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Date: (Filing No. S-)

INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 532, L.D. 1507, Bill, “An Act To Establish a Student Loan Bill of Rights To License and Regulate Student Loan Servicers”

Amend the bill by striking out the title and substituting the following:

'An Act To Establish a Student Loan Bill of Rights To Regulate Student Loan Servicers'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 9-A MRSA Art. 14 is enacted to read:

ARTICLE 14

STUDENT LOAN BILL OF RIGHTS

§14-101. Short title

This Article may be known and cited as "the Student Loan Bill of Rights."

§14-102. Applicability

This Article applies to a person who acts as a student loan servicer in this State, except that this Article does not apply to a supervised financial organization or a financial institution holding company as defined in Title 9-B, section 1011, subsection 1, to a mutual holding company as defined in Title 9-B, section 1052, subsection 2 or to a wholly owned subsidiary of a supervised financial organization, financial institution holding company or mutual holding company.

§14-103. Definitions

As used in this Article, unless the context otherwise indicates, the following terms have the following meanings.

COMMITTEE AMENDMENT

- 1 **1. Servicing.** "Servicing" means:
2 A. Receiving scheduled periodic payments from a student loan borrower pursuant to
3 the terms of a student education loan;
4 B. Applying the payments of principal and interest and such other payments with
5 respect to the amounts received from a student loan borrower as may be required
6 pursuant to the terms of a student education loan; and
7 C. Performing other administrative services with respect to a student education loan.

8 **2. Student education loan.** "Student education loan" means a loan that is extended
9 to a student loan borrower expressly for postsecondary education expenses or other
10 school-related expenses and does not include open-end credit or any loan that is secured
11 by real property.

- 12 **3. Student loan borrower.** "Student loan borrower" means:
13 A. A resident of this State who has received or agreed to pay a student education
14 loan; or
15 B. A person who shares legal responsibility with a resident under paragraph A for
16 repaying the student education loan.

17 **4. Student loan servicer.** "Student loan servicer" means a person, wherever located,
18 responsible for the servicing of a student education loan to a student loan borrower.
19 "Student loan servicer" does not include a supervised financial organization or a financial
20 institution holding company as defined in Title 9-B, section 1011, subsection 1, a mutual
21 holding company as defined in Title 9-B, section 1052, subsection 2 or a wholly owned
22 subsidiary of a supervised financial organization, financial institution holding company or
23 mutual holding company.

24 **5. Superintendent.** "Superintendent" means the Superintendent of Consumer Credit
25 Protection.

26 **§14-104. Annual report**

27 Beginning January 1, 2021, the superintendent shall submit a report by January 1st of
28 each year to the joint standing committees of the Legislature having jurisdiction over
29 education and cultural affairs and insurance and financial services matters. The report
30 must include:

- 31 **1. Implementation.** A description of actions taken with respect to the
32 implementation of this Article;
33 **2. Effectiveness.** An assessment of the overall effectiveness of the student loan
34 servicer registration requirements under section 14-105; and
35 **3. Additional steps.** Recommendations regarding additional steps for the
36 Department of Professional and Financial Regulation to gain regulatory control over
37 registration and enforcement with respect to student loan servicers.

1 **§14-105. Registration of student loan servicers**

2 A person may not act as a student loan servicer, directly or indirectly, without first
3 registering with the superintendent pursuant to this section, unless that person is exempt
4 from registration pursuant to subsection 1.

5 **1. Exempt.** The following persons are exempt from student loan servicer
6 registration requirements:

7 A. A licensed bank or credit union, a wholly owned subsidiary of such a bank or
8 credit union and an operating subsidiary of such a bank or credit union as long as
9 each owner of the operating subsidiary is wholly owned by that bank or credit union;

10 B. A supervised financial organization or a financial institution holding company as
11 defined in Title 9-B, section 1011, subsection 1, a mutual holding company as
12 defined in Title 9-B, section 1052, subsection 2 or a wholly owned subsidiary of a
13 supervised financial organization, financial institution holding company or mutual
14 holding company; and

15 C. The Finance Authority of Maine.

16 **2. Application.** A person seeking to act within this State as a student loan servicer
17 shall make a written application to the superintendent for an initial registration in such
18 form as the superintendent prescribes. The application must be accompanied by:

19 A. The legal name and business address of the applicant and, if the applicant is a
20 partnership, limited liability company, association or corporation, the name of every
21 partner, limited liability member, officer or administrator of the applicant;

22 B. Information demonstrating that the applicant maintains a toll-free telephone
23 number or other free means of oral communication that is staffed during normal
24 business hours for student loan borrowers to use to communicate with the applicant
25 concerning the servicing of a student loan;

26 C. Such other information as the superintendent may reasonably require with respect
27 to the applicant; and

28 D. A nonrefundable registration and renewal fee of \$250.

29 **3. Effective registrations.** Registration pursuant to this Article remains effective
30 through the remainder of the calendar year of its date of issuance, unless sooner
31 surrendered, suspended or revoked.

32 **4. Annual renewal.** Registrations must be renewed annually, in such form as the
33 superintendent may prescribe.

34 **5. Records retention; records request.** A student loan servicer shall maintain
35 adequate records of each student education loan transaction for not less than 2 years
36 following the final payment on the student education loan or the assignment of the
37 student education loan, whichever occurs first, or such longer period as may be required
38 by any other provision of law. Upon request by the superintendent, a student loan
39 servicer shall make such records available or shall send such records to the
40 superintendent by registered or certified mail, return receipt requested, or by any express
41 delivery carrier that provides a dated delivery receipt, not later than 5 business days after

1 being requested by the superintendent to do so. The superintendent may grant a registrant
2 additional time to make such records available or to send the records to the
3 superintendent.

4 **6. Registration suspension and revocation; refusal to renew; violations.** The
5 superintendent may suspend, revoke or refuse to renew a registration issued pursuant to
6 this section or take any other action in accordance with Article 6 if the superintendent
7 finds one of the following:

8 A. The registrant has violated any provision of this Article or any rule or order
9 lawfully adopted or made pursuant to and within the authority of this Article; or

10 B. Any fact or condition exists that, if it had existed at the time of the original
11 application for the registration, clearly would have warranted a denial of the
12 registration.

13 An abatement of the registration fee may not be made if the registration is surrendered,
14 revoked or suspended.

15 **7. Examination.** The superintendent may examine the books, accounts and records
16 of an applicant or registrant and make investigations to determine compliance with this
17 Article.

18 **8. Expenses of the superintendent.** The expenses of the superintendent necessarily
19 incurred in the examination and investigation of persons subject to this Article are
20 chargeable to that person in the same manner and for the same expenses set forth in
21 section 6-106, subsection 6.

22 **§14-106. Student loan servicers**

23 **1. Prohibited acts.** A student loan servicer may not:

24 A. Directly or indirectly employ a scheme, device or artifice to defraud or mislead
25 student loan borrowers;

26 B. Engage in an unfair or deceptive practice toward any person or misrepresent or
27 omit any material information in connection with the servicing of a student education
28 loan, including, but not limited to, misrepresenting the amount, nature or terms of any
29 fee or payment due or claimed to be due on a student education loan, the terms and
30 conditions of the loan agreement or the student loan borrower's obligations under the
31 loan;

32 C. Obtain property by fraud or misrepresentation; or

33 D. Fail to comply with any provision of this Article or rules adopted under this
34 Article or fail to comply with any other state or federal law, including the rules and
35 regulations applicable to any student loan servicer registered under this Article.

36 **§14-107. Compliance with federal law**

37 A student loan servicer shall comply with all applicable federal laws and regulations
38 relating to student loan servicing, including, but not limited to, the federal Truth in
39 Lending Act, 15 United States Code, Sections 1601 to 1667f (2010), as amended, and the
40 regulations adopted pursuant to that Act. In addition to any other remedies provided by

1 law, a violation of that Act or regulations adopted pursuant to that Act is a violation of
2 this section and a basis upon which the superintendent may take enforcement action
3 pursuant to this Article.

4 **§14-108. Rulemaking**

5 The superintendent shall adopt rules to implement this Article. Rules adopted
6 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
7 subchapter 2-A.

8 **Sec. 2. Appropriations and allocations.** The following appropriations and
9 allocations are made.

10 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
11 **Bureau of Consumer Credit Protection 0091**

12 Initiative: Provides funding for additional rulemaking, printing, copying and postage.

13	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
14	All Other	\$0	\$2,500
15		<hr/>	<hr/>
16	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

17 **Sec. 3. Effective date.** This Act takes effect January 1, 2019.'

18 **SUMMARY**

19 This amendment is the majority report of the committee and replaces the bill and
20 changes the title. The amendment does the following.

21 1. It establishes a registration procedure for student loan servicers. It provides an
22 exemption from the registration provisions for supervised financial organizations and
23 financial institution holding companies and clarifies that a student loan servicer does not
24 include supervised financial organizations or financial institution holding companies. It
25 also provides an exemption for the Finance Authority of Maine.

26 2. Beginning January 1, 2021, it requires the Superintendent of Consumer Credit
27 Protection within the Department of Professional and Financial Regulation to submit an
28 annual report by January 1st in regard to the effectiveness of student loan servicer
29 registration and to recommend additional steps necessary to gain regulatory control over
30 registration and enforcement with respect to student loan servicers.

31 3. It identifies prohibited acts for student loan servicers, including employing any
32 scheme, device or artifice to defraud or mislead student loan borrowers.

33 4. It requires student loan servicers to comply with all applicable federal laws and
34 regulations related to student loan servicing.

35 5. It requires the superintendent to adopt routine technical rules necessary to carry
36 out the provisions of this legislation.

