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March 26, 2019

Good afternoon Senator Sanborn, Representative Tepler and members of the Committee on Health Coverage, Insurance and Financial Services,

My name is Amy Gallant and I am the Advocacy Director for AARP Maine. AARP is a non-profit, non-partisan member organization representing the interests of 230,000 50+ Mainers and their families. This testimony is in support of **LD 995, An Act to Establish a Student Loan Bill of Rights to License and Regulate Student Loan Servicers.**

I care passionately about this issue both personally and professionally. Earlier this month I was in a conversation with an AARP member, a woman in her 60s, who was advised by her student loan servicer to consolidate her own loan with her child's Parent Plus loan. She did, and the interest has made her payment unaffordable. She was unable to find a job in her field and is working at LLBean, a job she is grateful to have, but is frustrated that every time she tries to ask for help from her servicer she gets a different answer, and she wonders if consolidating in the first place was the wise decision.

I too have experienced frustrations with student loan servicers. Just last April, five of my nine loans were sold from one servicer to another, and the 64 months of payments towards a 120-month repayment plan with the initial servicer were zeroed out and my payment terms were changed to anywhere from 14 to 30 years with the new servicer. Neither I, nor the AARP member I spoke of early, are alone in our frustrations.

Over 2.8 million Americans 60 or older have at least one student loan. The number of Americans over 60 with student loans has quadrupled in the last decade, and is the fastest-growing group of student loan borrowers. Carrying student debt later in life makes it harder for people to save for retirement.

Student loan borrowers in default on federal student loans can be subject to Social Security garnishment. The number of people whose Social Security was garnished to pay off a defaulted federal student loan more than quadrupled between 2005 and 2015, from 8,700 to 40,000.

This bill is not about the cost of higher education in America. It is not about the amount of debt we carry individually or as a nation. These are worthy and important conversations for another day. This bill is about two things; a resource right here in Maine for student loan borrowers in the state in the form of an Ombudsman, and clearly articulating requirements expected of student loan servicers doing business in Maine.

On behalf of AARP Maine and our 230,000 members, I urge you to support this bill.

Thank you for your time and consideration.

Sincerely,

PLEASE NOTE: Legislative Information *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Establish a Student Loan Bill of Rights To License and Regulate Student Loan Servicers

Be it enacted by the People of the State of Maine as follows:

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.

1. Servicing. "Servicing" means:

- (i) (A) Receiving any scheduled periodic payments from a borrower or notification of such payments and
- (B) Applying payments to the borrower's account pursuant to the terms of the post-secondary education loan or of the contract governing the servicing;
- (ii) During a period when no payment is required on a post-secondary education loan,
  - (A) Maintaining account records for the loan and
  - (B) Communicating with the borrower regarding the loan, on behalf of the loan's holder; or
- (iii) Interactions with a borrower, including activities to help prevent default on obligations arising from post-secondary education loans, conducted to facilitate the activities described in paragraph (i) or (ii) of this definition.

**Commented [A1]:** This amendment conforms the servicing definition to federal law.

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

3. Student loan borrower. "Student loan borrower" means:

- A. A resident of this State who has received or agreed to pay a student education loan; or
- B. A person who shares legal responsibility with a resident under paragraph A for repaying the student education loan.

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

**5. Superintendent.** "Superintendent" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.

#### **§ 14-104. Student loan ombudsman**

The superintendent shall, using licensing and investigation fees collected pursuant to section 14-107, support, maintain and designate a student loan ombudsman within the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection to provide timely assistance to student loan borrowers.

The student loan ombudsman, in consultation with the superintendent, shall:

- 1. Complaints.** Receive, review and attempt to resolve complaints from:
  - A. Student loan borrowers; and
  - B. In collaboration with institutions of higher education, student loan servicers and any other participants in student education loan lending, including, but not limited to, originators servicing their own student education loans;
- 2. Data.** Compile and analyze data on student loan borrower complaints as described in subsection 1 and as resolved pursuant to section 14-106;
- 3. Assistance.** Assist student loan borrowers to understand their rights and responsibilities under the terms of student education loans;
- 4. Information.** 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. Laws, regulations and policies.** Analyze and monitor the development and implementation of federal, state and local laws, ordinances, regulations, rules and policies relating to student loan borrowers and recommend any necessary changes;
- 6. Student loan history.** Review, as authorized and appropriate, the complete student education loan history for a student loan borrower who provides written consent for such a review;

**7. Outreach.** Provide sufficient outreach and disseminate information concerning the availability of the student loan ombudsman to assist student loan borrowers and potential student loan borrowers, public institutions of higher education, student loan servicers and any other participants in student education loan lending with any student education loan servicing concerns;

**8. Assistance with complaints.** Seek the assistance of an exempt organization in the resolution of a student loan borrower complaint as described in subsection 1 involving that exempt organization. The exempt organization shall cooperate with the student loan ombudsman as required by section 14-106. For purposes of this subsection, "exempt organization" means the Finance Authority of Maine and financial institutions exempt from this Article pursuant to section 14-107, subsection 1; and

**9. Other actions.** Take any other actions necessary to fulfill the duties of the student loan ombudsman as set forth in this Article.

#### **§ 14-105. Annual report**

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

**1. Implementation.** A description of actions taken with respect to the implementation of this Article;

**2. Effectiveness.** An assessment of the overall effectiveness of the student loan ombudsman, including information, in the aggregate, regarding student loan borrower complaints investigated with the assistance of an organization that is exempt from this Article pursuant to section 14-107, subsection 1; and

**3. Additional steps.** Recommendations regarding additional steps for the Department of Professional and Financial Regulation to gain regulatory control over licensing and enforcement with respect to student loan servicers.

#### **§ 14-106. Assistance by exempt organization; report**

An exempt organization that is requested by the student loan ombudsman to provide assistance pursuant to section 14-104, subsection 8 shall provide, in a timely manner, the information requested by the ombudsman necessary to investigate and resolve a student loan borrower complaint, including the steps taken by the exempt organization to resolve the complaint, or, on its own, shall resolve, in a timely manner, the complaint and provide the ombudsman with documentation regarding the resolution. Annually, an exempt organization that is involved in the resolution of a complaint pursuant to this section shall report to the ombudsman the number of complaints received and the number of complaints resolved by the exempt organization. For purposes of this section, "exempt organization" means the Finance Authority of Maine and financial institutions exempt from this Article pursuant to section 14-107, subsection 1.

#### **§ 14-107. Licensing of student loan servicers**

A person may not act as a student loan servicer, directly or indirectly, without first obtaining a license from the superintendent pursuant to this section, unless that person is exempt from licensure pursuant to subsection 1.

**1. Exempt.** The following persons are exempt from student loan servicer licensing requirements:

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

B. A supervised financial organization or a Maine financial institution holding company as defined in Title 9-B, section 1011, subsection 2; a Maine financial institution as defined in Title 9-B, section 1011, subsection 6; a mutual holding company as defined in Title 9-B, section 1052, subsection 2 whose home state, as defined in Title 9-B, section 131, subsection 20-A, is Maine; or a wholly owned subsidiary of a supervised financial organization, Maine financial institution holding company, Maine financial institution or mutual holding company; and

C. The Finance Authority of Maine.

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

A. A financial statement prepared by a certified public accountant or a public accountant, a general partner if the applicant is a partnership, a corporate officer if the applicant is a corporation or a member duly authorized to execute such documents if the applicant is a limited liability company or association;

B. Information regarding the history of criminal convictions of the following:

(1) The applicant;

(2) Partners, if the applicant is a partnership;

(3) Members, if the applicant is a limited liability company or association; and

(4) Officers, directors and principal employees, if the applicant is a corporation.

The information submitted pursuant to this paragraph must be sufficient, as determined by the superintendent, to make the findings under subsection 3;

C. A nonrefundable license fee of \$1,000; and

D. A nonrefundable investigation fee of \$800.

**3. Investigation of applicant.** Upon the filing of an application for an initial license and the payment of the fees for licensing and investigation pursuant to subsection 2, the superintendent shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The superintendent, in accordance with Title 25, section 1706, may conduct state and national criminal history record checks of the applicant and of each partner, member, officer, director and principal employee of the applicant. The superintendent may issue a license if the superintendent finds that:

- A. The applicant's financial condition is sound;
- B. The applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of this Article and in a manner commanding the confidence and trust of the community;
- C. If the applicant is:
  - (1) An individual, the individual is in all respects properly qualified and of good character;
  - (2) A partnership, each partner is in all respects properly qualified and of good character;
  - (3) A corporation, the president, chair of the executive committee, senior officer responsible for the corporation's business and chief financial officer or any other person who performs similar functions as determined by the superintendent, each director, each trustee and each shareholder owning 10% or more of each class of the securities of the corporation is in all respects properly qualified and of good character; or
  - (4) A limited liability company or association, each member is in all respects properly qualified and of good character;
- D. No person on behalf of the applicant knowingly has made an incorrect statement of a material fact in the application or in any report or statement made pursuant to this Article; and
- E. The applicant has met any other requirements as determined by the superintendent.

**4. License expiration.** A license issued pursuant to this Article expires at the close of business on September 30th of the odd-numbered year following its issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to this Article. No later than 15 days after a licensee ceases to engage in the business of student education loan servicing in this State for any reason, including a business decision to terminate operations in this State, license revocation, bankruptcy or voluntary dissolution, the licensee shall provide written notice of surrender to the superintendent and shall surrender to the superintendent its license for each location in which the licensee has ceased to engage in such business. The written notice of surrender must identify the location where the records of the licensee will be stored and the name, address and telephone number of an individual authorized to provide access to the records. The surrender of a license does not reduce or eliminate the licensee's civil or criminal liability arising from acts or omissions occurring prior to the surrender of the license, including any administrative

actions undertaken by the superintendent to revoke or suspend a license, assess a civil penalty, order restitution or exercise any other authority provided to the superintendent.

**5. License renewal.** A license issued pursuant to this Article may be renewed for the ensuing 24-month period upon the filing of an application containing all required documents and fees as provided in this section. A renewal application must be filed on or before September 1st of the year in which the license expires. A renewal application filed with the superintendent after September 1st that is accompanied by a \$100 late fee is deemed to be timely and sufficient. If an application for a renewal license has been filed with the superintendent on or before the date the license expires, the license sought to be renewed continues in effect until the issuance by the superintendent of the renewal license applied for or until the superintendent has notified the licensee in writing of the superintendent's refusal to issue the renewal license together with the grounds upon which the refusal is based. The superintendent may refuse to issue a renewal license on any ground on which the superintendent might refuse to issue an initial license.

**6. Dishonored check.** If a check filed with the superintendent to pay a license, investigation or renewal fee under this section is dishonored, the superintendent shall automatically suspend the license or the renewal license that has been issued but is not yet effective. The superintendent shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with Article 6.

**7. Update application information.** An applicant or licensee under this Article shall notify the superintendent, in writing, of any change in the information provided in its initial application for a license or its most recent renewal application for a license, as applicable, not later than 10 business days after the occurrence of the event that results in the change.

**8. Incomplete application.** The superintendent may consider an application for a license under this Article abandoned if the applicant fails to respond to any request for information required under this Article or any rules adopted pursuant to this Article, as long as the superintendent notifies the applicant, in writing, that the application will be considered abandoned if the applicant fails to submit the information within 60 days after the date on which the request for information was made. An application filing fee paid prior to the date an application is abandoned pursuant to this subsection may not be refunded. Abandonment of an application pursuant to this subsection does not preclude the applicant from submitting a new application for a license under this Article.

**9. Automatic licensure.** The superintendent shall automatically issue a limited, irrevocable license to any person servicing a student loan under contract with the U.S. Department of Education as follows:

A. Any person seeking to act within this state as a student loan servicer is exempt from the application procedures described in subsection 2 of this Section, except for subsections 2(c)-(d), upon a determination by the superintendent that student loan servicing performed in this state is conducted pursuant to a contract awarded by the United States Secretary of Education under § 20 U.S.C. 1087f. The procedure to document eligibility for such an exemption shall prescribed by the superintendent.

**Commented [A2]:** Recognizes a federal student loan contract as sufficient for licensing, effectively exempting federal student loan servicers from licensing but not from the substantive standards. This amendment aligns the bill up with the most recent court decision on pre-emption.

B. Any person deemed exempt by the superintendent pursuant to this section shall automatically be issued a license from the superintendent and shall be considered by the superintendent to have met all requirements set forth in Subsection 3.

C. Any person issued a license pursuant to this section shall be exempt from subsections 4-8 of this Section.

D. Any person issued a license pursuant to this subsection shall provide the superintendent with written notice within seven (7) days following the notification of the expiration, revocation, or termination of any contract awarded by the United States Secretary of Education under § 20 U.S.C. 1087f. Such person shall have 30 days to satisfy all requirements established under this Article in order to continue to act within this state as a student loan servicer. At the expiration of the 30-day period, if the person seeking to act within this state as a student loan servicer has not satisfied all requirements established under this Article, the commissioner shall immediately suspend any license granted under this section.

E. With respect to student loan servicing not conducted pursuant to a contract awarded by the United States Secretary of Education under § 20 U.S.C. 1087f, nothing in this section shall prevent the superintendent from issuing an order to temporarily or permanently prohibit or bar any person from acting as a student loan servicer.

F. With respect to student loan servicing conducted pursuant to a contract awarded by the United States Secretary of Education under § 20 U.S.C. 1087f, nothing in the section shall prevent the superintendent from issuing a cease and desist or injunction against any student loan servicer to cease activities in violation of this act or the Maine Unfair Trade Practices Act.

**10. Change of license notification.** A licensee under this Article may not act within this State as a student loan servicer under any name or at any place of business other than those named in the license. Any change of location of a place of business of a licensee requires prior written notice to the superintendent. Not more than one place of business may be maintained under the same license, but the superintendent may issue more than one license to a licensee that complies with the provisions of this Article as to each license. A license is not transferable or assignable.

**11. Records retention; records request.** A student loan servicer shall maintain adequate records of each student education loan transaction for not less than 2 years following the final payment on the student education loan or the assignment of the student education loan, whichever occurs first, or except as otherwise required by federal law, a federal student loan education agreement or a contract between the Federal Government and a licensee under this Article.

Upon request by the superintendent, a student loan servicer shall make such records available or shall send such records to the superintendent by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than 5 business days after requested by the superintendent to do so. The superintendent may grant a licensee additional time to make such records available or to send the records to the superintendent.



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

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

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

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

### **§ 14-108. Student loan servicers**

**1. Definition.** As used in this section, "nonconforming payment" means a payment on a student education loan of a student loan borrower that is different than the required payment.

**2. Requirements.** Except as otherwise provided in federal law, a federal student education loan agreement or a contract between the Federal Government and a student loan servicer, a student loan servicer shall comply with the requirements of this subsection.

**Commented [A3]:** Amendments reflect negotiated language from other states.

A. Upon receipt of a written inquiry from a student loan borrower or the representative of a student loan borrower, a student loan servicer shall respond by:

- (1) acknowledging receipt of the request within 10 days;
- (2) providing information relating to the inquiry, and, if applicable, the action the student loan servicer will take to correct the account or an explanation of the student loan servicer's position that the borrower's account is correct within 30 days.

B. A student loan servicer shall inquire of a borrower how to apply an overpayment to a student loan. A borrower's direction on how to apply an overpayment to a student loan shall stay in effect for any future overpayments during the term of a student loan until the borrower provides different directions. For purposes of this subdivision, "overpayment" means a payment on a student loan in excess of the monthly amount due from a borrower on a student loan, also commonly referred to as a prepayment.

C. A student loan servicer shall apply partial payments in a manner that minimizes late fees and negative credit reporting. Where loans on a borrower's account have an equal stage of delinquency, servicer shall apply partial payments to satisfy as many individual loan payments as possible on a borrower's account. For purposes of this subdivision, "partial payment" means a payment on a student loan account that contains multiple individual loans in an amount less than the amount necessary to satisfy the outstanding payment due on all loans in the student loan account, also commonly referred to as an underpayment.

D. In the event of the sale, assignment or other transfer of the servicing of a student education loan that results in a change in the identity of the person to whom a student loan borrower is required to send payments or direct any communication concerning the student education loan:

(1) As a condition of the sale, assignment or transfer, the student loan servicer shall require the new student loan servicer to honor all benefits originally represented as available to the student loan borrower during the repayment of the student education loan and preserve the availability of such benefits, including any benefits for which the student loan borrower has not yet qualified;

(2) Within 45 days after the sale, assignment or transfer, the student loan servicer shall transfer to the new student loan servicer all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower; and

(3) The sale, assignment or transfer of the servicing of the student education loan must be completed at least 7 days before the next payment on the loan is due.

E. A student loan servicer that obtains the right to service a student education loan shall adopt policies and procedures to verify that the student loan servicer has received all information regarding the student loan borrower, the account of the student loan borrower and the student education loan of the student loan borrower, including, but not limited to, the repayment status of the student loan borrower and any benefits associated with the student education loan of the student loan borrower.

F. A student loan servicer shall evaluate a student loan borrower for an income-driven repayment program prior to placing the borrower in forbearance or default, if an income-driven repayment program is available to the borrower.

**Commented [A4]:** Evaluating borrowers for IDR is a fundamental piece of avoiding the accumulated interests of forbearance.

**3. Prohibited acts.** A student loan servicer may not:

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

B. Engage in an unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education 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 education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

C. Obtain property by fraud or misrepresentation;

D. Misapply student education loan payments to the outstanding balance of a student education loan;

E. Provide inaccurate information to a credit bureau, thereby harming the determination of a student loan borrower's creditworthiness;

E. Fail to report both the favorable and unfavorable payment history of a student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer regularly reports information to such a credit bureau;

G. Refuse to communicate with an authorized representative of a student loan borrower who provides a written authorization signed by the student loan borrower, except that the student loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student loan borrower;

H. Make any false statement or omit a material fact in connection with information or reports filed with a governmental agency or in connection with an investigation conducted by the superintendent or another governmental agency;

I. Fail to respond within 15 days to communications from the student loan ombudsman, or within such shorter, reasonable time as the student loan ombudsman may request in his or her communication; or

**Commented [A5]:** Amendments reflect negotiated language from other states.

J. Fail to provide a response within 15 days to a consumer complaint submitted to the servicer by the student loan ombudsman. If necessary, a student loan servicer may request additional time up to a maximum of 45 days, provided that such request is accompanied by an explanation why such additional time is reasonable and necessary.

**4. Penalties.** A violation of this section is an unfair trade practice under the Maine Unfair Trade Practices Act and is subject to the enforcement and penalty provisions contained in that Act.

A. A student loan servicer that fails to comply with any requirement imposed under this section with respect to a student loan borrower is liable in an amount equal to the sum of:

(1) Any actual damages sustained by the borrower as result of the failure;

(2) A monetary award equal to 3 times the total amount the student loan servicer collected from the borrower;

(3) Punitive damages as the court may allow; and

(4) In the case of any successful action by the borrower to enforce the liability set out in this subsection, the costs of the action, together with reasonable attorney's fees as determined by the court.

B. The remedies provided in this subsection are not intended to be the exclusive remedies available to a student loan borrower, nor must the borrower exhaust any administrative remedies provided under this subsection or any other applicable law before proceeding under this subsection.

#### **§ 14-109. Superintendent powers and duties**

**1. Investigations and examinations.** The superintendent has the authority to conduct investigations and examinations as follows.

A. For purposes of initial licensing, license renewal, license suspension, license revocation or termination or general or specific inquiry or investigation to determine compliance with this Article, the superintendent may access, receive and use any books, accounts, records, files, documents, information or evidence belonging to a licensee or person under examination, including, but not limited to, criminal, civil and administrative history information; 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, 15 United States Code, Section 1681a; and any other documents, information or evidence the superintendent considers relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

B. For the purposes of investigating violations or complaints arising under this Article or for the purposes of examination, the superintendent may review, investigate or examine any licensee or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The superintendent may direct, subpoena or order the attendance of and examine under oath any person whose testimony may be required about the student education loan 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 superintendent considers relevant to the inquiry.

C. In making an examination or investigation authorized by this section, the superintendent may control access to any documents and records of the licensee or person under examination or investigation. The superintendent 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, a person may not remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the superintendent. Unless the superintendent has reasonable grounds to believe the documents or records of the licensee or person have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this Article, the licensee or owner of the documents and records may have access to the documents or records as necessary to conduct its ordinary business affairs.

D. In order to carry out the purposes of this section, the superintendent may:

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

(2) 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;

(3) Use, hire, contract for or employ public or privately available analytical systems, methods or software to examine or investigate the licensee or person subject to this Article;

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

(5) Accept audit reports made by an independent certified public accountant for the licensee or person subject to this Article 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 a report of examination, report of investigation or other writing of the superintendent.

E. A licensee or person subject to investigation or examination under this section may not knowingly withhold, abstract, remove, mutilate or destroy any books, physical records, computer records or other information relating to information regulated under this Article.

F. Whenever it appears to the superintendent that a person has violated, is violating or is about to violate a provision of this Article or a rule adopted pursuant to this Article or that a licensee or an owner, director, officer, member, partner, shareholder, trustee, employee or agent of the licensee has committed fraud, engaged in dishonest activities or made a misrepresentation, the superintendent may take action against the person or licensee in accordance with Article 6.

G. The costs of an investigation conducted by the superintendent must be paid by the licensee or person being investigated.

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

#### **§ 14-110. Compliance with federal law**

A student loan servicer shall comply with all applicable federal laws and regulations relating to student education loan servicing, including, but not limited to, the federal Truth in Lending Act, 15 United States Code, Sections 1601 to 1667f (2010), as amended, and the regulations adopted pursuant to that Act. In addition to any other remedies provided by law, a violation of that Act or regulations adopted pursuant to that Act is a violation of this section and a basis upon which the superintendent may take enforcement action pursuant to this Article.

**Sec. 2. Effective date.** This Act takes effect January 1, 2020.

#### **SUMMARY**

This bill does the following.

1. It creates a position of student loan ombudsman under the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. The student loan ombudsman's duties include: receiving, reviewing and, if possible, resolving complaints from student loan borrowers; compiling and analyzing student loan borrower data; assisting student loan borrowers to understand their rights and responsibilities; providing information to the public, agencies and Legislators regarding concerns of student loan borrowers and making recommendations to resolve them; analyzing and monitoring the development and implementation of other legislation and policies that affect student loan borrowers and recommending necessary changes; reviewing student education loan history for borrowers who consent; disseminating information about the ombudsman's

SP0285, LD 995, item 1, 129th Maine State Legislature  
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availability to assist others; seek the assistance of financial institutions or the Finance Authority of Maine in the resolution of student loan borrower complaints; and other necessary actions.

2. It requires the superintendent to submit an annual report by January 1st of each year in regard to the effectiveness of the student loan ombudsman and to recommend additional steps necessary to gain regulatory control over licensing and enforcement with respect to student loan servicers.

3. It establishes a licensing procedure for student loan servicers, which includes an investigation of an applicant, along with a license fee and an investigation fee and requires the costs of the investigation to be paid by the licensee or person being investigated.

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

5. It identifies duties of the superintendent in regard to investigations and examinations of student loan servicers.

6. It exempts from the student loan servicer requirements imposed by this legislation most financial institutions licensed by the State, including licensed banks and credit unions, supervised financial organizations, Maine financial institutions and mutual holding companies whose home state is Maine and the Finance Authority of Maine. Those exempt organizations are required to work with the student loan ombudsman to resolve student loan borrower complaints and provide information as requested by the ombudsman.

7. It requires student loan servicers to comply with all applicable federal laws and regulations related to student education loan servicing.

8. It requires the superintendent to adopt routine technical rules necessary to carry out the provisions in this bill.