



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
CONSUMER CREDIT DIVISION

260 CONSTITUTION PLAZA – HARTFORD, CT 06103-1800



MEMORANDUM

TO: Educational Institutions

FROM: Carmine Costa, Director, Consumer Credit Division

RE: Servicing of Institutional Financing

DATE: May 19, 2021

At times, educational institutions may assist students by directly financing their education and school-related expenses. Such financing may take the form of a loan of money or extension of credit and is typically referred to as institutional financing. When educational institutions directly or indirectly receive or apply payments from borrowers to such loans, including extensions of credit, such institutions are engaging in servicing activity as set forth in Section 36a-846 of the Connecticut General Statutes.

The purpose of this memorandum is to advise such institutions concerning the necessity for student loan servicer licensure in Connecticut in certain circumstances, as well as the circumstances upon which the Commissioner will take no action against educational institutions who do not obtain a student loan servicer license. Pursuant to Section 36a-1-8 of the Regulations of Connecticut State Agencies, “[t]he commissioner or any authorized employee of the department may issue advisory opinions or other legal interpretations regarding any laws or regulations that the commissioner is charged with administering. Such opinions or interpretations may take the form of a no-action letter or confirmation of the applicability of an exclusion or exemption.”

Background

Connecticut’s student loan servicing statutory scheme is set forth in Sections 36a-846 to 36a-854, inclusive, of the Connecticut General Statutes, and requires that persons who act as a student loan servicer, either directly or indirectly, obtain a student loan servicer license in accordance with Section 36a-847(a) of the Connecticut General Statutes.

Pursuant to Section 36a-846 of the Connecticut General Statutes, the term “servicing” is defined to mean “(A) receiving any scheduled periodic payments from a student loan borrower pursuant to the terms of a student education loan; (B) applying the payments of principal and interest and such other payments with respect to the amounts received from a student loan borrower, as may be required pursuant to the terms of a student education loan; or (C) performing other administrative services with respect to a student education loan”, and the term “student education loan” is defined to mean “any loan primarily for personal use to finance education or other school-related expenses”. Although Sections 36a-847 to 36a-854, inclusive, of the Connecticut General Statutes do not further define the term “loan”, Section 36a-2(39) of the Connecticut General Statutes provides that “loan” includes “any line of credit or other extension of credit”.

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As a result, educational institutions that provide student education loans to students, by either extending credit or loaning money, and subsequently, either directly or indirectly receive or apply payments from borrowers to such loans, are engaging in student loan servicing activity in Connecticut. Furthermore, the phrase “directly or indirectly” has been interpreted by this Department in analogous situations to require licensure of persons, even when such persons contract out licensable activities to other licensed persons – *see e.g.* letter dated October 1, 2014, wherein the Department concluded that persons were acting “indirectly” as mortgage servicers when they contracted out mortgage servicing functions to licensed mortgage servicers (https://portal.ct.gov/-/media/DOB/consumer_credit_nonhtml/10114OpinionMortgageServicerRequirementspdf.pdf).

No Action

Educational institutions often provide institutional financing to students as an accommodation to facilitate a student’s ability to attend school. In addition, the Department is aware that educational institutions often utilize third parties to perform the direct servicing of their loans and may provide financing through short-term payment plans extending credit for a period of one year or less.

The Department hereby advises that it will not consider an extension of credit, wherein the term is 90 days or less or an interest rate is not applied to the balance and the term is one year or less, to be a “student education loan”, as such term is defined in Section 36a-846 – *see e.g.* Section 1026.46(b)(5)(iv) of Regulation Z for consistent exclusion from definition of “private education loan”. The Department will also take a no-action position concerning the need for student loan servicer licensure by an educational institution who only acts indirectly as a student loan servicer in Connecticut and contracts out the direct servicing of student education loans to a person either licensed as a student loan servicer or exempt from such licensure in Connecticut.

To allow persons sufficient time to make any necessary changes to comply with the Department’s interpretation announced herein, the Department will take a no-action position concerning enforcement of the licensure requirements on educational institutions who act as student loan servicers in Connecticut until July 1, 2021.