

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 913
Economic Matters

(Delegate Lopez, *et al.*)

Finance

Financial Institutions - Student Financing Companies - Required Registration
and Reporting

This bill requires “student financing companies” to register with the Office of the Commissioner of Financial Regulation (OCFR) beginning March 15, 2024. The bill also requires those entities to report annually to OCFR, as specified. OCFR, the Office of the Attorney General (OAG), and local State’s Attorneys are authorized to enforce the bill. OCFR is also authorized to adopt regulations to implement the bill’s requirements. Provisions of the bill are severable.

Fiscal Summary

State Effect: OCFR can implement the bill’s requirements with existing resources. Revenues are likely not materially affected, as registration fees are paid directly to a third-party licensing system.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

The bill defines “student financing company” as an entity engaged in the business of securing, making, or extending student financing products, or any purchaser, assignee, or

holder of student financing products. However, it does not include (to the extent that State regulation is preempted by federal law):

- a bank, savings bank, savings and loan association, or credit union;
- a wholly owned subsidiary of a bank or credit union; or
- an operating subsidiary where each owner is wholly owned by the same bank or credit union.

“Student financing” means an extension of credit to a consumer, contractual or otherwise, contingent or absolute, that is:

- not made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965;
- extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the extension of credit is provided by the institution of postsecondary education the consumer attends; and
- not a loan secured by real property or a dwelling.

“Student financing” also includes (1) an extension of credit used to refinance or repay existing student financing or federal student loan debt and (2) financial obligations in which the repayment amount is equal to a predetermined percentage of a consumer’s future income.

For purposes of the bill, institutions of postsecondary education include nonaccredited institutions or institutions not authorized to operate in the State.

Required Registration

Beginning March 15, 2024, a student financing company must register with OCFR before providing services in the State; the registration must be renewed annually, as specified. An application must include specified information. OCFR may adopt and enforce:

- registration procedures for student financing companies, which may include the use of the Nationwide Multistate Licensing System (NMLS);
- registration fees for student financing companies, which may include fees for the use of NMLS, to be paid directly by the student financing company;
- procedures and fees for renewing a registration, which may include fees for the renewed use of NMLS, to be paid directly by the student financing company; and
- alternate registration procedures and fees for institutions of postsecondary education that offer student financing products.

Annual Reporting Requirement

Beginning March 15, 2024 (and annually thereafter), a student financing company that secures, makes, or extends student financing in the State must report specified information to OCFR. For example, a student financing company must report (among other things):

- a list of all schools attended by consumers who received student financing from the company and resided in Maryland at the time of the transaction and whose debt is outstanding (including student financing used to refinance an existing debt);
- the total outstanding dollar amount owed by consumers residing in the State who received student financing; and
- the rate of default for consumers residing in Maryland who obtained student financing, if applicable.

The bill establishes similar requirements for a student financing company that acquires or assumes student financing products in the State.

If a student financing company is required to report the required information under another provision of State or federal law, then OCFR may establish a process to avoid duplicative reporting.

By June 15, 2024, and annually thereafter, OCFR must make specified information and documents reported by the student financing companies available on a publicly accessible website developed and maintained by OCFR.

Enforcement Provisions

OCFR may use specified investigative and enforcement powers to enforce the bill's requirements. In addition, the bill authorizes OAG or a local State's Attorney (if applicable) to use the same powers.

A student financing product provided or acquired by a student financing company that is owed by a Maryland resident is void and unenforceable if OCFR finds (after notice and a hearing) that the company has knowingly violated the bill's requirements, at the time that the product was provided or acquired, by (1) failing to comply with any registration or reporting requirements or (2) furnishing inaccurate information to OCFR.

OCFR may order a person barred from acting as a stockholder, an officer, a director, a partner, an owner, or an employee of a student financing company for up to 10 years if the person has (1) been found to have knowingly violated any provision of the bill or regulation adopted as a result and (2) caused financial harm to a consumer.

Current Law:

Student Loan Ombudsman

OCFR must designate an individual to serve as a Student Loan Ombudsman. The ombudsman, among other things, receives and processes complaints about student education loan servicing and may refer any matter that is abusive, unfair, deceptive, or fraudulent to OAG for civil enforcement or criminal prosecution.

In addition, a student loan servicer (*i.e.*, the entities collecting principal, interest, or other amounts owed on student loans) is also prohibited from taking specified adverse actions with regard to student loan borrowers, including misrepresenting information in connection with the servicing of a student education loan and misapplying (or refusing to correct) a misapplication of a payment.

Commissioner of Financial Regulation – Investigative and Enforcement Powers

OCFR has the power to vigorously investigate financial transactions to determine whether a person has violated a law, regulation, rule, or order over which the commissioner has jurisdiction. For the purposes of an investigation or proceeding, the commissioner may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, and require the production of documents and other evidence. If a person refuses to obey a subpoena from the commissioner, the commissioner may apply to the appropriate circuit court to issue an order requiring the person to appear before the commissioner and produce any requested evidence. If the court issues such an order, failure to obey it subjects the person to contempt of court.

When the commissioner determines, after notice and a hearing, as specified, that a person has engaged in a violation of a law, regulation, rule, or order, the commissioner may issue a cease and desist order, suspend or revoke the license of the violator, and/or issue a penalty order against the person for up to \$10,000 for a first violation and up to \$25,000 for each subsequent violation.

Small Business Effect: Any small businesses in the State that engage in student financing activities are subject to both initial and ongoing registration and reporting requirements under the bill and may incur compliance costs.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

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