

HIGHLIGHTED TERMS SHOULD BE FILLED IN WITH THE APPROPRIATE TERM BASED ON JURISDICTION

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF **STATE**:

Section 1. The **SECTION OF LAW** is amended by adding a new article **NUMBER** to read as follows:

SECTION 1. SHORT TITLE– This act shall be known as the “Private Education Loan Registry Act”

SECTION 2. DEFINITIONS– As used in this act:

a. “**COMMISSIONER**” means the **COMMISSIONER** of **BANKING**.

b. “Cosigner” means:

(1) any individual who is liable for the obligation of another without compensation, regardless of how the individual is designated in the contract or instrument with respect to that obligation, including a postsecondary education debt extended to consolidate a borrower’s pre-existing postsecondary education debt; and

(2) shall include any person whose signature is requested as a condition to grant credit or to forbear on collection.

As used in this act, “cosigner” shall not include a spouse of an individual described in paragraph (1), the signature of whom is needed to perfect the security interest in a loan.

c. “**DEPARTMENT**” means the **DEPARTMENT OF BANKING**.

d. “Postsecondary education debt borrower” or “borrower” means any resident of this State who has received or agreed to pay for postsecondary education debt for the borrower’s own educational expenses.

e. “Postsecondary education debt” means an extension of credit, contractual or otherwise, contingent or absolute, that:

(1) is not made, insured, or guaranteed under Title IV of the “Higher Education Act of 1965” (20 U.S.C. s.1070 et seq.); and

(2) is extended to a borrower expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the credit is provided by the provider of postsecondary education that the student attends.

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f. “Postsecondary education debt creditor” means any entity engaged in the business of securing, originating, or extending postsecondary education debt, or any purchaser, assignee, or holder of such debt. “Postsecondary education debt creditor” shall not include the following persons, only to the extent that State regulation is preempted by federal law:

- (1) any bank, savings bank, savings and loan association, or credit union;
- (2) any wholly owned subsidiary of a bank or credit union; and
- (3) any operating subsidiary where each owner of the operating subsidiary is wholly owned by the same bank or credit union.

SECTION 3. REGISTRATION AND REPORTING–

a. No postsecondary education debt creditor shall engage in the business of postsecondary education debt in this State without first registering with the **COMMISSIONER**, and re-registering annually thereafter, as applicable, as provided in this section and in accordance with any requirements established by the **COMMISSIONER**, who shall establish and collect a registration and re-registration fee. The **COMMISSIONER** may require registration and re-registration using the Nationwide Multistate Licensing System and Registry, and any costs associated with such registry shall be paid by the registrant. The **COMMISSIONER** may establish alternative registration and re-registration procedures and fees for postsecondary education debt creditors that are also providers of postsecondary education.

b. A postsecondary education debt creditor that secures, originates, or extends postsecondary education debt to a borrower shall provide the **COMMISSIONER**, at the time of registration and at the time of any re-registration thereafter, with the following documents and information about its postsecondary education debt activity for borrowers who reside in the State, as applicable:

- (1) a list of all schools attended by borrowers who received postsecondary education debt from the postsecondary education debt creditor and whose

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postsecondary education debt is still outstanding, including postsecondary education debt to refinance an existing debt;

(2) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers who received postsecondary education debt from the postsecondary education debt creditor;

(3) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers associated with each school identified in paragraph (1) of this subsection;

(4) the total dollar amount and total number of new postsecondary education debts provided to borrowers in the prior fiscal year;

(5) the total outstanding dollar amount and total number of new postsecondary education debts provided at each school identified under paragraph (1) of this subsection in the prior fiscal year;

(6) the rate of default for borrowers who obtained debt from the postsecondary education debt creditor;

(7) the rate of default for borrowers who obtained debt from the postsecondary education debt creditor associated with each school identified under paragraph (1) of this subsection;

(8) the eligibility criteria to receive the lowest advertised starting interest rate and the percentage of applicants who receive the lowest advertised starting interest rate in the prior fiscal year;

(9) the range of initial interest rates provided by the postsecondary education debt creditor to borrowers, and the percentage of borrowers who received each rate identified in the prior fiscal year;

(10) the total dollar amount and total number of new postsecondary education debts provided to borrowers with a cosigner in the prior fiscal year;

(11) the total dollar amount and the total number of new postsecondary education debts provided to borrowers used to refinance prior postsecondary education debt or federal student loans in the prior fiscal year;

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(12) the total dollar amount and the total number of postsecondary education debts for which the postsecondary education debt creditor had sued to collect from a borrower in the prior fiscal year;

(13) the name and address of the postsecondary education debt creditor and any officer, director, partner, or owner of a controlling interest in the postsecondary education debt creditor;

(14) a copy of any model promissory note, agreement, contract, or other instrument used by the postsecondary education debt creditor in the prior fiscal year to substantiate that a borrower owes a new postsecondary education debt; and

(15) any other information considered necessary by the **COMMISSIONER** to assess the total size and status of the postsecondary education debt market and the well-being of borrowers.

c. A postsecondary education debt creditor that purchases, assumes, or holds postsecondary debt of borrowers who reside in the State shall provide the **COMMISSIONER**, at the time of registration and at the time of any re-registration thereafter, with the following documents and information associated with such debt, as applicable:

(1) a list of all schools attended by borrowers who used, for attendance, any outstanding postsecondary education debt purchased, assumed, or held by the postsecondary creditor;

(2) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers and purchased, assumed, or held by the postsecondary education debt creditor;

(3) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers that have been purchased, assumed, or held by the postsecondary education debt creditor associated with each school identified under paragraph (1) of this subsection;

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(4) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers and newly purchased, assumed, or held by the postsecondary education debt creditor in the prior fiscal year;

(5) the total outstanding dollar amount and the total number of postsecondary education debts owed by borrowers newly purchased, assumed, or held by the postsecondary education debt creditor in the prior fiscal year and associated with each school identified under paragraph (1) of this subsection;

(6) the rate of default for postsecondary education debt purchased, assumed, or held by the postsecondary education debt creditor;

(7) the rate of default for postsecondary education debt purchased, assumed, or held by the postsecondary education debt creditor associated with each school identified under paragraph (1) of this subsection;

(8) the total outstanding dollar amount and the total number of postsecondary education debts provided to borrowers with a cosigner;

(9) the total outstanding dollar amount and the total number of postsecondary education debts used by borrowers to refinance prior postsecondary education debt or federal student loans;

(10) the total dollar amount and the total number of postsecondary education debts for which the postsecondary education debt creditor had sued to collect from borrowers in the prior fiscal year;

(11) the name and address of the postsecondary education student creditor and any officer, director, partner, or owner of a controlling interest of the postsecondary education debt creditor; and

(12) any other information considered necessary by the **COMMISSIONER** to assess the total size and status of the student debt market and the well-being of borrowers.

d. The **COMMISSIONER** may establish a process for reporting the information required under subsections b. and c. of this section to avoid the duplicative reporting of information by postsecondary education debt creditors to the

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COMMISSIONER if the postsecondary education debt creditor is required to report the information required under subsections b. and c. of this section to the **COMMISSIONER** under another provision of state or federal law. The **COMMISSIONER** may further establish an alternative process for reporting the information required under subsections b. and c. of this section for postsecondary education debt creditors that are providers of postsecondary education.

e. On or before July 1, **YEAR**, and each July 1 thereafter, the **COMMISSIONER** shall post on the **DEPARTMENT**'s Internet website the following information about each postsecondary education debt creditor registered in this State:

- (1) the name, address, telephone number, and website for all registered postsecondary education debt creditors;
- (2) the information required under subsections b. and c. of this section; and
- (3) a copy of each model promissory note, agreement, contract, or other instrument used by the postsecondary education debt creditor during the previous year to substantiate that postsecondary education debt has been extended to a borrower or that a borrower owes a debt to the postsecondary education debt creditor.

f. The **COMMISSIONER** may impose a civil penalty not exceeding \$5,000 on any entity for a violation of this section. Each violation of this section, including any order, rule or regulation made or issued pursuant to the act, shall constitute a separate offense.

g. The **COMMISSIONER** may order that any entity who has been found to have knowingly violated any provision of this section, or of the rules and regulations issued pursuant to this section, be barred for a term not exceeding 10 years from acting as a postsecondary education debt creditor, or a stockholder, or an officer, director, partner or other owner, or an employee of a postsecondary education debt creditor. The **COMMISSIONER** may order the rescission of postsecondary education debt made by a person who fails to register pursuant to this section. A violation of an order shall be a crime of the third degree.

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SECTION 4. RULES– The **DEPARTMENT** shall promulgate rules and regulations necessary to effectuate the provisions of this act.

Section 2. This act shall take effect **SIX (6)** months from the date on which the act is signed into law.