

HB1634/417178/1

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 1634
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “providing that certain provisions of law do not apply to certain loans under certain circumstances;”.

On page 2, after line 12, insert “requiring the Commissioner to designate an individual to serve as the Student Loan Ombudsman; establishing the duties and responsibilities of the Student Loan Ombudsman; requiring the Student Loan Ombudsman, in consultation with the Commissioner, to establish a certain student loan borrower education course; establishing the requirements of the course; altering the composition and purpose of the Nondepository Special Fund; requiring the annual State budget to include certain costs and expenses; requiring certain excess revenue to be carried forward within the Fund; prohibiting a person from engaging in student education loan servicing unless the person is licensed by the Commissioner or is exempt from licensing; establishing the application requirements for a student loan servicer license; specifying certain qualifications for an applicant to qualify for a certain license; requiring a certain applicant to provide certain information to the Nationwide Mortgage Licensing System and Registry; specifying the application requirement process, including the license and investigation fees; requiring a certain applicant to file a certain surety bond; requiring the Commissioner to conduct a certain investigation under certain circumstances; requiring the process for when an applicant does not meet certain requirements; establishing the term of a certain license; requiring a certain licensee who ceases engaging in student education loan servicing to surrender a certain license under certain circumstances; providing that a certain surrender of a license does not reduce or eliminate certain liability; establishing the duties, responsibilities, and requirements of a licensee; authorizing the Commissioner to issue more than one license to a licensee; prohibiting a licensee from transferring or assigning a license; requiring a certain licensee to preserve certain records and communications with certain borrowers;

(Over)

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requiring a licensee to comply with certain federal laws; specifying the process when a licensee receives a certain nonconforming payment on a certain loan; prohibiting a certain licensee from certain actions; authorizing the Commissioner to hire certain individuals; authorizing the Commissioner to conduct certain investigations; authorizing the Commissioner to enforce certain provisions of law against certain persons; authorizing the Commissioner to suspend or revoke a certain license under certain circumstances; requiring the Commissioner to provide a certain licensee an opportunity for a certain hearing before taking certain action; providing that a certain licensee that fails to comply with certain requirements is liable to a certain borrower for certain damages; establishing certain reporting requirements; requiring the Commissioner to adopt certain regulations; requiring that certain revenue received for licensing certain persons be credited to the Fund;”.

On page 3, in line 37, after “7-101(i)” insert “, 7-102,”.

On page 4, in line 25, after “2-116(b),” insert “11-201(e).”; in the same line, before “11-615(c)” insert “11-610(a) through (d).”; and after line 33, insert:

“BY adding to

Article - Financial Institutions

Section 2-104.1; and 12-1101 through 12-1125 to be under the new subtitle

“Subtitle 11. Student Loan Servicers”

Annotated Code of Maryland

(2011 Replacement Volume and 2017 Supplement)”.

AMENDMENT NO. 2

On page 29, in line 6, strike “\$300,000” and substitute “\$700,000”.

On page 34, after line 1, insert:

“11-201.

(e) “Loan” means any loan or advance of money or credit [made under] SUBJECT TO Title 12, Subtitle 3 of the Commercial Law Article, the Maryland Consumer Loan Law – Credit Provisions, REGARDLESS OF WHETHER THE LOAN OR ADVANCE OF MONEY OR CREDIT IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE.”.

On page 52, in line 30, after “cryptocurrencies” insert “, initial coin offerings, cryptocurrency exchanges.”.

On page 53, in line 3, strike “and”; in line 5, after the semicolon insert “and”; in line 6, strike “(2)” and substitute “(iv)”; in the same line, strike “monitor”; in the same line, after “U.S.” insert “Department of Labor rule and any”; in the same line, strike “Commission’s” and substitute “Commission”; in line 7, strike “broker–dealers’ offering of” and substitute “broker–dealers offering”; in line 10, strike “(3)” and substitute “(2)”; in line 13, after “cryptocurrencies” insert “, initial coin offerings, and cryptocurrency exchanges”; in line 16, after the second “the” insert “U.S. Department of Labor conflicts of interest rule addressing”; and in line 19, strike “homebuying” and substitute “home–buying”.

AMENDMENT NO. 3

On page 6, after line 28, insert:

“7–102.

(a) (1) In this section the following words have the meanings indicated.

(2) “Common ownership” means direct or indirect ownership of more than 50% of a person.

(3) “Principal business” means a business activity of a person that comprises more than 50% of the total business activities of the person.

(Over)

- (b) This title does not apply to:
- (1) a bank;
 - (2) a federal or State credit union;
 - (3) a mortgage lender;
 - (4) a person acting under an order of a court of competent jurisdiction;
 - (5) a licensed real estate broker, or an individual acting on behalf of the real estate broker, in the collection of rent or allied charges for property;
 - (6) a savings and loan association;
 - (7) a title company as to its escrow business;
 - (8) a trust company;
 - (9) a lawyer who is collecting a debt for a client, unless the lawyer has an employee who:
 - (i) is not a lawyer; and
 - (ii) is engaged primarily to solicit debts for collection or primarily makes contact with a debtor to collect or adjust a debt through a procedure identified with the operation of a collection agency; [or]
 - (10) a person who is collecting a debt for another person if:
 - (i) both persons are related by common ownership;

(ii) the person who is collecting a debt does so only for those persons to whom it is related by common ownership;

(iii) the principal business of the person who is collecting a debt is not the collection of debts; and

(iv) before collecting a debt, the person files with the Board:

1. the correct name of the person;

2. an address and telephone number of a contact person;

and

3. the name of the person's resident agent; OR

(11) A LICENSED STUDENT LOAN SERVICER.”.

On page 37, after line 16, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Financial Institutions

2-104.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(Over)

(2) “STUDENT EDUCATION LOAN” HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.

(3) “STUDENT LOAN BORROWER” HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.

(4) “STUDENT LOAN OMBUDSMAN” MEANS AN INDIVIDUAL, WHETHER A PAID EMPLOYEE OR A VOLUNTEER, WHOM THE COMMISSIONER DESIGNATES TO SERVE AS A LIAISON BETWEEN STUDENT LOAN BORROWERS AND STUDENT LOAN SERVICERS.

(5) “STUDENT LOAN SERVICER” HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.

(B) THE COMMISSIONER SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS THE STUDENT LOAN OMBUDSMAN.

(C) THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL:

(1) RECEIVE AND REVIEW COMPLAINTS FROM STUDENT LOAN BORROWERS;

(2) ATTEMPT TO RESOLVE COMPLAINTS RECEIVED UNDER ITEM (1) OF THIS SUBSECTION, INCLUDING BY COLLABORATING WITH INSTITUTIONS OF HIGHER EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN STUDENT LOAN LENDING, SUCH AS THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE MARYLAND HIGHER EDUCATION COMMISSION;

(3) COMPILE AND ANALYZE COMPLAINT DATA;

(4) HELP STUDENT LOAN BORROWERS UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS OF STUDENT EDUCATION LOANS;

(5) PROVIDE INFORMATION TO THE PUBLIC, STATE AGENCIES, ELECTED OFFICIALS, AND OTHER INDIVIDUALS REGARDING STUDENT LOAN BORROWER PROBLEMS AND CONCERNS;

(6) MAKE RECOMMENDATIONS REGARDING RESOLUTION OF STUDENT LOAN BORROWER PROBLEMS AND CONCERNS;

(7) ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND POLICIES ON STUDENT LOAN BORROWERS AND RECOMMEND NECESSARY CHANGES;

(8) REVIEW THE STUDENT EDUCATION LOAN HISTORY OF STUDENT LOAN BORROWERS WHO GIVE WRITTEN CONSENT TO HAVE THEIR STUDENT EDUCATION LOAN HISTORY REVIEWED;

(9) DISSEMINATE INFORMATION ABOUT THE AVAILABILITY OF THE STUDENT LOAN OMBUDSMAN TO ASSIST THOSE WITH STUDENT LOAN SERVICING CONCERNS, INCLUDING DISSEMINATING THE INFORMATION TO:

(I) STUDENT LOAN BORROWERS;

(II) POTENTIAL STUDENT LOAN BORROWERS;

(Over)

(III) STATE HIGHER EDUCATION INSTITUTIONS; AND

(IV) STUDENT LOAN SERVICERS; AND

(10) TAKE ANY OTHER ACTIONS NECESSARY TO FULFILL THE DUTIES OF THE STUDENT LOAN OMBUDSMAN.

(D) (1) ON OR BEFORE OCTOBER 1, 2019, THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL ESTABLISH A STUDENT LOAN BORROWER EDUCATION COURSE.

(2) THE COURSE SHALL:

(I) INCLUDE EDUCATIONAL PRESENTATIONS AND MATERIAL ABOUT STUDENT EDUCATION LOANS; AND

(II) REVIEW THE FOLLOWING:

1. COMMON STUDENT EDUCATION LOAN TERMS;
2. DOCUMENTATION REQUIREMENTS FOR STUDENT EDUCATION LOAN APPLICATIONS;
3. MONTHLY PAYMENT OBLIGATIONS FOR STUDENT EDUCATION LOANS;
4. INCOME-BASED REPAYMENT OPTIONS FOR STUDENT EDUCATION LOANS;

5. STUDENT EDUCATION LOAN FORGIVENESS PROGRAMS; AND

6. STUDENT EDUCATION LOAN DISCLOSURE REQUIREMENTS.

11-610.

(a) There is a Nondepository Special Fund that consists of:

(1) Revenue received for the licensing of individuals under this subtitle;

(2) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 2 OF THIS TITLE;

(3) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 3 OF THIS TITLE;

(4) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 4 OF THIS TITLE;

[(2)] (5) Revenue received for the licensing of persons under Subtitle 5 of this title;

(6) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 12, SUBTITLE 1 OF THIS ARTICLE;

[(3)] (7) Revenue received for the licensing of persons under Title 12, Subtitle 4 of this article;

(Over)

[(4)] (8) Revenue received for the licensing of persons under Title 12, Subtitle 9 of this article;

[(5)] (9) Revenue received for the registration of persons under Title 12, Subtitle 10 of this article;

(10) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 12, SUBTITLE 11 OF THIS ARTICLE;

(11) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 7 OF THE BUSINESS REGULATION ARTICLE;

(12) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE;

[(6)] (13) Income from the investments that the State Treasurer makes for the Fund; and

[(7)] (14) (I) Any other fee, examination OR INVESTIGATION FEE OR assessment, or revenue received by the Commissioner under this subtitle, [Subtitle] SUBTITLES 2, 3, 4, AND 5 of this title, [and] Title 12, Subtitles 1, 4, 9, [and] 10, AND 11 of this article, AND TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE; AND

(II) ANY OTHER FEE OR REVENUE RECEIVED BY THE STATE COLLECTION AGENCY LICENSING BOARD UNDER TITLE 7 OF THE BUSINESS REGULATION ARTICLE.

(b) Notwithstanding subsection (a) of this section[, the]:

(1) THE Commissioner shall pay all fines and penalties collected by the Commissioner under TITLE 2, SUBTITLE 1 OF THIS ARTICLE, this subtitle, [Subtitle] SUBTITLES 2, 3, 4, AND 5 of this title, [and] Title 12, Subtitles 1, 4, 9, [and] 10, AND 11 of this article, AND TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE into the General Fund of the State; AND

(2) THE STATE COLLECTION AGENCY LICENSING BOARD SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE BOARD UNDER TITLE 7 OF THE BUSINESS REGULATION ARTICLE INTO THE GENERAL FUND OF THE STATE.

(c) The purpose of the Fund is to cover the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD related to:

(1) TITLE 2, SUBTITLE 1 OF THIS ARTICLE;

(2) This subtitle;

(3) SUBTITLE 2 OF THIS TITLE;

(4) SUBTITLE 3 OF THIS TITLE;

(5) SUBTITLE 4 OF THIS TITLE;

~~(2)~~ (6) Subtitle 5 of this title;

(7) TITLE 12, SUBTITLE 1 OF THIS ARTICLE;

~~(3)~~ (8) Title 12, Subtitle 4 of this article;

~~[(4)] (9)~~ Title 12, Subtitle 9 of this article;

~~[(5)] (10)~~ Title 12, Subtitle 10 of this article; [and]

~~(11)~~ TITLE 12, SUBTITLE 11 OF THIS ARTICLE;

~~(12)~~ TITLE 7 OF THE BUSINESS REGULATION ARTICLE;

~~(13)~~ TITLE 12, SUBTITLES 5, 6, 9, AND 10 OF THE COMMERCIAL
LAW ARTICLE;

~~(14)~~ TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE;

~~(15)~~ TITLE 7, SUBTITLES 1, 3, 4, AND 5 OF THE REAL PROPERTY
ARTICLE; AND

~~[(6)] (16)~~ Any other expense authorized in the State budget.

~~(d)~~ ~~(1)~~ The annual State budget shall include the costs and expenses of the
Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD relating
to [the regulation of mortgage lending, mortgage origination, money transmission, debt
management services, and debt settlement services] SUBSECTION (C) OF THIS
SECTION.

~~(2)~~ Any expenditures from the Fund to cover costs and expenses of the
Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD
RELATING TO SUBSECTION (C) OF THIS SECTION may be made only:

~~(i)~~ With an appropriation from the Fund approved by the
General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD and deposited into the Fund exceeds the actual appropriation for the Commissioner [to regulate mortgage lending under Subtitle 5 of this title; mortgage origination under this subtitle; money transmission under Title 12, Subtitle 4 of this article; debt management services under Title 12, Subtitle 9 of this article; and debt settlement services under Title 12, Subtitle 10 of this article,] AND THE STATE COLLECTION AGENCY LICENSING BOARD UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, the excess amount shall be carried forward within the Fund.

SUBTITLE 11. STUDENT LOAN SERVICERS.

12-1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “SERVICING” MEANS:

(1) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

(2) APPLYING THE PAYMENTS ACCORDING TO THE STUDENT EDUCATION LOAN TERMS; AND

(3) PERFORMING OTHER ADMINISTRATIVE SERVICES.

(Over)

(C) “STUDENT EDUCATION LOAN” MEANS ANY LOAN, NOTWITHSTANDING ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED FOR FINANCING POSTSECONDARY EDUCATION OR OTHER POSTSECONDARY SCHOOL-RELATED EXPENSES.

(D) “STUDENT LOAN BORROWER” MEANS:

(1) A RESIDENT OF THE STATE WHO HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN; OR

(2) A RESIDENT WHO SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION.

(E) (1) “STUDENT LOAN SERVICER” MEANS A PERSON, REGARDLESS OF LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A STUDENT LOAN BORROWER.

(2) “STUDENT LOAN SERVICER” INCLUDES A TRUST ENTITY PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING.

12-1102.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A BANKING INSTITUTION, A CREDIT UNION, A NATIONAL BANKING ASSOCIATION, AN OTHER-STATE BANK, OR AN OTHER-STATE CREDIT UNION;

(2) A WHOLLY OWNED SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION; OR

(3) AN OPERATING SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION IF EACH OWNER IS WHOLLY OWNED BY THE ENTITY.

12-1103.

A PERSON MAY NOT ENGAGE IN STUDENT LOAN SERVICING UNLESS THE PERSON:

(1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE;
OR

(2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.

12-1104.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT IS OF GOOD MORAL CHARACTER, AND HAS SUFFICIENT FINANCIAL RESPONSIBILITY, BUSINESS EXPERIENCE, AND GENERAL FITNESS TO:

(1) ENGAGE IN THE BUSINESS OF STUDENT LOAN SERVICING;

(2) WARRANT THE BELIEF THAT THE BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND

(3) COMMAND THE CONFIDENCE OF THE PUBLIC.

(B) THE COMMISSIONER MAY DENY AN APPLICATION FOR A LICENSE TO ANY PERSON WHO HAS BEEN OFFICIALLY REPRIMANDED OR HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS SUBTITLE.

12-1105.

(A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION IF SECURITIES OF THE CORPORATION ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(B) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER § 12-1106 OF THIS SUBTITLE, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR A LICENSEE SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY, AS WELL AS OTHER INFORMATION THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY REQUIRES, INCLUDING:

(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENT AGENCY OR GOVERNMENTAL ENTITY AUTHORIZED TO RECEIVE THE INFORMATION, FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND

(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE COMMISSIONER TO OBTAIN:

(I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681A(P); AND

(II) INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.

(C) THE COMMISSIONER MAY REQUEST FROM THE FEDERAL BUREAU OF INVESTIGATION OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (B) OF THIS SECTION:

(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND

(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;

(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND

(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.

(D) AN APPLICANT OR A LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION AND THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(E) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL AGENCY WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

12-1106.

(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(1) COMPLETE, SIGN, AND SUBMIT TO THE COMMISSIONER AN APPLICATION MADE UNDER OATH IN THE FORM, AND IN ACCORDANCE WITH THE PROCESS, THAT THE COMMISSIONER REQUIRES; AND

(2) PROVIDE ALL INFORMATION THAT THE COMMISSIONER REQUESTS.

(B) THE APPLICANT SHALL COMPLY WITH ALL CONDITIONS AND PROVISIONS OF THE APPLICATION FOR LICENSURE AND BE ISSUED A LICENSE BEFORE ACTING AS A STUDENT LOAN SERVICER.

(C) WITH EACH APPLICATION, THE APPLICANT SHALL PAY THE FOLLOWING FEES TO THE COMMISSIONER:

(1) A NONREFUNDABLE LICENSE FEE OF \$1,000; AND

(2) A NONREFUNDABLE INVESTIGATION FEE OF \$800.

(D) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE APPLICATION.

(E) FOR EACH LICENSE FOR WHICH AN APPLICANT APPLIES, THE APPLICANT SHALL:

(1) SUBMIT A SEPARATE APPLICATION; AND

(2) PAY ALL FEES REQUIRED UNDER THIS SECTION.

(F) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT UNDER OATH ON AN APPLICATION FILED WITH THE COMMISSIONER UNDER THIS SECTION IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES OF § 9-101 OF THE CRIMINAL LAW ARTICLE.

(G) THE COMMISSIONER MAY ADOPT REGULATIONS THAT REQUIRE AN APPLICANT THAT SERVICES LESS THAN 100 BORROWERS TO INCLUDE IN AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION A NONREFUNDABLE LICENSE FEE OR NONREFUNDABLE INVESTIGATION FEE THAT IS LOWER THAN THE FEES UNDER SUBSECTION (C) OF THIS SECTION.

12-1107.

(A) WITH THE APPLICATION FOR A NEW LICENSE, AN APPLICANT SHALL FILE A SURETY BOND WITH THE COMMISSIONER.

(B) (1) THE BOND SHALL RUN TO THE COMMISSIONER, AS OBLIGEE, FOR THE BENEFIT OF:

(I) THE STATE; AND

(II) ANY STUDENT LOAN BORROWER WHO HAS BEEN DAMAGED BY A VIOLATION COMMITTED BY A LICENSEE OF ANY LAW OR REGULATION GOVERNING THE ACTIVITIES OF STUDENT LOAN SERVICERS.

(2) THE BOND SHALL BE:

(I) IN AN AMOUNT DETERMINED BY THE COMMISSIONER;

(II) ISSUED BY A SURETY COMPANY THAT:

1. IS AUTHORIZED TO DO BUSINESS IN THE STATE;

AND

**2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY
THE MARYLAND INSURANCE COMMISSIONER; AND**

**(III) CONDITIONED THAT THE LICENSEE SHALL COMPLY
WITH ALL MARYLAND AND FEDERAL LAWS REGULATING THE STUDENT LOAN
SERVICERS.**

(3) THE LIABILITY OF THE SURETY:

(I) SHALL BE CONTINUOUS;

**(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER
OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

**(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE
PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN
EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

**(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS
OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF
THE BOND;**

(V) MAY NOT BE AFFECTED BY:

**1. THE INSOLVENCY OR BANKRUPTCY OF THE
LICENSEE;**

**2. ANY MISREPRESENTATION, BREACH OF
WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF
THE LICENSEE OR AN AGENT OF THE LICENSEE; OR**

(Over)

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(8) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 12-1120 OF THIS SUBTITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.

12-1108.

(A) WHEN AN APPLICANT FOR A LICENSE FILES A COMPLETED APPLICATION AND PAYS THE FEES REQUIRED BY § 12-1106 OF THIS SUBTITLE, THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION TO DETERMINE

(Over)

WHETHER THE APPLICANT MEETS THE REQUIREMENTS OF § 12-1104 OF THIS SUBTITLE.

(B) THE COMMISSIONER SHALL APPROVE OR DENY AN APPLICATION WITHIN 60 DAYS AFTER THE COMMISSIONER RECEIVES A COMPLETED APPLICATION.

12-1109.

(A) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF § 12-1104 OF THIS SUBTITLE, THE COMMISSIONER SHALL:

(1) IMMEDIATELY NOTIFY THE APPLICANT IN WRITING OF THIS FACT; AND

(2) RETURN THE BOND FILED UNDER § 12-1107 OF THIS SUBTITLE.

(B) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION, THE COMMISSIONER SHALL:

(1) FILE IN THE COMMISSIONER'S OFFICE A WRITTEN DECISION CONTAINING THE FINDINGS AND CONCLUSIONS ON WHICH THE DENIAL WAS BASED;

(2) SEND A COPY OF THE DECISION TO THE APPLICANT; AND

(3) NOTIFY THE APPLICANT BY CERTIFIED MAIL OF THE APPLICANT'S RIGHT TO A HEARING TO BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(C) (1) AN APPLICANT WHO SEEKS A HEARING ON A LICENSE APPLICATION DENIAL SHALL FILE A WRITTEN REQUEST FOR A HEARING WITHIN 45 DAYS FOLLOWING RECEIPT OF THE NOTICE TO THE APPLICANT OF THE APPLICANT'S RIGHT TO A HEARING.

(2) A HEARING DATE ESTABLISHED IN RESPONSE TO THE FILING OF A REQUEST FOR A HEARING UNDER THIS SUBSECTION MAY BE POSTPONED ONLY ONCE FOR A PERIOD OF UP TO 30 DAYS AFTER THE INITIAL HEARING DATE.

12-1110.

(A) AN INITIAL LICENSE TERM SHALL:

(1) BEGIN ON THE DAY THE LICENSE IS ISSUED; AND

(2) EXPIRE ON DECEMBER 31 OF THE YEAR:

(i) THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED BEFORE NOVEMBER 1; OR

(ii) SUCCEEDING THE YEAR THAT THE LICENSE WAS ISSUED, IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.

(B) AT LEAST 60 DAYS BEFORE ITS EXPIRATION, A LICENSE MAY BE RENEWED IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(Over)

(2) PAYS TO THE COMMISSIONER A NONREFUNDABLE RENEWAL FEE SET BY THE COMMISSIONER; AND

(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:

(1) BE FOR A PERIOD OF 1 YEAR;

(2) BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL TERM; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

12-1111.

(A) (1) WITHIN 15 DAYS AFTER A LICENSEE CEASES ENGAGING IN SERVICING IN THE STATE, THE LICENSEE SHALL:

(I) SURRENDER ITS LICENSE; AND

(II) NOTIFY THE COMMISSIONER IN WRITING.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) IDENTIFY THE LOCATION WHERE THE RECORDS OF THE LICENSEE WILL BE STORED; AND

(II) INCLUDE THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF AN INDIVIDUAL AUTHORIZED TO PROVIDE ACCESS TO THE RECORDS.

(B) THE SURRENDER OF A LICENSE UNDER SUBSECTION (A) OF THIS SECTION DOES NOT REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL LIABILITY ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE SURRENDER, INCLUDING ANY ACTIONS THAT THE COMMISSIONER MAY TAKE AGAINST A LICENSEE UNDER THIS SUBTITLE.

12-1112.

(A) A LICENSEE SHALL USE THE NAME AND BUSINESS ADDRESS SPECIFIED ON ITS LICENSE.

(B) A LICENSEE SHALL:

(1) MAINTAIN ONE PLACE OF BUSINESS UNDER THE LICENSE;

(2) NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN ITS ADDRESS BEFORE THE LICENSEE CHANGES ITS ADDRESS; AND

(3) NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN CONTROL AND RECEIVE WRITTEN APPROVAL FROM THE COMMISSIONER FOR THE CHANGE IN CONTROL BEFORE THE LICENSEE UNDERGOES THE CHANGE IN CONTROL.

(Over)

(C) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO A LICENSEE.

(D) A LICENSEE MAY NOT TRANSFER OR ASSIGN A LICENSE.

12-1113.

(A) A LICENSEE SHALL PRESERVE:

(1) ALL RECORDS FOR EACH STUDENT EDUCATION LOAN; AND

(2) EACH COMMUNICATION WITH A STUDENT LOAN BORROWER.

(B) A LICENSEE SHALL PRESERVE THE RECORDS AND COMMUNICATIONS UNDER SUBSECTION (A) OF THIS SECTION FOR:

(1) AT LEAST 2 YEARS AFTER THE EARLIER OF:

(i) FINAL PAYMENT ON A STUDENT EDUCATION LOAN; OR

(ii) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN; OR

(2) A LONGER PERIOD IF OTHERWISE REQUIRED BY LAW.

(C) (1) FOR THE PURPOSES OF THIS SECTION, A LICENSEE SHALL:

(i) MAKE ANY RECORDS REQUESTED BY THE COMMISSIONER AVAILABLE; OR

(II) SEND COPIES OF ANY RECORDS REQUESTED BY THE COMMISSIONER TO THE COMMISSIONER WITHIN 5 BUSINESS DAYS AFTER THE REQUEST.

(2) IF REQUESTED BY A LICENSEE, THE COMMISSIONER MAY EXTEND THE TIME A LICENSEE HAS TO SEND RECORDS REQUESTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

(3) A LICENSEE SHALL SEND ANY RECORDS BY:

(I) REGISTERED MAIL;

(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

(III) ANY EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED DELIVERY RECEIPT.

12-1114.

A LICENSEE SHALL COMPLY WITH ALL FEDERAL LAWS CONCERNING STUDENT EDUCATION LOAN SERVICING.

12-1115.

(A) IN THIS SECTION, "NONCONFORMING PAYMENT" MEANS A PAYMENT ON A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER THAT IS MORE OR LESS THAN THE REQUIRED PAYMENT.

(B) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE

(Over)

FEDERAL GOVERNMENT AND A LICENSEE, A LICENSEE SHALL TAKE THE ACTIONS UNDER THIS SECTION.

(C) A LICENSEE SHALL RESPOND TO A WRITTEN INQUIRY FROM A STUDENT LOAN BORROWER OR THE REPRESENTATIVE OF A STUDENT LOAN BORROWER WITHIN 30 DAYS AFTER RECEIVING THE INQUIRY.

(D) (1) IF A LICENSEE RECEIVES A NONCONFORMING PAYMENT ON A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER, A LICENSEE SHALL ASK THE STUDENT LOAN BORROWER HOW THE BORROWER PREFERS THE LICENSEE TO APPLY THE NONCONFORMING PAYMENT.

(2) A LICENSEE SHALL:

(I) NOTE HOW THE STUDENT LOAN BORROWER PREFERS THE LICENSEE TO APPLY A NONCONFORMING PAYMENT;

(II) APPLY THE NONCONFORMING PAYMENT IN THE MANNER PREFERRED BY THE STUDENT LOAN BORROWER; AND

(III) UNTIL THE STUDENT LOAN BORROWER INDICATES OTHERWISE, APPLY ANY FUTURE NONCONFORMING PAYMENTS IN THE SAME MANNER PREFERRED BY THE BORROWER UNDER ITEM (I) OF THIS PARAGRAPH.

(E) (1) THIS SUBSECTION APPLIES TO THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT RESULTS IN A CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN BORROWER IS REQUIRED TO:

(I) SEND PAYMENTS; OR

(II) DIRECT ANY COMMUNICATIONS CONCERNING THE STUDENT EDUCATION LOAN.

(2) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A LICENSEE SHALL REQUIRE THE NEW STUDENT LOAN SERVICER TO:

(I) HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT EDUCATION LOAN; AND

(II) PRESERVE THE AVAILABILITY OF THE BENEFITS UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS NOT YET QUALIFIED.

(3) A LICENSEE SHALL TRANSFER TO THE NEW STUDENT LOAN SERVICER SERVICING THE STUDENT EDUCATION LOAN ALL INFORMATION REGARDING:

(I) THE STUDENT LOAN BORROWER;

(II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND

(III) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

(4) THE INFORMATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION INCLUDES:

(I) THE REPAYMENT STATUS OF THE STUDENT LOAN BORROWER; AND

(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

(5) A LICENSEE SHALL COMPLETE THE TRANSFER OF INFORMATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 45 DAYS AFTER THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN.

(6) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN SHALL BE COMPLETED AT LEAST 7 DAYS BEFORE THE NEXT PAYMENT ON THE LOAN IS DUE.

(F) (1) THIS SUBSECTION APPLIES TO A LICENSEE WHO OBTAINS THE RIGHT TO SERVICE A STUDENT EDUCATION LOAN.

(2) A LICENSEE SHALL ADOPT POLICIES AND PROCEDURES TO VERIFY THAT THE LICENSEE HAS RECEIVED ALL INFORMATION REGARDING:

(I) THE STUDENT LOAN BORROWER;

(II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND

(III) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

(3) THE INFORMATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION INCLUDES:

(I) THE REPAYMENT STATUS OF THE STUDENT LOAN BORROWER; AND

(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.

12-1116.

(A) A LICENSEE MAY NOT:

(1) EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE, OR ARTIFICE TO DEFRAUD OR MISLEAD BORROWERS;

(2) ENGAGE IN ANY UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY PERSON;

(3) MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION LOAN, INCLUDING MISREPRESENTATION OR OMISSION OF ANY FEE, PAYMENT DUE, LOAN TERM, OR BORROWER OBLIGATION;

(4) OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;

(5) KNOWINGLY MISAPPLY OR RECKLESSLY APPLY STUDENT EDUCATION LOAN PAYMENTS TO THE OUTSTANDING BALANCE OF A STUDENT EDUCATION LOAN;

(6) CAUSE HARM TO THE CREDITWORTHINESS OF A STUDENT LOAN BORROWER BY KNOWINGLY OR RECKLESSLY PROVIDING INACCURATE

(Over)

INFORMATION TO A CONSUMER REPORTING AGENCY AS DEFINED IN § 14-1201 OF THE COMMERCIAL LAW ARTICLE;

(7) IF THE LICENSEE REGULARLY REPORTS INFORMATION TO A CONSUMER REPORTING AGENCY, FAIL TO REPORT BOTH THE FAVORABLE AND UNFAVORABLE PAYMENT HISTORY OF A STUDENT LOAN BORROWER TO A NATIONALLY RECOGNIZED CONSUMER REPORTING AGENCY AT LEAST ONCE A YEAR;

(8) SUBJECT TO SUBSECTION (B) OF THIS SECTION, REFUSE TO COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE STUDENT LOAN BORROWER; AND

(9) NEGLIGENCELY MAKE ANY FALSE STATEMENT OR OMIT ANY MATERIAL FACT IN CONNECTION WITH:

(i) ANY INFORMATION OR REPORTS FILED WITH A GOVERNMENT AGENCY; OR

(ii) ANY INVESTIGATION CONDUCTED BY THE COMMISSIONER OR ANY OTHER GOVERNMENT AGENCY.

(B) A LICENSEE MAY ADOPT PROCEDURES TO VERIFY THAT AN AUTHORIZED REPRESENTATIVE UNDER SUBSECTION (A)(8) OF THIS SECTION IS AUTHORIZED TO ACT ON BEHALF OF A STUDENT LOAN BORROWER.

12-1117.

IN ORDER TO CARRY OUT THIS SUBTITLE, THE COMMISSIONER MAY RETAIN ATTORNEYS, ACCOUNTANTS, OTHER PROFESSIONALS, AND SPECIALISTS AS INVESTIGATORS TO CONDUCT OR ASSIST IN CONDUCTING EXAMINATIONS OR INVESTIGATIONS.

12-1118.

(A) THE COMMISSIONER MAY CONDUCT INVESTIGATIONS FOR THE PURPOSES OF DISCOVERING ANY VIOLATIONS OF THIS SUBTITLE.

(B) A LICENSEE SHALL PAY TO THE COMMISSIONER A PER-DAY FEE SET BY THE COMMISSIONER FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN THE INVESTIGATION AND OTHER COSTS ASSOCIATED WITH THE INVESTIGATION.

12-1119.

(A) THE COMMISSIONER MAY ENFORCE THIS SUBTITLE AGAINST ANY PERSON WHO:

(1) IS DOING BUSINESS IN THE STATE; AND

(2) IS NOT LICENSED OR IS NOT EXEMPTED FROM BEING LICENSED UNDER THIS SUBTITLE, WHETHER OR NOT THE STUDENT LOAN SERVICER CLAIMS TO BE LICENSED AS A STUDENT LOAN SERVICER IN ANOTHER JURISDICTION.

(B) THIS SECTION APPLIES TO ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF SERVICING STUDENT EDUCATION LOANS IN THE STATE ACTUALLY OR THROUGH SUBTERFUGE.

(Over)

12-1120.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 12-1121 OF THIS SUBTITLE, THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER, STOCKHOLDER, EMPLOYEE, OR AGENT OF THE LICENSEE:

(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A LICENSE;

(2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN STUDENT LOAN SERVICING;

(3) IN CONNECTION WITH ANY STUDENT EDUCATION LOAN:

(I) COMMITS ANY FRAUD;

(II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES;

OR

(III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL FACTS TO ANYONE ENTITLED TO THAT INFORMATION;

(4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR REGULATION ADOPTED UNDER IT OR ANY OTHER LAW REGULATING STUDENT LOAN SERVICERS IN THE STATE; OR

(5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH, DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY, AND EFFICIENTLY.

(B) IN DETERMINING WHETHER THE LICENSE OF A LICENSEE SHOULD BE SUSPENDED OR REVOKED FOR A REASON DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A MISDEMEANOR, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN STUDENT LOAN SERVICING;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE CONVICTION.

(C) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE BY:

(Over)

(1) ISSUING AN ORDER:

(I) TO CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER SIMILAR VIOLATIONS; AND

(II) REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION; AND

(2) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(D) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER SUBSECTION (C)(1) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$100,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE ACTION TO CORRECT.

(E) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS SECTION.

(F) IN DETERMINING THE AMOUNT OF A FINANCIAL PENALTY TO BE IMPOSED UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND STUDENT LOAN SERVICER INDUSTRY;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE FINANCIAL PENALTY.

12-1121.

(A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-1120 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE LICENSEE AN OPPORTUNITY FOR A HEARING.

(B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(C) THE HEARING NOTICE TO THE LICENSEE SHALL BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PRINCIPAL PLACE OF BUSINESS OF THE LICENSEE AT LEAST 30 DAYS BEFORE THE HEARING.

12-1122.

(A) A LICENSEE WHO WILLFULLY FAILS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN BORROWER IS LIABLE TO THE BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:

(Over)

(1) ANY ACTUAL DAMAGES SUSTAINED BY THE BORROWER AS A RESULT OF THE FAILURE;

(2) A MONETARY AWARD EQUAL TO 3 TIMES THE TOTAL AMOUNT THE LICENSEE COLLECTED FROM THE BORROWER, AS DETERMINED BY THE COMMISSIONER;

(3) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND

(4) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS SUBSECTION:

(i) THE COSTS OF THE ACTION; AND

(ii) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.

(B) A LICENSEE WHO NEGLIGENTLY FAILS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN BORROWER IS LIABLE TO THE BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:

(1) ANY ACTUAL DAMAGES SUSTAINED BY THE BORROWER AS A RESULT OF THE FAILURE; AND

(2) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS SUBSECTION:

(i) THE COSTS OF THE ACTION; AND

(II) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.

12-1123.

ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSIONER SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE IMPLEMENTATION OF THE STUDENT LOAN OMBUDSMAN AND RELATED PROVISIONS UNDER § 2-104.1 OF THIS ARTICLE; AND

(2) THE OVERALL EFFECTIVENESS OF THE STUDENT LOAN OMBUDSMAN POSITION.

12-1124.

(A) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE THAT ARE:

(1) CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND

(2) APPROPRIATE FOR THE EFFECTIVE ADMINISTRATION OF THIS SUBTITLE.

(B) REGULATIONS THAT THE COMMISSIONER ADOPTS UNDER THIS SUBTITLE SHALL INCLUDE REGULATIONS:

(Over)

(1) REGARDING THE ACTIVITIES OF STUDENT LOAN SERVICERS THAT ARE NECESSARY AND APPROPRIATE FOR THE PROTECTION OF STUDENT LOAN BORROWERS IN THE STATE;

(2) NECESSARY AND APPROPRIATE TO DEFINE UNFAIR AND DECEPTIVE PRACTICES BY STUDENT LOAN SERVICERS;

(3) DEFINING THE TERMS USED IN THIS SUBTITLE;

(4) NECESSARY AND APPROPRIATE TO INTERPRET AND IMPLEMENT THIS SUBTITLE; AND

(5) NECESSARY FOR THE ENFORCEMENT OF THIS SUBTITLE.

12-1125.

(A) ALL REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER THIS SUBTITLE AND ANY OTHER FEE, INVESTIGATION FEE OR ASSESSMENT, OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE SHALL BE:

(1) CREDITED TO THE NONDEPOSITORY SPECIAL FUND ESTABLISHED UNDER TITLE 11, SUBTITLE 6 OF THIS ARTICLE; AND

(2) USED IN ACCORDANCE WITH § 11-610 OF THIS ARTICLE.

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.”.

HB1634/417178/1 **Finance Committee**
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On page 52, in lines 16 and 26, strike "2." and "3.", respectively, and substitute "3." and "4.", respectively.

On page 53, in lines 20, 25, and 32, strike "4.", "5.", and "6.", respectively, and substitute "5.", "6.", and "7.", respectively.