

§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. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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 [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. The Finance Authority of Maine. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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. Financial statements and references of all applicants for a license as the superintendent considers necessary; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. A nonrefundable license fee of \$1,000; and [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

D. A nonrefundable investigation fee of \$800. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

The superintendent may require or allow applications to be made electronically through the nationwide mortgage licensing system and registry, as defined in section 13-102, subsection 8. An applicant using that system shall pay any required processing fees.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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; [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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 [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

E. The applicant has met any other requirements as determined by the superintendent. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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. If the superintendent permits or requires licensing through the nationwide mortgage licensing system and registry pursuant to subsection 2, the superintendent may amend the license term and license expiration date to comply with the parameters of the system. License and investigation fees must be apportioned so the average of such fees does not increase on an annualized basis.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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.

[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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

A. A person seeking to act within this State as a student loan servicer is exempt from the procedures described in subsection 2, except for subsection 2, paragraphs C and D, upon a determination by the superintendent that student loan servicing performed in this State is solely conducted pursuant to a contract or contracts awarded by the United States Secretary of Education under 20 United States Code, Section 1087f. The procedure to document eligibility for such an exemption must be prescribed by the superintendent. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

B. The superintendent shall issue automatically a license to a person determined exempt by the superintendent pursuant to paragraph A; that person is deemed to have met all of the requirements of subsection 3. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

C. A person issued a license pursuant to this subsection is exempt from subsections 4 to 8. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

D. A person issued a license pursuant to this subsection shall provide the superintendent with written notice within 7 days following the notification of the expiration, revocation or termination of any contract awarded by the United States Secretary of Education under 20 United States Code, Section 1087f; that person has 30 days to satisfy the requirements of this Article in order to continue to act as a student loan servicer within this State. Upon the expiration of the 30-day period, if the person seeking to act as a student loan servicer within this State has not satisfied all requirements

established under this Article, the superintendent shall immediately suspend any license issued under this subsection. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

E. With respect to student loan servicing not conducted pursuant to a contract awarded by the United States Secretary of Education under 20 United States Code, Section 1087f, this subsection does not prevent the superintendent from issuing an order to temporarily or permanently prohibit or bar a person from acting as a student loan servicer. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

F. With respect to student loan servicing conducted pursuant to a contract awarded by the United States Secretary of Education under 20 United States Code, Section 1087f, this subsection does not prevent the superintendent from issuing a cease and desist order or injunction against a student loan servicer to cease activities in violation of this Article or the Maine Unfair Trade Practices Act. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

10. Branch office license; 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. If a licensee desires to carry on business in more than one location, the licensee shall procure a branch office license for each additional location where the business is to be conducted. A license is not transferable or assignable.
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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.
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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 [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

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. [PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

An abatement of the license fee may not be made if the license is surrendered, revoked or suspended.
[PL 2019, c. 431, §2 (NEW); PL 2019, c. 431, §4 (AFF).]

SECTION HISTORY

PL 2019, c. 431, §2 (NEW). PL 2019, c. 431, §4 (AFF).

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