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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO EDUCATION -- THE STUDENT LOAN BILL OF RIGHTS

Introduced By: Representatives McNamara, Amore, Regunberg, Casimiro, and Vella-Wilkinson

Date Introduced: March 31, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended  
2 by adding thereto the following chapter:

3 CHAPTER 59.1

4 THE STUDENT LOAN BILL OF RIGHTS

5 **16-59.1-1. Definitions.**

6 As used in this chapter:

7 (1) "Commissioner" means the commissioner of postsecondary education.

8 (2) "Department" means the department of business regulation established pursuant to the  
9 provisions of chapter 14 of title 42.

10 (3) "Director" means the director of the department of business regulation.

11 (4) "Division" means the banking division of the department of business regulation.

12 (5) "Ombudsman" means the student loan ombudsman established pursuant to the  
13 provisions of this chapter.

14 (6) "Student loan borrower" means:

15 (i) Any resident of this state who has received or agreed to pay a student education loan;

16 or

17 (ii) Any person who shares responsibility with such resident for repaying the student  
18 education loan.

19 (7) "Student loan servicer" means any person, wherever located, responsible for the

1 servicing of any student education loan to any student loan borrower.

2 (8) "Servicing" means:

3 (i) Receiving any scheduled periodic payments from a student loan borrower pursuant to  
4 the terms of a student education loan;

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

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

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

11 **16-59.1-2. Appointment of student loan ombudsman.**

12 The director of the department of business regulation shall, within available  
13 appropriations, designate a student loan ombudsman within the banking division to provide  
14 timely assistance and support to any student loan borrower of any student education loan.

15 **16-59.1-3. Powers and duties of student loan ombudsman.**

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

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

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

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

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

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

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

3 (7) Disseminate information concerning the availability of the student loan ombudsman  
4 to assist student loan borrowers and potential student loan borrowers, as well as public  
5 institutions of higher education, student loan servicers and any other participant in student  
6 education loan lending, with any student loan servicing concerns; and

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

9 (b) On or before October 1, 2017, the student loan ombudsman, in consultation with the  
10 director and the commissioner, shall, within available appropriations, establish and maintain a  
11 student loan borrower education course that shall include educational presentations and materials  
12 regarding student education loans. Such program shall include, but not be limited to, key loan  
13 terms, documentation requirements, monthly payment obligations, income-based repayment  
14 options, loan forgiveness and disclosure requirements.

15 **16-59.1-4. Report by director of business regulation to the general assembly.**

16 On or before January 1, 2018, and annually thereafter, the director shall submit a report to  
17 the general assembly, in which the director shall report on:

18 (1) The implementation of this chapter;

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

20 (3) Additional steps that need to be taken for the division of higher education assistance  
21 to gain regulatory control over the licensing and enforcement of student loan servicers.

22 **16-59.1-5. Student loan ombudsman account.**

23 (a)(1) There is established an account to be known as the "student loan ombudsman  
24 account" which shall be a separate, non-lapsing account within the department of business  
25 regulation. The account shall contain the monies described in this section and any other monies  
26 required by law to be deposited in the account. Monies in the account shall be expended by the  
27 ombudsman for the purpose of administering the provisions of this section.

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

30 **16-59.1-6. Licensing of student loan servicers.**

31 (a)(1) Effective July 1, 2018, no person shall act as a student loan servicer, directly or  
32 indirectly, without first obtaining a license from the director of business regulation pursuant to the  
33 provisions of this section, unless such person is exempt from licensure pursuant to the provisions  
34 of subsection (a)(2) of this section.

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

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

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

5           (iii) Any operating subsidiary where each owner of such operating subsidiary is wholly  
6 owned by the same bank or credit union.

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

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

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

14           (i) Applicant;

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

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

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

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

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

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

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

26           **16-59.1-7. Investigation of applicants.**

27           (a) Upon the filing of an application for an initial license and the payment of the fees for  
28 license and investigation, the director shall investigate the financial condition and responsibility,  
29 financial and business experience, character and general fitness of the applicant. The director may  
30 issue a license if the director finds that:

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

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

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

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

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

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

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

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

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

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

21           **16-59.1-8. License expiration and renewal.**

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

1 other authority provided to the director.

2 (b) A license may be renewed for the ensuing twenty-four (24) month period upon the  
3 filing of an application containing all required documents and fees as provided in this chapter.  
4 Such renewal application shall be filed on or before September 1 of the year in which the license  
5 expires. Any renewal application filed with the director after September 1 shall be accompanied  
6 by a one hundred dollar (\$100) late fee.

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

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

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

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

30 **16-59.1-9. Licensee to act under license.**

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

33 Any change of location of a place of business of a licensee shall require prior written  
34 notice to the director. Not more than one place of business shall be maintained under the same

1 license but the director may issue more than one license to the same licensee upon compliance  
2 with the provisions of this chapter as to each new licensee. A license shall not be transferable or  
3 assignable.

4 **16-59.1-10. Maintenance of records.**

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

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

15 **16-59.1-11. Prohibited conduct.**

16 (a) No student loan servicer shall:

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

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

24 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

1 fact authorized to act on behalf of the student loan borrower; or

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

6 **16-59.1-12. Conduct of investigations.**

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

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

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

14 (ii) Personal history and experience information, including independent credit reports  
15 obtained from a consumer reporting agency described in the Fair Credit Reporting Act, 15 U.S.C.  
16 §1681a; and

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

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

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



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

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

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

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

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

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

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

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

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

28 **16-59.1-13. Suspension or revocation of license.**

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

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

34 (2) Any fact or condition exists which, if it had existed at the time of the original

1 application for the license, clearly would have warranted a denial of such license. No abatement  
2 of the license fee shall be made if the license is surrendered, revoked or suspended prior to the  
3 expiration of the period for which it was issued.

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

10 **16-59.1-14. Student loan servicer compliance.**

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

17 **16-59.1-15. Rules and regulations.**

18 The director of business regulation may promulgate rules and regulations to implement  
19 the provisions of this chapter.

20 SECTION 2. This act shall take effect on July 1, 2017.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO EDUCATION -- THE STUDENT LOAN BILL OF RIGHTS

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1           This act would authorize the creation of the position of student loan ombudsman within  
2 the department of business regulation.

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 department of business regulation would review  
6 and evaluate applications for licensure as a student loan issuer.

7           This act would take effect on July 1, 2017.

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