 employee, or agent of such licensee has committed any fraud, engaged in dishonest activities or
7 made any misrepresentation, the commissioner may take action against such person or licensee in
8 accordance with the provisions of this chapter.

9 **16-59.1-14. Student loan servicer compliance.**

10 A student loan servicer shall comply with all applicable federal laws and regulations
11 relating to student loan servicing, including, but not limited to, the federal Truth-in-Lending Act,
12 (15 U.S.C. § 1601 et seq.), as from time to time amended, and the regulations promulgated
13 thereunder. In addition to any other remedies provided by law, a violation of any federal law or
14 regulation shall be deemed a violation of this section, and a basis upon which the commissioner
15 may take enforcement action pursuant to the provisions of this chapter.

16 **16-59.1-15. Rules and regulations.**

17 The commissioner of postsecondary education shall promulgate rules and regulations to
18 implement the provisions of this chapter.

19 SECTION 2. This act shall take effect on July 1, 2018.

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LC004801
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION -- THE STUDENT LOAN BILL OF RIGHTS

1 This act would authorize the creation of the position of student loan ombudsman within
2 the office of the commissioner of postsecondary education.

3 The duties of the ombudsman would be to attempt to resolve complaints from student
4 loan borrowers, compile and analyze data on such complaints, and to otherwise assist student loan
5 borrowers. The act would also provide that the commissioner of postsecondary education would
6 review and evaluate applications for licensure as a student loan issuer.

7 This act would take effect on July 1, 2018.

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