

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

ARTICLE 1. GENERAL PROVISIONS

Section 1-1. Short title. This Act may be cited as the Student Loan Servicing Rights Act.

Section 1-5. Definitions. As used in this Act:

"Applicant" means a person applying for a license pursuant to this Act.

"Borrower" or "student loan borrower" means a person who has received or agreed to pay a student loan for his or her own educational expenses.

"Cosigner" means a person who has agreed to share responsibility for repaying a student loan with a borrower.

"Department" means the Department of Financial and Professional Regulation.

"Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

"Federal loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

- (1) requests information related to options to reduce

or suspend his or her monthly payment;

(2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments;

(3) has missed 2 consecutive monthly payments;

(4) is at least 75 days delinquent;

(5) is enrolled in a discretionary forbearance for more than 9 of the previous 12 months;

(6) has rehabilitated or consolidated one or more loans out of default within the past 12 months; or

(7) has not completed a course of study, as reflected in the servicer's records, or the borrower identifies himself or herself as not having completed a program of study.

"Federal education loan" means any loan made, guaranteed, or insured under Title IV of the federal Higher Education Act of 1965.

"Income-driven payment plan certification" means the documentation related to a federal student loan borrower's income or financial status the borrower must submit to renew an income-driven repayment plan.

"Income-driven repayment options" includes the Income-Contingent Repayment Plan, the Income-Based Repayment Plan, the Income-Sensitive Repayment Plan, the Pay As You Earn Plan, the Revised Pay As You Earn Plan, and any other federal student loan repayment plan that is calculated based on a

borrower's income.

"Licensee" means a person licensed pursuant to this Act.

"Other repayment plans" means the Standard Repayment Plan, the Graduated Repayment Plan, the Extended Repayment Plan, or any other federal student loan repayment plan not based on a borrower's income.

"Private loan borrower eligible for referral to a repayment specialist" means a borrower who possesses any of the following characteristics:

(1) requests information related to options to reduce or suspend his or her monthly payments; or

(2) indicates that he or she is experiencing or anticipates experiencing financial hardship, distress, or difficulty making his or her payments.

"Requester" means any borrower or cosigner that submits a request for assistance.

"Request for assistance" means all inquiries, complaints, account disputes, and requests for documentation a servicer receives from borrowers or cosigners.

"Secretary" means the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

"Servicing" means: (1) receiving any scheduled periodic payments from a student loan borrower or cosigner pursuant to the terms of a student loan; (2) applying the payments of

principal and interest and such other payments with respect to the amounts received from a student loan borrower or cosigner, as may be required pursuant to the terms of a student loan; and (3) performing other administrative services with respect to a student loan.

"Student loan" or "loan" means any federal education loan or other loan primarily for use to finance a postsecondary education and costs of attendance at a postsecondary institution, including, but not limited to, tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses. "Student loan" includes a loan made to refinance a student loan.

"Student loan" shall not include an extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

"Student loan" shall not include an extension of credit made by a postsecondary educational institution to a borrower if one of the following apply:

(1) The term of the extension of credit is no longer than the borrower's education program.

(2) The remaining, unpaid principal balance of the extension of credit is less than \$1,500 at the time of the borrower's graduation or completion of the program.

(3) The borrower fails to graduate or successfully complete his or her education program and has a balance due

at the time of his or her disenrollment from the postsecondary institution.

"Student loan servicer" or "servicer" means any person engaged in the business of servicing student loans.

"Student loan servicer" shall not include:

(1) a bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(2) a wholly owned subsidiary of any bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(3) an operating subsidiary where each owner of the operating subsidiary is wholly owned by the same bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(4) the Illinois Student Assistance Commission and its agents when the agents are acting on the Illinois Student Assistance Commission's behalf;

(5) a public postsecondary educational institution or a private nonprofit postsecondary educational institution servicing a student loan it extended to the borrower;

(6) a licensed debt management service under the Debt Management Service Act, except to the extent that the organization acts as a subcontractor, affiliate, or

service provider for an entity that is otherwise subject to licensure under this Act;

(7) any collection agency licensed under the Collection Agency Act that is collecting post-default debt;

(8) in connection with its responsibilities as a guaranty agency engaged in default aversion, a State or nonprofit private institution or organization having an agreement with the U.S. Secretary of Education under Section 428(b) of the Higher Education Act (20 U.S.C. 1078(B)); or

(9) a State institution or a nonprofit private organization designated by a governmental entity to make or service student loans, provided in each case that the institution or organization services fewer than 20,000 student loan accounts of borrowers who reside in Illinois.

#### ARTICLE 5. STUDENT LOAN BILL OF RIGHTS

##### Section 5-5. General provisions.

(a) A servicer shall not engage in any unfair or deceptive practice toward any borrower or cosigner or misrepresent or omit any material information in connection with the servicing of a student loan, including, but not limited to, misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a student loan, the terms

and conditions of the student loan agreement, or the borrower's or cosigner's obligations under the student loan or the terms of any repayment plans.

(b) A servicer shall not misapply payments made by a borrower to the outstanding balance of a student loan.

(c) A servicer shall oversee third parties, including subservicers, debt collectors, independent contractors, subsidiaries, affiliates, or other agents, to ensure that those companies comply with this Article 5 when working on behalf of the servicer.

Section 5-10. Payment processing.

(a) A servicer shall credit borrower and cosigner payments promptly and accurately.

(b) A servicer shall provide borrowers and cosigners with prompt notice if the servicer changes the address to which the borrower or cosigner needs to send payments.

(c) A servicer shall not charge a penalty to a borrower or cosigner if a student loan payment is received at an address used for payments for a period of 90 days after the change in address.

(d) A servicer shall not misrepresent the delinquent amount of the loan on any call with a borrower or cosigner.

(e) A servicer shall allow a borrower or cosigner to specify instructions as to how an overpayment should be applied to the balance of the loan as consistent with the promissory

note.

Section 5-15. Fees.

(a) Unless otherwise provided by federal law, a servicer may only charge late fees that are reasonable and proportional to the cost it incurs related to a late payment.

(b) Unless otherwise provided by federal law, a servicer shall not charge a borrower or cosigner any fee to modify, defer, forbear, renew, extend, or amend the borrower's or cosigner's loan.

Section 5-20. Billing statements.

(a) In any student loan billing statement, a servicer shall not misrepresent the:

- (1) fees assessed;
- (2) total amount due for each loan;
- (3) payment due date;
- (4) date to avoid late fees;
- (5) accrued interest during the billing cycle;
- (6) default payment methodology;
- (7) means to provide instructions for a payment; or
- (8) procedure regarding escalated requests for assistance.

(b) A servicer shall not misrepresent information regarding the \$0 bill and advancement of the due date on any billing statement that reflects \$0 owed.

Section 5-25. Payment histories. A servicer shall provide a written payment history to a borrower or cosigner upon request at no cost within 21 calendar days of receiving the request.

Section 5-30. Specialized assistance for student loan borrowers.

(a) A servicer shall specially designate servicing and collections personnel deemed repayment specialists who have received enhanced training related to repayment options.

(b) A servicer shall refrain from presenting forbearance as the sole or first repayment option to a student loan borrower struggling with repayment unless the servicer has determined that, based on the borrower's financial status, a short term forbearance is appropriate.

(c) All inbound and outbound calls from a federal loan borrower eligible for referral to a repayment specialist and a private loan borrower eligible for referral to a repayment specialist shall be routed to a repayment specialist.

(d) During each inbound or outbound communication with an eligible federal loan borrower, a repayment specialist shall first inform a federal loan borrower eligible for referral to a repayment specialist that federal income-driven repayment plans that can reduce the borrower's monthly payment may be available, discuss such plans, and assist the borrower in determining whether a particular repayment plan may be

appropriate for the borrower.

(e) A repayment specialist shall assess the long-term and short-term financial situation and needs of a federal loan borrower eligible for referral to a repayment specialist and consider any available specific information from the borrower as necessary to assist the borrower in determining whether a particular income-driven repayment option may be available to the borrower.

(f) In each discussion with a federal loan borrower eligible for referral to a repayment specialist, a repayment specialist shall present and explain the following options, as appropriate:

- (1) total and permanent disability discharge, public service loan forgiveness, closed school discharge, and defenses to repayment;
- (2) other repayment plans;
- (3) deferment; and
- (4) forbearance.

(g) A repayment specialist shall assess the long-term and short-term financial situation and needs of a private loan borrower eligible for referral to a repayment specialist in determining whether any private loan repayment options may be appropriate for the borrower.

(h) A servicer shall present and explain all private loan repayment options, including alternative repayment arrangements applicable to private student loan borrowers.

(i) A servicer shall be prohibited from implementing any compensation plan that has the intended or actual effect of incentivizing a repayment specialist to violate this Act or any other measure that encourages undue haste or lack of quality.

(j) The requirements of this Section shall not apply if a repayment specialist has already conversed with a borrower consistent with the requirements of this Section.

Section 5-35. Disclosures related to discharge and cancellation. If a servicer is aware that a student loan borrower attended a school the United States Department of Education has made findings supporting a defense to repayment claim or closed school discharge, or that a borrower may be eligible to have his or her loans forgiven under a total and permanent disability discharge program, the servicer's personnel shall disclose information related to the Department of Education's procedure for asserting a defense to repayment claim, closed school discharge, or submitting an application for a total and permanent disability discharge.

Section 5-40. Income-driven repayment plan certifications. A servicer shall disclose the date that a borrower's income-driven payment plan certification will expire and the consequences to the borrower for failing to recertify by the date, including the new repayment amount.

Section 5-45. Information to be provided to private education loan borrowers.

(a) A servicer shall provide on its website a description of any alternative repayment plan offered by the servicer for private education loans.

(b) A servicer shall establish policies and procedures and implement them consistently in order to facilitate evaluation of private student loan alternative repayment arrangement requests, including providing accurate information regarding any private student loan alternative repayment arrangements that may be available to the borrower through the promissory note or that may have been marketed to the borrower through marketing materials.

A private student loan alternative repayment arrangements shall consider the affordability of repayment plans for a distressed borrower, as well as investor, guarantor, and insurer guidelines and previous outcome and performance information.

(c) If a servicer offers private student loan repayment arrangements, a servicer shall consistently present and offer those arrangements to borrowers with similar financial circumstances.

Section 5-50. Cosigner release. For private student loans, a servicer shall provide information on its website concerning the availability and criteria for a cosigner release.

Section 5-55. Payoff statements. A servicer shall indicate on its website that a borrower may request a payoff statement. A servicer shall provide the payoff statement within 10 days, including information the requester needs to pay off the loan. If a payoff is made, the servicer must send a paid-in-full notice within 30 days.

Section 5-60. Requirements related to the transfer of servicing.

(a) When acting as the transferor servicer, a servicer shall provide to each borrower subject to the transfer a written notice not less than 15 calendar days before the effective date of the transfer. The transferee servicer and transferor servicer may provide a single notice, in which case the notice shall be provided not less than 15 calendar days before the effective date of the transfer. The notice by the transferor servicer or, if applicable, the combined notice of transfer shall contain the following information:

- (1) the effective date of the transfer of servicing;
- (2) the name, address, and toll-free telephone number for the transferor servicer's designated point of contact that can be contacted by the borrower to obtain answers to servicing inquiries;
- (3) the name, address, and toll-free telephone number for the transferee servicer's designated point of contact

that can be contacted by the borrower to obtain answers to servicing inquiries;

(4) the date on which the transferor servicer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments; the dates shall either be the same or consecutive days;

(5) a statement that the transfer of servicing does not affect any term or condition of the loan other than terms directly related to the servicing of a loan;

(6) information on whether the borrower's authorization for recurring electronic fund transfers, if applicable, will be transferred to the transferee servicer; if any such recurring electronic funds transfers cannot be transferred, the transferee servicer shall provide information explaining how the borrower may establish new recurring electronic funds transfers with the transferee servicer; and

(7) a statement of the current loan balance, including the current unpaid amount of principal, interest, and fees.

(b) When acting as the transferee servicer, a servicer shall provide to each borrower subject to the transfer a written notice not more than 15 calendar days after the effective date of the transfer. The transferee servicer and transferor servicer may provide a combined notice of transfer, in which case the notice shall be provided not less than 15

days before the effective date of the transfer. The notice by the transferee servicer or, if applicable, the combined notice of transfer shall contain the following information:

(1) the effective date of the transfer of servicing;

(2) the name, address, and toll-free telephone number for the transferee servicer's designated point of contact that can be contacted by the borrower to obtain answers to servicing inquiries;

(3) the date on which the transferor servicer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments; the dates shall either be the same or consecutive days;

(4) a statement that the transfer of servicing does not affect any term or condition of the student loan other than terms directly related to the servicing of a loan;

(5) information on whether the borrower's authorization for recurring electronic fund transfers, if applicable, will be transferred to the transferee servicer; if any such recurring electronic funds transfers cannot be transferred, the transferee servicer shall provide information explaining how the borrower may establish new recurring electronic funds transfers with the transferee servicer; and

(6) a statement of the current loan balance, including the current unpaid amount of principal, interest, and fees.

(c) During the 60 calendar day period beginning on the effective date of transfer of the servicing of any loan, a payment timely made to the transferor servicer may not be treated as late for any purpose by the transferee servicer, including the assessment of late fees, accrual of additional interest, and furnishing negative credit information.

(d) To the extent practicable, for at least 120 calendar days beginning on the effective date of transfer of servicing of any loan, when acting as the transferor servicer, a servicer shall promptly transfer payments received to the transferee servicer for application to the borrower's loan account.

(e) Unless a borrower's authorizations for recurring electronic fund transfers are automatically transferred to the transferee servicer, when acting as transferee servicer, a servicer shall make available to a borrower whose loan servicing is transferred an online process through which a borrower may make a new authorization for recurring electronic fund transfers. A servicer shall also provide a process through which the borrower may make a new authorization for recurring electronic funds transfers by phone or through written approval.

Section 5-65. Requests for assistance; account dispute resolution; appeals.

(a) A servicer shall implement reasonable policies and procedures for accepting, processing, investigating, and

responding to requests for assistance in a timely and effective manner, including, but not limited to, the following requirements:

(1) A servicer shall provide readily accessible methods for consumers to submit a request for assistance to the servicer, including such methods as phone, email, and U.S. mail.

(2) A servicer shall post on its website and disclose on its billing statements:

(A) the toll-free telephone number, email address, and mailing address for consumers to submit a requests for assistance to the servicer; and

(B) the procedures for a requester to send a written communication to the servicer regarding any request for assistance.

(3) For any request for assistance that includes a request for documentation or information, where a response cannot be immediately provided, a servicer shall provide the requested documentation or information to the requester within 14 calendar days of the request; if a servicer determines in good faith that it is unable to provide the documentation or information within 14 calendar days, promptly after making the determination, the servicer shall notify the requester of the expected response period, which must be reasonable for the request for assistance.

(b) A servicer shall implement a process by which a requester can escalate any request for assistance. Such process shall allow a requester who has made a request for assistance on the phone and who receives a response during the call to obtain immediate review of the response by an employee of the servicer at a higher supervisory level.

(c) The following requirements shall apply when a requester submits a written or oral request for assistance which contains an account dispute to a servicer:

(1) Within 14 calendar days after its receipt of the written communication or oral request for further escalation, a servicer shall attempt to make contact, including providing the requester with name and contact information of the representative handling the account dispute, by phone or in writing, to the requester and document such attempt in the borrower's account.

(2) A servicer shall complete the following actions within 30 calendar days of its receipt of the written communication or oral request for further escalation, subject to paragraph (3) of this subsection:

(A) conduct a thorough investigation of the account dispute;

(B) make all appropriate corrections to the account of the requester, including crediting any late fees assessed and derogatory credit furnishing as the result of any error, and, if any corrections are made,

sending the requester a written notification that includes the following information:

(i) an explanation of the correction or corrections to the requester's account that have been made; and

(ii) the toll-free telephone number, email address, and mailing address of the servicer's personnel knowledgeable about the investigation and resolution of the account dispute.

(3) If a servicer determines in good faith that it cannot complete a thorough investigation of the account dispute within 30 calendar days after receiving the written communication or oral request for further escalation regarding the account dispute, then, promptly after making the determination, the servicer shall notify the requester of the expected resolution time period, which must be reasonable for the account dispute. A servicer must complete the actions listed in the investigation and resolution of account dispute within this time period.

(4) If a servicer determines as a result of its investigation that the requested changes to a requester's dispute will not be made, the servicer shall provide the requester with a written notification that includes the following information:

(A) a description of its determination and an explanation of the reasons for that determination;

(B) the toll-free telephone number, email address, and mailing address of the servicer's personnel knowledgeable about the investigation and resolution of the account dispute;

(C) instructions about how the requester can appeal the servicer's determination in accordance with paragraph (5) of this subsection; and

(D) information regarding the method by which a borrower may request copies of documents a servicer relied on to make a determination that no changes to a requester's account will be made.

(5) After the requester receives a determination regarding an account dispute in accordance with paragraph (4) of this subsection, the servicer shall allow a process by which the requester can appeal, in writing, the determination. The appeals process shall include:

(A) a written acknowledgment notifying the requester that the servicer has commenced the appeals process; such acknowledgment shall be sent within 14 calendar days after receiving a written request for appeal from the requester;

(B) an independent reassessment of the servicer's determination regarding the account dispute, performed by another employee of the servicer at an equal or higher supervisory level than the employee or employees involved in the initial account dispute

determination;

(C) investigation and resolution of appeals within 30 calendar days after a servicer's commencement of the appeals process; and

(D) notification sent to the requester, in writing, documenting the outcome of the appeal, including any reason for denial.

(d) While a requester has a pending account dispute, including any applicable appeal, a servicer shall take reasonable steps to:

(1) prevent negative credit reporting with respect to the borrower's or cosigner's account while the dispute is under review; and

(2) suspend all collection activities on the account while the account dispute is being researched or resolved, if the account dispute is related to the delinquency.

#### ARTICLE 10. STUDENT LOAN OMBUDSMAN

##### Section 10-5. Student Loan Ombudsman.

(a) The position of Student Loan Ombudsman is created within the Office of the Attorney General to provide timely assistance to student loan borrowers.

(b) The Student Loan Ombudsman, in consultation with the Secretary, shall:

(1) receive, review, and attempt to resolve any

complaints from student loan borrowers, including, but not limited to, attempts to resolve complaints in collaboration with institutions of higher education, student loan servicers, and any other participants in student loan lending;

(2) compile and analyze data on student loan borrower complaints;

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

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

(5) analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to student loan borrowers and recommend any changes the Student Loan Ombudsman deems necessary;

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

(7) disseminate information concerning the availability of the Student Loan Ombudsman to assist student loan borrowers and potential student loan borrowers, as well as public institutions of higher

education, student loan servicers, and any other participant in student education loan lending, with any student loan servicing concerns; and

(8) take any other actions necessary to fulfill the duties of the Student Loan Ombudsman as set forth in this subsection.

#### ARTICLE 15. LICENSURE

Section 15-5. Scope; requirement for student loan servicing license.

(a) It shall be unlawful for any person to operate as a student loan servicer in Illinois except as authorized by this Act and without first having obtained a license in accordance with this Act.

(b) The provisions of this Act do not apply to any of the following:

(1) a bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(2) a wholly owned subsidiary of any bank, savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(3) an operating subsidiary where each owner of the operating subsidiary is wholly owned by the same bank,

savings bank, savings association, or credit union organized under the laws of the State or any other state or under the laws of the United States;

(4) the Illinois Student Assistance Commission and its agents when the agents are acting on the Illinois Student Assistance Commission's behalf;

(5) a public postsecondary educational institution or a private nonprofit postsecondary educational institution servicing a student loan it extended to the borrower;

(6) a licensed debt management service under the Debt Management Service Act, except to the extent that the organization acts as a subcontractor, affiliate, or service provider for an entity that is otherwise subject to licensure under this Act;

(7) any collection agency licensed under the Collection Agency Act that is collecting post-default debt;

(8) in connection with its responsibilities as a guaranty agency engaged in default aversion, a State or nonprofit private institution or organization having an agreement with the U.S. Secretary of Education under Section 428(b) of the Higher Education Act (20 U.S.C. 1078(B)); or

(9) a State institution or a nonprofit private organization designated by a governmental entity to make or service student loans, provided in each case that the

institution or organization services fewer than 20,000 student loan accounts of borrowers who reside in Illinois.

Section 15-10. Licensee name. No person, partnership, association, corporation, limited liability company, or other entity engaged in the business regulated by this Act shall operate such business under a name other than the real names of the entity and individuals conducting such business. Such business may in addition operate under an assumed corporate name pursuant to the Business Corporation Act of 1983, an assumed limited liability company name pursuant to the Limited Liability Company Act, or an assumed business name pursuant to the Assumed Business Name Act.

Section 15-15. Application process; investigation; fees.

(a) The Secretary shall issue a license upon completion of all of the following:

(1) the filing of an application for license with the Secretary or the Nationwide Mortgage Licensing System and Registry as approved by the Secretary;

(2) the filing with the Secretary of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years;

(3) the payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to \$1,000 for an initial application and \$800

for a background investigation;

(4) the filing of an audited balance sheet, including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards; notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements that include the applicant's financial statement; if the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed in the consolidating statements; and

(5) an investigation of the averments required by Section 15-30, which investigation must allow the Secretary to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company, are such as to command the confidence of the community and to warrant belief that the

business will be operated honestly, fairly, and efficiently within the purpose of this Act; if the Secretary does not so find, he or she shall not issue the license, and he or she shall notify the license applicant of the denial.

The Secretary may impose conditions on a license if the Secretary determines that those conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Secretary.

(b) All licenses shall be issued to the license applicant. Upon receipt of the license, a student loan servicing licensee shall be authorized to engage in the business regulated by this Act. The license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee, or revoked or suspended as hereinafter provided.

Section 15-20. Application form.

(a) Application for a student loan servicer license must be made in accordance with Section 15-40 and, if applicable, in accordance with requirements of the Nationwide Mortgage Licensing System and Registry. The application shall be in writing, under oath, and on a form obtained from and prescribed by the Secretary, or may be submitted electronically, with attestation, to the Nationwide Mortgage Licensing System and Registry.

(b) The application shall contain the name and complete business and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation, or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director, and principal officer thereof. The application shall also include a description of the activities of the license applicant in such detail and for such periods as the Secretary may require, including all of the following:

(1) an affirmation of financial solvency noting such capitalization requirements as may be required by the Secretary and access to such credit as may be required by the Secretary;

(2) an affirmation that the license applicant or its members, directors, or principals, as may be appropriate, are at least 18 years of age;

(3) information as to the character, fitness, financial and business responsibility, background, experience, and criminal record of any (i) person, entity, or ultimate equitable owner that owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant; (ii) person, entity, or ultimate equitable owner that is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act, that lends, provides, or infuses, directly or indirectly, in any

way, funds to or into a license applicant in an amount equal to or more than 10% of the license applicant's net worth; (iii) person, entity, or ultimate equitable owner that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or (iv) person, entity, or ultimate equitable owner that the Secretary finds influences management of the license applicant; the provisions of this subsection shall not apply to a public official serving on the board of directors of a State guaranty agency;

(4) upon written request by the licensee and notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the Secretary may permit the licensee to omit all or part of the information required by those paragraphs if, in lieu of the omitted information, the licensee submits an affidavit stating that the information submitted on the licensee's previous renewal application is still true and accurate; the Secretary may adopt rules prescribing the form and content of the affidavit that are necessary to accomplish the purposes of this Section; and

(5) such other information as required by rules of the Secretary.

Section 15-25. Student loan servicer license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Secretary. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the Secretary and may be changed or updated as necessary by the Secretary in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Secretary is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a State, national, and 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 Secretary to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purposes of this Section, and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of subsection (c) of this Section, the Secretary may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the federal Department of Justice or any governmental agency.

(e) For the purposes of this Section, and in order to reduce the points of contact that the Secretary may have to maintain for purposes of paragraph (2) of subsection (c) of this Section, the Secretary may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source as directed by the Secretary.

(f) The provisions of this Section shall not apply to a public official serving on the board of directors of a State guaranty agency.

Section 15-30. Averments of licensee. Each application for license shall be accompanied by the following averments stating that the applicant:

(1) will file with the Secretary or Nationwide Mortgage Licensing System and Registry, as applicable, when due, any report or reports that it is required to file under any of the provisions of this Act;

(2) has not committed a crime against the law of this State, any other state, or of the United States involving moral turpitude or fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation, or deceit that has not been previously reported to the Secretary;

(3) has not engaged in any conduct that would be cause for denial of a license;

(4) has not become insolvent;

(5) has not submitted an application for a license under this Act that contains a material misstatement;

(6) has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;

(7) will advise the Secretary in writing or the Nationwide Mortgage Licensing System and Registry, as applicable, of any changes to the information submitted on the most recent application for license or averments of

record within 30 days of the change; the written notice must be signed in the same form as the application for the license being amended;

(8) will comply with the provisions of this Act and with any lawful order, rule, or regulation made or issued under the provisions of this Act;

(9) will submit to periodic examination by the Secretary as required by this Act; and

(10) will advise the Secretary in writing of judgments entered against and bankruptcy petitions by the license applicant within 5 days after the occurrence.

A licensee who fails to fulfill the obligations of an averment, fails to comply with averments made, or otherwise violates any of the averments made under this Section shall be subject to the penalties of this Act.

Section 15-35. Refusal to issue license. The Secretary shall refuse to issue or renew a license if:

(1) it is determined that the applicant is not in compliance with any provisions of this Act;

(2) there is substantial continuity between the applicant and any violator of this Act; or

(3) the Secretary cannot make the findings specified in subsection (a) of Section 15-15 of this Act.

Section 15-40. License issuance and renewal; fees.

(a) Licenses shall be renewed every year using the common renewal date of the Nationwide Mortgage Licensing System and Registry, as adopted by the Secretary. Properly completed renewal application forms and filing fees may be received by the Secretary 60 days prior to the license expiration date, but, to be deemed timely, the completed renewal application forms and filing fees must be received by the Secretary no later than 30 days prior to the license expiration date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Secretary, shall result in the license becoming inactive.

(c) No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by the Secretary upon payment of the renewal fee and payment of a reactivation fee equal to the renewal fee.

(d) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall so inform the Secretary in writing and, at the same time, convey any license issued and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business, and comply with the surrender guidelines or requirements of the Secretary. Upon receipt of

such written notice, the Secretary shall post the cancellation or issue a certified statement canceling the license.

(e) The expenses of administering this Act, including investigations and examinations provided for in this Act, shall be borne by and assessed against entities regulated by this Act. Subject to the limitations set forth in Section 15-15 of this Act, the Secretary shall establish fees by rule in at least the following categories:

- (1) investigation of licensees and license applicant fees;
- (2) examination fees;
- (3) contingent fees; and
- (4) such other categories as may be required to administer this Act.

#### ARTICLE 20. SUPERVISION

Section 20-5. Functions; powers; duties. The functions, powers, and duties of the Secretary shall include the following:

- (1) to issue or refuse to issue any license as provided by this Act;
- (2) to revoke or suspend for cause any license issued under this Act;
- (3) to keep records of all licenses issued under this Act;

(4) to receive, consider, investigate, and act upon complaints made by any person in connection with any student loan servicing licensee in this State;

(5) to prescribe the forms of and receive:

(A) applications for licenses; and

(B) all reports and all books and records required to be made by any licensee under this Act, including annual audited financial statements and annual reports of student loan activity;

(6) to adopt rules necessary and proper for the administration of this Act;

(7) to subpoena documents and witnesses and compel their attendance and production, to administer oaths, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by this Act;

(8) to issue orders against any person if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur; if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary; or for the purpose of administering the provisions of this Act and any rule adopted in accordance with this Act;

(9) to address any inquiries to any licensee, or the officers thereof, in relation to its activities and conditions, or any other matter connected with its affairs,

and it shall be the duty of any licensee or person so addressed to promptly reply in writing to those inquiries; the Secretary may also require reports from any licensee at any time the Secretary may deem desirable;

(10) to examine the books and records of every licensee under this Act;

(11) to enforce provisions of this Act;

(12) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Secretary on and after the effective date of this Act shall be paid promptly after receipt, accompanied by a detailed statement thereof, into the Bank and Trust Company Fund under Section 20-10; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Department; nothing in this Act shall prevent the continuation of the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund;

(13) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(14) to conduct hearings for the purpose of:

(A) appeals of orders of the Secretary;

(B) suspensions or revocations of licenses, or fining of licensees;

(C) investigating:

(i) complaints against licensees; or

(ii) annual gross delinquency rates; and

(D) carrying out the purposes of this Act;

(15) to exercise exclusive visitorial power over a licensee unless otherwise authorized by this Act or as vested in the courts, or upon prior consultation with the Secretary, a foreign student loan servicing regulator with an appropriate supervisory interest in the parent or affiliate of a licensee;

(16) to enter into cooperative agreements with state regulatory authorities of other states to provide for examination of corporate offices or branches of those states and to accept reports of such examinations;

(17) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Secretary determines appropriate and to charge the licensee for reasonable and necessary expenses of the Secretary if in the opinion of the Secretary an emergency exists or appears likely to occur;

(18) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(19) to enter into agreements in connection with the Nationwide Mortgage Licensing System and Registry.

Section 20-10. Bank and Trust Company Fund. All moneys received by the Secretary under this Act in conjunction with the provisions relating to student loan servicers shall be paid into and all expenses incurred by the Secretary under this Act in conjunction with the provisions relating to student loan servicers shall be paid from the Bank and Trust Company Fund.

Section 20-15. Examination; prohibited activities.

(a) The business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Secretary deems necessary and proper. The Secretary may adopt rules with respect to the frequency and manner of examination. The Secretary shall appoint a suitable person to perform such examination. The Secretary and his or her appointees may examine the entire books, records, documents, and operations of each licensee and its subsidiary, affiliate, or agent, and may examine any of the licensee's or its subsidiary's, affiliate's, or agent's officers, directors, employees, and agents under oath.

(b) The Secretary shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of such report to each licensee's principals, officers, or directors, and shall take appropriate steps to ensure correction of violations of this Act.

(c) Affiliates of a licensee shall be subject to examination by the Secretary on the same terms as the licensee,

but only when reports from or examination of a licensee provides for documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting, or deriving from the activities regulated by this Act.

(d) The expenses of any examination of the licensee and affiliates shall be borne by the licensee and assessed by the Secretary as may be established by rule.

(e) Upon completion of the examination, the Secretary shall issue a report to the licensee. All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Secretary's office and may not be disclosed to anyone other than the licensee, law enforcement officials or other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. The Secretary may, through the Attorney General, immediately appeal to the court of jurisdiction the disclosure of such confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Secretary under this Act and results of examinations performed by the Secretary under this Act shall be the property of only the Secretary, but may be shared with the licensee. Access under this Act to the books and records of each licensee shall be limited to the Secretary and his or her agents as provided in this Act and to the licensee and its authorized agents and designees. No other

person shall have access to the books and records of a licensee under this Act. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary of the demand, at which time the Secretary is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Secretary may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of that information. Except as authorized by the Secretary, no person obtaining access to confidential supervisory information may make a copy of the confidential supervisory information. The Secretary may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Secretary, the Secretary may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Secretary may authorize a party who obtained the records for use in one case

to provide them to another party in another case, subject to any conditions that the Secretary may impose on either or both parties. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(f) The Secretary and employees of the Department shall be subject to the restrictions provided in Section 2.5 of the Division of Banking Act, including, without limitation, the restrictions on (i) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

Section 20-20. Subpoena power of the Secretary.

(a) The Secretary shall have the power to issue and to serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation. The Secretary, or his or her duly authorized representative, shall have power to administer oaths and affirmations to any person.

(b) In the event of noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary, the Secretary may, through the Attorney General, petition the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, accounts, records, and other documents as are specified in the subpoena duces tecum. The court may grant injunctive relief restraining the person from advertising, promoting, soliciting, entering into, offering to enter into, continuing, or completing any student loan servicing transaction. The court may grant other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets or any concealment, alteration, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person has fully complied with the subpoena or subpoena duces tecum and the Secretary has completed an investigation or examination.

(c) If it appears to the Secretary that the compliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary pursuant to this Section is essential to an investigation or examination, the Secretary, in addition to the other remedies provided for in this Act, may, through the Attorney General, apply for relief to the circuit court of

the county in which the subpoenaed person resides or has its principal place of business. The court shall thereupon direct the issuance of an order against the subpoenaed person requiring sufficient bond conditioned on compliance with the subpoena or subpoena duces tecum. The court shall cause to be endorsed on the order a suitable amount of bond or payment pursuant to which the person named in the order shall be freed, having a due regard to the nature of the case.

(d) In addition, the Secretary may, through the Attorney General, seek a writ of attachment or an equivalent order from the circuit court having jurisdiction over the person who has refused to obey a subpoena, who has refused to give testimony, or who has refused to produce the matters described in the subpoena duces tecum.

Section 20-25. Report required of licensee. In addition to any reports required under this Act, every licensee shall file any other report the Secretary requests.

Section 20-30. Suspension; revocation of licenses; fines.

(a) Upon written notice to a licensee, the Secretary may suspend or revoke any license issued pursuant to this Act if, in the notice, he or she makes a finding of one or more of the following:

(1) that through separate acts or an act or a course of conduct, the licensee has violated any provisions of this

Act, any rule adopted by the Secretary, or any other law, rule, or regulation of this State or the United States;

(2) that any fact or condition exists that, if it had existed at the time of the original application for the license, would have warranted the Secretary in refusing originally to issue the license; or

(3) that if a licensee is other than an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has acted or failed to act in a way that would be cause for suspending or revoking a license to that party as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in Section 20-65 of this Act.

(c) The Secretary, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation.

(d) The provisions of subsection (d) of Section 15-40 of this Act shall not affect a licensee's civil or criminal liability for acts committed prior to surrender of a license.

(e) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

(f) Every license issued under this Act shall remain in

force and effect until the license expires without renewal, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act, but the Secretary shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license has been revoked if no fact or condition then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(g) Whenever the Secretary revokes or suspends a license issued pursuant to this Act or fines a licensee under this Act, he or she shall execute a written order to that effect. The Secretary shall post notice of the order on an agency Internet site maintained by the Secretary or on the Nationwide Mortgage Licensing System and Registry and shall serve a copy of the order upon the licensee. Any such order may be reviewed in the manner provided by Section 20-65 of this Act.

(h) If the Secretary finds any person in violation of the grounds set forth in subsection (i), he or she may enter an order imposing one or more of the following penalties:

(1) revocation of license;

(2) suspension of a license subject to reinstatement upon satisfying all reasonable conditions the Secretary may specify;

(3) placement of the licensee or applicant on probation for a period of time and subject to all reasonable conditions as the Secretary may specify;

(4) issuance of a reprimand;

(5) imposition of a fine not to exceed \$25,000 for each count of separate offense; except that a fine may be imposed not to exceed \$75,000 for each separate count of offense of paragraph (2) of subsection (i) of this Section; or

(6) denial of a license.

(i) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (h) may be taken:

(1) being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction that involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) fraud, misrepresentation, deceit, or negligence in any student loan transaction;

(3) a material or intentional misstatement of fact on an initial or renewal application;

(4) insolvency or filing under any provision of the federal Bankruptcy Code as a debtor;

(5) failure to account or deliver to any person any property, such as any money, fund, deposit, check, draft, or other document or thing of value, that has come into his or her hands and that is not his or her property or that he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed

time, upon demand of the person entitled to such accounting and delivery;

(6) failure to disburse funds in accordance with agreements;

(7) having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory, or country for fraud, dishonest dealing, or any other act of moral turpitude;

(8) failure to comply with an order of the Secretary or rule made or issued under the provisions of this Act;

(9) engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(10) failure to pay in a timely manner any fee, charge, or fine under this Act;

(11) failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and the rules of the Secretary;

(12) refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Secretary's subpoena or subpoena duces tecum; and

(13) failure to comply with or a violation of any provision of this Act.

(j) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (i) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(k) A licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations or there is substantial harm to a consumer.

(l) Procedures for surrender of a license include the following:

(1) The Secretary may, after 10 days' notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds for the contemplated action and the date, time, and place of a hearing thereon, and after providing the licensee with a reasonable opportunity to be heard prior to such action, fine such licensee an amount not exceeding \$25,000 per violation, or revoke or suspend any license issued under this Act if he or she finds that:

(i) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(ii) any fact or condition exists that, if it had

existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(2) Any licensee may submit an application to surrender a license, but, upon the Secretary approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

Section 20-35. Investigation of complaints. The Secretary shall at all times maintain staff and facilities adequate to receive, record, and investigate complaints and inquiries made by any person concerning this Act and any licensees under this Act. Each licensee shall open its books, records, documents, and offices wherever situated to the Secretary or his or her appointees as needed to facilitate such investigations.

Section 20-40. Additional investigation and examination authority. In addition to any authority allowed under this Act, the Secretary shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this Act, the Secretary shall have the authority to access, receive, and

use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, the following:

(A) criminal, civil, and administrative history information, including nonconviction data as specified in the Criminal Code of 2012;

(B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act; and

(C) any other documents, information, or evidence the Secretary deems relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(2) For the purposes of investigating violations or complaints arising under this Act or for the purposes of examination, the Secretary may review, investigate, or examine any licensee, individual, or person subject to this Act as often as necessary in order to carry out the purposes of this Act. The Secretary may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order the person to produce books, accounts, records, files, and any

other documents the Secretary deems relevant to the inquiry.

(3) Each licensee, individual, or person subject to this Act shall make available to the Secretary upon request the books and records relating to the operations of the licensee, individual, or person subject to this Act. The Secretary shall have access to those books and records and interview the officers, principals, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this Act concerning their business.

(4) Each licensee, individual, or person subject to this Act shall make or compile reports or prepare other information as directed by the Secretary in order to carry out the purposes of this Section, including, but not limited to:

(A) accounting compilations;

(B) information lists and data concerning loan transactions in a format prescribed by the Secretary;  
or

(C) other information deemed necessary to carry out the purposes of this Section.

(5) In making any examination or investigation authorized by this Act, the Secretary may control access to any documents and records of the licensee or person under examination or investigation. The Secretary may take

possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents or records, except pursuant to a court order or with the consent of the Secretary. Unless the Secretary has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered or destroyed for purposes of concealing a violation of this Act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(6) In order to carry out the purposes of this Section, the Secretary may:

(A) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(B) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this Section;

(C) use, hire, contract, or employ public or privately available analytical systems, methods, or

software to examine or investigate the licensee, individual, or person subject to this Act;

(D) accept and rely on examination or investigation reports made by other government officials, within or outside this State; or

(E) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this Act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Secretary.

(7) The authority of this Section shall remain in effect, whether such a licensee, individual, or person subject to this Act acts or claims to act under any licensing or registration law of this State or claims to act without the authority.

(8) No licensee, individual, or person subject to investigation or examination under this Section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Section 20-45. Confidential information. In hearings conducted under this Act, information presented into evidence

that was acquired by the licensee when serving any individual in connection with a student loan, including all financial information of the individual, shall be deemed strictly confidential and shall be made available only as part of the record of a hearing under this Act or otherwise (i) when the record is required, in its entirety, for purposes of judicial review or (ii) upon the express written consent of the individual served, or in the case of his or her death or disability, the consent of his or her personal representative.

Section 20-50. Confidentiality.

(a) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, except as otherwise provided in federal Public Law 110-289, Section 1512, the requirements under any federal law or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or State law, including the rules of any federal or State court, with respect to such information or material, shall continue to apply to information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all State and federal regulatory officials with student loan industry oversight authority without the loss of privilege or the loss of confidentiality

protections provided by federal law or State law.

(b) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the Secretary is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors or other associations representing governmental agencies as established by rule, regulation, or order of the Secretary. The sharing of confidential supervisory information or any information or material described in subsection (a) of this Section pursuant to an agreement or sharing arrangement shall not result in the loss of privilege or the loss of confidentiality protections provided by federal law or State law.

(c) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, information or material that is subject to a privilege or confidentiality under subsection (a) of this Section shall not be subject to the following:

(1) disclosure under any State law governing the disclosure to the public of information held by an officer or an agency of the State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom such

information or material pertains waives, in whole or in part, in the discretion of that person, that privilege.

(d) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, any other law relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) of this Section that is inconsistent with subsection (a) of this Section shall be superseded by the requirements of this Section to the extent the other law provides less confidentiality or a weaker privilege.

Section 20-55. Reports of violations. Any person licensed under this Act or any other person may report to the Secretary any information to show that a person subject to this Act is or may be in violation of this Act. A licensee who files a report with the Department that another licensee is engaged in one or more violations pursuant to this Act shall not be the subject of disciplinary action by the Department, unless the Department determines, by a preponderance of the evidence available to the Department, that the reporting person knowingly and willingly participated in the violation that was reported.

Section 20-60. Rules and regulations of the Secretary.

(a) In addition to such powers as may be prescribed by this Act, the Secretary is hereby authorized and empowered to adopt

rules consistent with the purposes of this Act, including, but not limited to:

(1) rules in connection with the activities of licensees as may be necessary and appropriate for the protection of consumers in this State;

(2) rules as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees in servicing student loans;

(3) rules that define the terms used in this Act and as may be necessary and appropriate to interpret and implement the provisions of this Act; and

(4) rules as may be necessary for the enforcement of this Act.

(b) The Secretary is hereby authorized and empowered to make specific rulings, demands, and findings that he or she deems necessary for the proper conduct of the student loan servicing industry.

(c) A person or entity may make a written application to the Department for a written interpretation of this Act. The Department may then, in its sole discretion, choose to issue a written interpretation. To be valid, a written interpretation must be signed by the Secretary, or his or her designee, and the Department's General Counsel. A written interpretation expires 2 years after the date that it was issued.

(d) No provision in this Act that imposes liability or

establishes violations shall apply to any act taken by a person or entity in conformity with a written interpretation of this Act that is in effect at the time the act is taken, notwithstanding whether the written interpretation is later amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

Section 20-65. Appeal and review.

(a) Any person or entity affected by a decision of the Secretary under any provision of this Act may obtain review of that decision within the Department.

(b) The Secretary may, in accordance with the Illinois Administrative Procedure Act, adopt rules to provide for review within the Department of his or her decisions affecting the rights of entities under this Act. The review shall provide for, at a minimum:

(1) appointment of a hearing officer other than a regular employee of the Department;

(2) appropriate procedural rules, specific deadlines for filings, and standards of evidence and of proof; and

(3) provision for apportioning costs among parties to the appeal.

(c) All final agency determinations of appeals to decisions of the Secretary may be reviewed in accordance with and under the provisions of the Administrative Review Law. Appeals from all final orders and judgments entered by a court in review of

any final administrative decision of the Secretary or of any final agency review of a decision of the Secretary may be taken as in other civil cases.

Section 20-70. Violations of this Act; Secretary's orders. If the Secretary finds, as the result of examination, investigation, or review of reports submitted by a licensee, that the business and affairs of a licensee are not being conducted in accordance with this Act, the Secretary shall notify the licensee of the correction necessary. If a licensee fails to correct such violations, the Secretary shall issue an order requiring immediate correction and compliance with this Act, specifying a reasonable date for performance.

The Secretary may adopt rules to provide for an orderly and timely appeal of all orders within the Department. The rules may include provision for assessment of fees and costs.

Section 20-75. Collection of compensation. Unless exempt from licensure under this Act, no person engaged in or offering to engage in any act or service for which a license under this Act is required may bring or maintain any action in any court of this State to collect compensation for the performance of the licensable services without alleging and proving that he or she was the holder of a valid student loan servicing license under this Act at all times during the performance of those services.

Section 20-80. Licensure fees.

(a) The fees for licensure shall be a \$1,000 application fee and an additional \$800 fee for investigation performed in conjunction with Section 15-5. The fees are nonrefundable.

(b) The fee for an application renewal shall be \$1,000. The fee is nonrefundable.

Section 20-85. Injunction. The Secretary, through the Attorney General, may maintain an action in the name of the people of the State of Illinois and may apply for an injunction in the circuit court to enjoin a person from engaging in unlicensed student loan servicing activity.

ARTICLE 25. CONSUMER FRAUD AND DECEPTIVE BUSINESS  
PRACTICES ACT

Section 25-5. Enforcement; Consumer Fraud and Deceptive Business Practices Act. The Attorney General may enforce a violation of Article 5 of this Act as an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

ARTICLE 99. SEVERABILITY; EFFECTIVE DATE

Section 99-1. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Public Act 100-0540

SB1351 Enrolled

LRB100 10505 MLM 20720 b

Section 99-99. Effective date. This Act takes effect  
December 31, 2018.