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Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 530, L.D. 1645, “An Act To Establish Protections for Private Student Loan Borrowers and a Registry of Lenders”

Amend the bill in section 1 in art. 15 in §15-101 by striking out all of subsection 3 and inserting the following:

3. Student financing company. "Student financing company" means a person engaged in the business of making or extending credit to a student for postsecondary education expenses or a holder of debt or obligation owned or incurred by a student to finance postsecondary education expenses. "Student financing company" does not include a supervised financial organization; 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; a wholly owned subsidiary of a supervised financial organization, financial institution holding company or mutual holding company; or the Finance Authority of Maine. Only to the extent that state regulation is preempted by federal law, "student financing company" does not include:

- A. A federally chartered bank, savings bank, savings and loan association or credit union;
- B. A wholly owned subsidiary of a federally chartered bank or credit union; or
- C. An operating subsidiary of a wholly owned subsidiary of a federally chartered bank or credit union in which each owner of the operating subsidiary is wholly owned by the same federally chartered bank or credit union.'

Amend the bill in section 1 in art. 15 in §15-102 in subsection 1 by striking out all of paragraph A (page 1, line 38 in L.D.) and inserting the following:

'A. Registers with the superintendent under rules or procedures adopted by the superintendent, including the payment of a fee of not less than \$500 annually; and'

Amend the bill in section 1 in art. 15 in §15-103 in subsection 4 in the first 2 lines (page 2, lines 32 and 33 in L.D.) by striking out the following: "person who suffers damage as a result of the failure of another person to comply with this Article may bring an action

COMMITTEE AMENDMENT

1 against the other person" and inserting the following: 'student financing company that fails
2 to comply with this Article is liable to any person or class of persons obligated on such
3 student financing contract'

4 Amend the bill in section 1 in art. 15 in §15-103 in subsection 4 in paragraph F in the
5 first line (page 2, line 40 in L.D.) by inserting after the following: "proper" the following:
6 'including a declaration that the contract between the person or class of persons and the
7 student financing company is void and unenforceable'

8 Amend the bill in section 1 in art. 15 in §15-103 by inserting after subsection 4 the
9 following:

10 **'5. Remedies. Any violation of this Article is subject to the remedies provided in this**
11 **section in addition to remedies otherwise provided by law.'**

12 Amend the bill in section 1 in art. 15 in §15-104 in the first indented paragraph in the
13 first line (page 3, line 2 in L.D.) by striking out the following: "shall" and inserting the
14 following: 'may'

15 Amend the bill in section 2 in art. 16 in §16-101 in subsection 1 in the last line (page
16 3, line 16 in L.D.) by striking out the following: "cosigner" and inserting the following:
17 'borrower or cosigner whose signature is needed solely to perfect the security interest in the
18 loan'

19 Amend the bill in section 2 in art. 16 in §16-101 in subsection 5 in the 3rd line (page
20 3, line 33 in L.D.) by striking out the following: "To" and inserting the following: "Private
21 education lender" does not include a supervised financial organization; a financial
22 institution holding company as defined in Title 9-B, section 1011, subsection 1; a mutual
23 holding company as defined in Title 9-B, section 1052, subsection 2; a wholly owned
24 subsidiary of a supervised financial organization, financial institution holding company or
25 mutual holding company; or the Finance Authority of Maine. Only to'

26 Amend the bill in section 2 in art. 16 by inserting after §16-101 the following:

27 **§16-102. License required**

28 A person may not engage in the business of securing, making or extending a private
29 education loan or holding a private education loan without having first obtained a license
30 as a supervised lender from the administrator pursuant to section 2-301.'

31 Amend the bill in section 2 in art. 16 in §16-102 in subsection 3 in the last line (page
32 5, line 12 in L.D.) by inserting after the following: "cosigner." the following: 'Upon written
33 request of the borrower or cosigner, the lender may withhold individual contact information
34 from the other party.'

35 Amend the bill in section 2 in art. 16 in §16-103 in subsection 1 in the first line (page
36 5, line 14 in L.D.) by striking out the following: "adopt" and inserting the following: 'inform
37 the borrower and cosigner of all'

38 Amend the bill in section 2 in art. 16 in §16-103 in subsection 1 in the 2nd line (page
39 5, line 15 in L.D.) by inserting after the following: "criteria" the following: 'required'

40 Amend the bill in section 2 in art. 16 in §16-108 in subsection 2 in the 3rd line (page
41 8, line 35 in L.D.) by inserting after the following: "first" the following: 'written'

1 Amend the bill in section 2 in art. 16 in §16-109 in subsection 1 in the last line (page
2 10, line 23 in L.D.) by striking out the following: "16-110" and inserting the following:
3 '16-111'

4 Amend the bill in section 2 in art. 16 in §16-109 in subsection 2 in the last 2 lines (page
5 10, lines 27 and 28 in L.D.) by striking out the following: "student financing company" and
6 inserting the following: 'private education lender'

7 Amend the bill in section 2 in art. 16 in §16-109 by inserting after subsection 4 the
8 following:

9 **'5. Purporting to act as agent for an entity exempt from this Article.** A person is
10 subject to the requirements of this Article notwithstanding the fact that the person purports
11 to act as an agent or in another capacity for an entity that is exempt from this Article, if,
12 among other things:

13 A. The person holds, acquires or maintains, directly or indirectly, the predominant
14 economic interest in the private education loan;

15 B. The person markets, brokers, arranges or facilitates the loan and holds the right,
16 requirement or right of first refusal to purchase the private education loan or a
17 receivable or interest in the private education loan; or

18 C. The totality of the circumstances indicate that the person is the private education
19 lender and the transaction is structured to evade the requirements of this Article.
20 Circumstances that weigh in favor of a person being a private education lender include,
21 without limitation, when the person:

22 (1) Indemnifies, insures or protects an entity exempt from this Article for any costs
23 or risks related to the private education loan;

24 (2) Predominantly designs, controls or operates the private education loan
25 program; or

26 (3) Purports to act as an agent or in another capacity for an entity exempt from this
27 Article while acting directly as a private education lender in other states.

28 **6. Remedies.** Any violation of this Article is subject to the remedies provided in this
29 section in addition to remedies otherwise provided by law.'

30 Amend the bill in section 2 in art. 16 in §16-110 in the first indented paragraph in the
31 first line (page 11, line 1 in L.D.) by striking out the following: "shall" and inserting the
32 following: 'may'

33 Amend the bill in section 2 in art. 16 by renumbering the sections to read consecutively.

34 Amend the bill by inserting after section 2 the following:

35 **'Sec. 3. Appropriations and allocations.** The following appropriations and
36 allocations are made.

37 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

38 **Administrative Services - Professional and Financial Regulation 0094**

39 Initiative: Provides funding for the All Other costs of the newly established Principal
40 Consumer Credit Examiner position.

1	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
2	All Other	\$2,730	\$4,270
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,730	\$4,270
5	Bureau of Consumer Credit Protection 0091		
6	Initiative: Provides funding for the All Other costs of the newly established Principal		
7	Consumer Credit Examiner position.		
8	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
9	All Other	\$8,994	\$4,270
10			
11	OTHER SPECIAL REVENUE FUNDS TOTAL	\$8,994	\$4,270
12	Licensing and Enforcement 0352		
13	Initiative: Establishes one Principal Consumer Credit Examiner position to manage the		
14	regulation of private education lending.		
15	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
16	Personal Services	\$78,377	\$109,710
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	\$78,377	\$109,710
19			
20	PROFESSIONAL AND FINANCIAL		
21	REGULATION, DEPARTMENT OF		
22	DEPARTMENT TOTALS	2021-22	2022-23
23			
24	OTHER SPECIAL REVENUE FUNDS	\$90,101	\$118,250
25			
26	DEPARTMENT TOTAL - ALL FUNDS	\$90,101	\$118,250

27 '
 28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 29 number to read consecutively.

SUMMARY

- 30 This amendment makes the following changes to the bill.
- 31 1. It adds an exemption from the requirements of the bill for State-chartered banks and
 32 credit unions and the Finance Authority of Maine.
 - 33 2. It requires that the registration fee for the private student lender registry adopted by
 34 rule may not be less than \$500 per year.
 - 35 3. It requires that a person may not engage in the business of securing, making or
 36 extending a private education loan or holding a private education loan without a license as
 37 a supervised lender.
 - 38 4. It clarifies that a person is subject to the requirements of the bill as a private
 39 education lender notwithstanding the fact that the person purports to act as an agent or in
 40 another capacity for an entity that is exempt if certain conditions are met.

COMMITTEE AMENDMENT

