


MEMORANDUM

TO: All Connecticut Consumer Collection Agency Licensees

FROM: Jorge L. Perez, Banking Commissioner 

RE: No Action Position on Student Loan Servicer Requirement for Licensed Consumer Collection Agencies

DATE: June 30, 2016

Licensed consumer collection agencies that receive payments on delinquent or defaulted student loan debt of Connecticut consumer debtors have inquired whether they would need to obtain a student loan servicer license from this department pursuant to Section 36a-847 of the 2016 Supplement to the General Statutes, effective July 1, 2016.

Section 36a-847(a)(1) provides that:

No person shall act as a student loan servicer, directly or indirectly, without first obtaining a license from the Banking Commissioner under subsection (b) of this section, unless such person is exempt from licensure pursuant to subdivision (2) of this subsection.

In addition, Section 36a-846 of the 2016 Supplement to the General Statutes provides, in pertinent part, the following definitions:

(2) “Student loan servicer” means any person, wherever located, responsible for the servicing of any student education loan to any student loan borrower.

(3) “Servicing” means (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; and (C) performing other administrative services with respect to a student education loan.

As background, Section 36a-800(2) of the 2016 Supplement to the General Statutes defines “consumer collection agency”, in pertinent part, to mean “any person (A) engaged as a third party in the business of collecting or receiving for payment for others of any account, bill or other indebtedness from a consumer debt, [or] (B) engaged directly or indirectly in the business of collecting any account, bill or other indebtedness from a consumer debtor for such person’s own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired”. As defined, “consumer collection agency” explicitly excludes “(v) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment,

accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent". As a result, a person who services a student loan portfolio that includes current student loan debt as well as delinquent debt would not be considered a consumer collection agency.

Nonetheless, licensed consumer collection agencies that receive payments from Connecticut consumer debtors on student loan accounts, all of which are delinquent or defaulted, may engage in "servicing" and be considered "student loan servicers" requiring licensure pursuant to Sections 36a-846 through 36a-854, inclusive, of the 2016 Supplement to the General Statutes. There is currently no exemption from such student loan servicer licensure requirement for licensed consumer collection agencies. However, this department recognizes that licensed consumer collection agencies are already licensed and regulated by this department in connection with the receipt of payments on defaulted or delinquent student loan debt and that the requirement a licensed consumer collection agency obtain a separate license as a student loan servicer from this department for such activities may be redundant and unduly burdensome.

Accordingly, pursuant to Section 36a-1-8 of the Regulations of Connecticut State Agencies, this department takes a "no-action" position regarding the student loan servicer licensing requirement set forth in Section 36a-847 for licensed consumer collection agencies whose servicing of student loans is limited to receiving payments from Connecticut consumer debtors on delinquent or defaulted student loan debt for a third party or such person's own account if the indebtedness was acquired from another person and the indebtedness was either delinquent or in default at the time it was acquired. Please be advised that such consumer collection agencies still remain subject to all other requirements and standards imposed on student loan servicers pursuant to Sections 36a-847 to 36a-854, inclusive, of the 2016 Supplement to the General Statutes, as applicable.

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